

THE LAW FACULTY CENTENARY ADDRESS, 1983

The Hon Sir Richard Arthur Blackburn OBE, C St J, Chief Justice of the Supreme Court of the Australian Capital Territory, delivered this address at the Law Faculty's Centenary Commemoration Ceremony held in the Bonython Hall, University of Adelaide, on Tuesday 26 April 1983, presided over by the Hon Dr J J Bray, Chancellor of the University.

We celebrate today the centenary of the foundation of the Faculty of Law. In 1883 the University as a legal entity was only nine years old, and as an active teaching body only seven years old. Yet the Faculty of Law was not founded on a sudden impulse. In the mid-1870s, legal education was awakening from a long slumber. The Faculty of Law in the University of Oxford became an independent entity only in 1872, though of course Blackstone had given the first lectures in English law a century before. In Australia a Faculty of Law had been established in the University of Sydney in 1855, but until 1890 it was only an examining, not a teaching, body. In the University of Melbourne a Faculty of Law was created in 1873, though teaching in law had by then been conducted for nearly 20 years. There was no other Faculty of Law in Australia, and the creation of such a Faculty was discussed for several years by the Council of this University.

In 1877 the Council ventured into what would now be called market research. The Supreme Court had for many years been conducting examinations for articulated clerks, to qualify them for admission to practice. The Registrar was instructed to send a circular letter to every articulated clerk in South Australia, inviting him (there were no women) to express the intention of becoming an undergraduate student in a Faculty of Law, should the University decide to establish one. Some of the answers have survived. The epistolary style of the young men of a century ago had a certain aplomb which I believe would be less common today. One letter was as follows:

"I beg to inform you that in the event of the Council prescribing a course of study in the law, both my brother and myself will be happy to conform to any rules that the Council may make.

I have the honour to be, Sir,

Your obedient servant,
Villeneuve F. Smith"

Another letter was this:

". . . I beg to inform you, on behalf of Mr P R Stow and myself, that it will not be convenient to us to become Law Students at present and to go through the course of legal study proposed by the University Council. Neither Mr Stow nor myself have matriculated, and as it seems probable that we should be required to do so, we cannot find time to devote to reading up for that object, as our articles will shortly expire, and we are endeavouring to qualify ourselves to pass the examination required on their expiration.

I have the honour etc.

W. J. A. Sinclair"

The author of a third letter was perhaps one of those young men who in each generation are noted for possibly precocious self-possession:

"In answer to your circular herein, it is very unlikely that I should become a student, it being my intention not to remain long in Adelaide.

I have the honour to be, Sir,

Your obedient servant,
D. S. Packard"

The proposal to establish the Faculty appears to have been the subject of a lively public controversy. In October 1881 — a year before the decision was taken — the matter was discussed in Council. The *Register*, one of Adelaide's two daily newspapers, disapproved of the proposal in a leading article. It said:

"Considering how moderate has been the amount of success which has attended the work of the University in its present comparatively limited sphere, it will occur to many people that this proposed extension of its functions will not by any means lead to an extension of its usefulness, but will, notwithstanding, occasion much needless expense".

The same leading article was particularly severe about the proposal to establish a Chair of Law rather than merely a group of lecturers.

"Should the Council, in its premature endeavours to raise up a School of Law, establish a professorship without having the wherewithal to supplement it by lectureships, it may safely be predicted that the gentleman chosen to fill the post"

[the possibility of a lady was of course unthinkable]

". . . no matter how capable and industrious he may be, will be more ornamental than useful . . . The proposal to establish a Chair of Law can only be regarded as an instance of mistaken zeal and too sanguine expectations."

The Council went ahead and established a committee to consider and report on the establishment of a Faculty of Law. On 29 September 1882, Council adopted a favourable report from this Committee; made Chapter IX of the Statutes — of the Faculty of Law — and Regulations for the degree of LL B and sent them to the Senate. One month later the Warden of the Senate reported that the Senate had approved the Statute and Regulations. In Council it was then moved by Sir Henry Ayers, and seconded by Professor Roby Fletcher that the Statute be sealed; and without dissent the motion was carried. The date was 27 October 1882.

We should recall some of the members of that Council. The Chancellor was Sir Samuel Way CJ. He had just entered upon his thirty-three year term in the office of Chancellor. He was trained in the law, but was not a university graduate. He presided over a Council of twenty members. Besides himself, only five of them were trained in the law. The first was Sir Henry Ayers. He was a solicitor by training, but not a University graduate. At that time he was President of the Legislative Council; he had previously been Premier of South Australia no less than seven times. The second was Mr Adolf von Treuer, whom I shall mention again in a moment. The third was Mr Frederick Ayers, a son of Sir Henry, and like him a legal practitioner but not a University

graduate. The fourth was Mr William Barlow, who was the Registrar. He had graduated from Trinity College, Dublin. The fifth was Mr John Warren Bakewell. Mr Bakewell was later the second Dean of the Faculty of Law. I would like to add that fifty-seven years later I entered into articles of clerkship with his nephew Mr William Kenneth Bakewell.

It should be recorded also that in October 1882 the University already had five graduates in law, all of whom had been admitted *ad eundem gradum*. Their names should perhaps be remembered. They were —

Adolf von Treuer, the first LL B on the University's roll of graduates. He was a graduate of the University of Dorpat. Dorpat was the German name for what is now Tartu, in the Estonian Soviet Socialist Republic. We can safely assume that Herr von Treuer's vernacular tongue, if not English, was German rather than Estonian; but his membership of the Council and of the Senate shows that it was no more true then than now that the influences on the University were confined to those from the United Kingdom; Sir John Lancelot Stirling, a graduate of Cambridge; Hamilton Charles Palmer, of the University of London; James Jefferis, a LL D *ad eundem gradum* from London; and Edward William Hawker, a graduate of Cambridge.

These then, together with the Council members, should be remembered as the lawyers who were members of the University when the Faculty of Law was created.

No sooner had the Council resolved on the creation of the Faculty than the *Register* asked editorially "whether it is wise for the University at this stage of its career to burden itself with a Law School", and renewed its opposition to a Chair, saying:

"We believe the teaching staff might consist chiefly, if not entirely, of lecturers, some of whom might be found in the colony. The lecturers would be far less costly than a professor, and could be removed more readily if it were found that they were not equal to the work . . . we trust that efficiency, rather than the possession of a costly and ornamental staff, will be aimed at."

But the *Register's* final word was one of approval — in terms which flatly contradicted what it had said a year before:

"The adoption of the new scheme for a Faculty of Law will probably double or treble the usefulness of the University."

The Regulations for the degree of LL B and the Final Certificate included of course the subjects for the examinations. These were all law subjects: it was not until 1890 that Arts subjects were introduced as a requirement for the LL B degree. The degree subjects prescribed for the first year were two. One was Property, and the other — and this must be a source of special pleasure to you, Mr Chancellor — was Roman Law, which was to be read in the Latin texts of Gaius and Justinian.

The Final Certificate in Law, which was established by the original Regulations, was the result of two principles which appear to have been accepted without argument from the beginning. They were that the University would be the only qualifying body for the profession, and that the Supreme Court would retain its control over the curriculum for admission to practice.

On 23 February 1883 Council established the membership of the new Faculty. The first members were:

The Chancellor (ex officio)

(The Vice-Chancellorship was temporarily vacant)

Mr William Barlow

Mr Frederick Ayers

Mr Aretas Young

Mr Robert Garrett Moore

(Of these two more will be said in a moment)

Professor Kelly (Dean of the Professorial Board, who was replaced almost at once by Professor Roby Fletcher).

Four days later the Faculty met and elected Mr William Barlow as its first Dean. He was a BA of Trinity College, Dublin, and a member of the Irish Bar. He had arrived in South Australia in 1870, and practised as a barrister and solicitor. In 1884 he became a LL D of Trinity College, Dublin, and was immediately admitted in this University *aa eundem gradum*. He was, in 1883, the Registrar (an honorary post) and he was later for many years Vice-Chancellor (as an honorary post).

On 19 March 1883 the Faculty met for the dispatch of business. It approved time-tables of lectures; decided that the rooms to be used for lectures would be those already used by the Professors of Classics and English; prescribed text-books; and resolved to ask the Council for a grant of £100 for books for the law library. The Council approved the grant at its next meeting. £100 seems a small sum, but in the minutes of the Faculty meeting a month later there is a list of some of the books they decided to buy —

Anson on Contract, for 10/6

Williams on Real Property, and

Williams on Personal Property, for £1-1-0 each

Smith's Leading Cases, for the enormous sum of £3-15-0.

It was not till 1888 that the University acquired a complete set of the Law Reports; the price was £100, and the University became a subscriber at the annual cost of £4-4-0.

On Tuesday, 3 April 1883, at 8.45 am the first lectures began. They were given in the University's "rooms" in Victoria Square.

The students lost no time in making their voices heard. Lectures had been in train for only a month when they were protesting in the correspondence columns of the *Register*. The subject was a familiar one — the inaccessibility of text books. A correspondent using the name "Undergraduate" wrote on 2 May 1883:

"One of the grievances that is rankling deeply in the minds of the students" [the vehemence is not unfamiliar] "... is that, although such abnormally short notice has been given by the Faculty as to what books will be required to be read for the examination, that body has gone out of its way (no pun) to fix upon books that are not obtainable anywhere in the colonies. There is 'Anson on Contracts', for instance, of which book one, or at most two, copies are supposed to exist in Australia ..."

It is pleasing to know that one of the matters dealt with at a meeting of the Faculty as early as June 1883 was the approval of rules for the Stow Prizes and Stow Scholarship. The oldest and the most esteemed of

the Faculty's academic awards were then established in very much the form they take today.

Very soon the business of the Faculty settled down; the agenda have a very familiar ring. For instance, applications from students.

On 10 July 1884 Mr Edgar H Limbert requested exemption from attendance at lectures as he was engaged in business during the day. The Faculty resolved that he be requested to state what was the nature of his business. At the same meeting a letter was read from a Mr F Smith stating the reason why he was prevented from entering for the First Term lectures, namely prostration from seasickness after a long voyage.

Let us remember the first lecturers in Law: the University appointed two of them immediately upon the establishment of the Faculty, and they were the ones who delivered the first lectures on 3 April 1883. They were both practitioners of the Supreme Court. One was Aretas Young, an Oxford graduate and of the English Bar, who lectured in Property. The other was Robert Garrett Moore, a South Australian by birth, and a Cambridge graduate, also of the English Bar, who lectured in Contract. Robert Garrett Moore probably did not foresee that 68 years later he would have a posthumous link with the Faculty, by reason of a most excellent step taken by the Dean. I was the Dean; I married Mr Moore's cousin's daughter.

The Council lost no time in appointing a full-time lecturer in charge of legal studies, who the next year took over the work of Messrs Young and Moore. He was Walter Ross Phillips, a Cambridge graduate with first class honours in Law, and of the English Bar. He held the post only till the end of 1887, when he was succeeded by Frederick William Pennefather. Pennefather's qualifications were surprisingly meagre: a graduate of Cambridge, and of the English bar, he had been private secretary to the Governor of South Australia, and had also been in legal practice in New Zealand, where, according to the *Adelaide Advertiser*, he was "unconsulted in the chamber and unheard in the courts". The rival candidate for the position was one William Portus Cullen, LL D of the University of Sydney — who twenty years later became Chief Justice of New South Wales. But Pennefather appears to have enjoyed the friendship and support of Sir Samuel Way, and he was appointed. As from 1 January 1890, he became the first Professor of Law in this University. The Chair of Law was thus established; many years later, endowed by the munificence of Sir Langdon Bonython, it became the Bonython Chair of Law.

I have deliberately spoken of the foundation and the earliest activities of the Law School, but it is certainly not my purpose to attempt to cover its whole history. That is being written, I believe, by some present members of the Faculty under the chairmanship of Professor Castles, and we all look forward to reading their completed work.¹ Today I want to speak only of some particular features of that history, and some particular persons in it.

The appointment of Professor Pennefather was a milestone in the history of the Faculty, because it established a pattern which was to remain for about seventy years. The pattern was that the Faculty consisted of one Professor of Law, and a number of part-time lecturers,

1 Castles, Ligertwood and Kelly (eds), *Law on North Terrace, 1883-1983* (1983). [Ed]

all of whom were practising members of the legal profession. The pattern was unchanged when I was appointed in 1950. The legal profession itself has thus for about eighty of the Faculty's hundred years, borne the major share of the Faculty's teaching responsibility. This is a fact of which the legal profession in South Australia should be very proud. Much will be said in the full history of the Faculty about the many individual practitioners who contributed to its work. Here I wish to mention only a few. Two of these, I suggest, would be regarded by common consent as outstanding. G J R Murray (later Sir George Murray – Lieutenant-Governor, Chief Justice, and Chancellor of the University for 26 years) is in my view one of the greatest figures in the history of the Faculty and indeed of the University. He had had a brilliant academic record at St Peter's College, at this University, and at Cambridge (where he was equal first in the Law Tripos). He first lectured in 1891. Professor Pennefather, after one year in the Chair, had suddenly applied for and been granted two terms' leave of absence. Mr Murray stepped into the breach. He was the examiner in eight subjects in March 1891, and lectured in six subjects for the rest of the year. I quote, with the author's permission, from an account of the University's early history by Dr V A Edgeloe:

"At one time or another he acted as principal or co-examiner in every legal subject of the curriculum, in some of them many times: whenever the need arose he filled the breach. . . In this writer's judgment no one made a more crucial contribution to the unbroken functioning of the Law School during the last decade of the 19th century and the first decade of the 20th century than George John Robert Murray."²

I would add that I am very glad that as a young man I had the privilege of conversing with Sir George Murray, and of realizing, as I did then, that he brought from the nineteenth century into the twentieth a splendid example of dignity and courtesy.

The other practitioner who gave outstanding service was Edward Warner Benham, lecturer in the Law of Property for twenty-nine continuous years, during some of which he also lectured in International Law. I remember with pleasure being a student of his in 1938, his last year as a member of the Faculty. Though he was so deaf that we could and did take considerable liberties with him, his intellect and his power of exposition were as effective as they must have been when he graduated LL B in this University in 1890.

There were three other practitioners who taught in the Faculty for a very long time. They are Frederick d'Arenberg, who lectured in Evidence and Procedure for 23 years and was remembered by my father's generation for eccentricity; Louis Whittington, who taught Company Law for 23 years and Earnest Phillips, QC, who taught Mercantile Law for 22 years – both of whom are remembered by my generation with deep affection.

The structure of the Faculty, which remained the same from 1890, completely changed from about 1960. It was predominantly professional, having one full-time academic member; it is predominantly academic, having 28 full-time academic members. What an unquestionable and immeasurable improvement! Yet it will not, I am sure, be forgotten that

2 Edgeloe, *University Children of the 1880's: Law* (1978) App III. [Ed]

the Faculty must benefit from the presence of some practitioners among those who teach. May there always be practitioners qualified and willing to do so.

What am I to say of the graduates of the Faculty? To read right through the chronological list of the LL Bs — as I have done — makes me realize as nothing else could do, how the University has grown. I first mention some numbers. The first graduates who were not *ad eundem gradum* were admitted in 1884 — the second year of the Faculty; all of them must have begun the articulated clerks' course, and completed their qualification at the University. There were six of them. Four years later, in 1888, there were eight LL Bs admitted, and two Final Certificates granted. The number hardly increased for many years; in 1914 there were again eight LL Bs and two Final Certificates. In 1922 there were 18 LL Bs and again two Final Certificates. When I became an undergraduate in 1936, my first-year contemporaries numbered about 20. In 1939, 13 LL Bs graduated. In all the years in which I was Dean of the Faculty — 1951 to 1957 — I presented to the Chancellor altogether 95 candidates for the degree of LL B. Here today there are about 100 candidates for admission. Such has been the growth — indeed the transformation — of the Faculty in the last quarter of its century. Those who know it today should understand how recent *are* its present form and size.

So much for numbers. I read the *names* in the list of LL Bs with great pleasure and interest. I hope I will be pardoned for making mention only of a very few. The list includes of course nearly all the past and present judges of the Supreme Court of South Australia. One graduate who should not be forgotten is Sir John Northmore (LL B 1887) who became Chief Justice of Western Australia. The earliest graduate whom I can actually remember is Edward Erskine Cleland (LL B 1890) who was a judge of the Supreme Court when I was an undergraduate. I believe I am right in saying that the senior LL B still living is the Honourable Sir Bruce Ross — a graduate of 68 years' standing, who was admitted to the degree in 1914 by Chancellor Sir Samuel Way. So the century is spanned. Today it is not merely for his seniority, but for himself, that Sir Bruce is held in deep respect and affection. A historic event was the admission to the degree in 1916 of Mary Cecil Kitson, later Mrs Tenison-Woods — the first of far too few women graduates in Law; among them, the Honourable Dame Roma Mitchell (LL B 1935), Deputy Chancellor, is pre-eminent, with a fame which spreads throughout, and beyond, Australia. Of my own undergraduate contemporaries, perhaps Duncan Campbell Menzies (LL B 1939) was the most brilliant of at least six who had untimely deaths in the Second World War. Then comes another group whose names I read with great pleasure — my own students. Among them today are judges, professors of law, Cabinet Ministers, Queen's Counsel, and a bishop. I am enormously proud of them. Among the multitude who have graduated since my time as Dean it is a pleasure to mention Andrew Ligertwood (LL B 1967), Dean of the Faculty in its hundredth and 101st years, who will I am sure add to the esteem in which the name of Ligertwood is already held in the University.

It would be impossible in a short space of time to survey the scholarly work of the Faculty. Regulations for the degree of LL D were made as early as 1885. Only six times has the degree of LL D (except *ad eundem gradum*) been conferred by the University. The graduates were Francis

Leslie Stow in 1909; Donald Kerr in 1914; Thomas John Browne in 1917; Thomas Hewitson in 1922; William Anstey Wynes in 1933; and you, Mr Chancellor, in 1937; and you are the only living person to have been so admitted. For the last forty-six years of the Faculty's century, there has been no original admission to the degree of LL D. There have been only 14 admissions to the degree of LL M.

But much distinguished scholarly work has been done by members of the Faculty. The second Professor of Law was John William Salmond, who held the Chair from 1897 to 1905. Salmond's *Jurisprudence*, a work of enduring clarity and originality with which many of us are, or were, familiar, was first published in 1902; much of it must have been written here. His even more familiar text-book on *Torts* was published two years after he left Adelaide, in 1907; much of it, also, must have been written here. It is a matter of personal regret to me that though I have known and conversed with several of those who were Salmond's students in this University — eg Sir Mellis Napier, Sir Kingsley Paine, Stanley Skipper, C T Hargrave — I have no recollection that they ever told me anything of *their* memories of Salmond.

Salmond was succeeded by Jethro Brown — a remarkable man and a legal scholar of great eminence, who held the Chair until 1916. A South Australian by birth, he had a brilliant academic career as an undergraduate at Cambridge and then as a Professor of Law at University College, London, and the University College of Wales before coming to Adelaide. He was a political philosopher as well as a theorist of jurisprudence. *The Austinian Theory of Law* was written and published before he arrived in Adelaide, but *The Underlying Principles of Modern Legislation* and *The Prevention and Control of Monopolies* were written while he was here. In the latter of these two works he showed himself as something of an economist and as a far-off precursor of controlled capitalism and the Trade Practices Act. His biographer in the *Australian Dictionary of Biography* says of him that he taught by seminar and continuous assessment, and that "at least in earlier days he achieved notable rapport with students". Of his eminence as a scholar there is not the slightest doubt.

There is one other legal scholar of world renown whose earlier work, and most of the writing which brought him fame, was done in Adelaide. Daniel Patrick O'Connell was Reader in Law from 1952 to 1961, and by that time his eminence in International Law was such that the Council created a Personal Chair in International Law which he held for ten years, till in 1972 he went from Adelaide to Oxford as the Chichele Professor of International Law; by then he was, in International Law, probably the foremost authority in the English-speaking world, and so he was at his untimely death. It is with great pride that I can say that for five of his twenty years in this University I was one of his colleagues.

Salmond, Brown, O'Connell — in my mind there is no doubt that these three have been pre-eminent in legal scholarship in the history of the Faculty of Law.

From 1916 to 1919 the Chair was again vacant. In 1920 Professor Coleman Phillipson was appointed. He had a brilliant academic record and was a learned man who published books and articles in many fields besides law. He resigned the Chair in circumstances which did him no credit. He was succeeded in 1926 by the first holder of the Bonython Chair, who held it for 24 years and was thus by far the longest serving

professor of Law in this University — Arthur Lang Campbell. Of him I want to say something from a clear personal recollection. He was probably unique in being a professor of Law without any academic qualifications in law; but he was a BA and a BE of the University of Sydney, with first class honours in both. He passed the examinations of the Barristers Admission Board of New South Wales (which must have presented an almost negligible obstacle to him) and having been admitted to the Bar, had been associate to Mr Justice Rich of the High Court. He thus had a professional background and he kept closely in touch, by personal contact, with members of the legal profession in this State. But he did not, I believe, publish any legal work during his tenure of the Chair. This is not the time to speak of his many services to the University — especially to student bodies including of course the Law Students' Society. As a teacher of law, he bore a heavy burden for many years lecturing and examining in Elements of Law, Contract, Torts, and Constitutional Law. He had a strongly practical approach to the law; he was somewhat sceptical of generalization and theoretical analysis; and he had a very highly developed gift of lucid exposition. The law, as it was presented by Arthur Campbell to his students, tended always to have a smooth surface — everything was arranged in perfectly logical sequence, and there were no hiatuses, or irrational decisions; no obscurities or discontinuities. I remember well, for instance, being perfectly satisfied with his explanation of why the general principle of negligence did not include liability for negligent statements. The subsequent almost total reversal of the law on this point leaves me, to this day, with a slight feeling of unease. Doctrine first planted by Arthur Campbell is hard to uproot.

Since about 1960, when the full-time academic members of the Faculty began to increase, the quantity of scholarly publication by members of the Faculty has increased enormously; and its quality is highly esteemed.

So for a century the Faculty has performed its functions of teaching and research. Those whom it has taught go out into the community either as legal practitioners or otherwise. The scholarly work of its members is disseminated into the world of scholarship. Teaching and research are the traditional functions of a University, and I would be the last person in the world to want to change them.

I want to suggest, however, that in the last 20 or 30 years there has been a very striking change in the community's attitude to the law and how it works. In 1883 I think the community was generally speaking content to regard the law as something which could be properly left to the lawyers. I say that notwithstanding that the second half of the 19th century was one of the great periods of law reform. But what a different situation exists in 1983! The community has become far less homogeneous. The relative simplicity of society which all of us who lived in Adelaide in the 1930s can so well remember has gone for ever. With that, there has grown up an enormous public interest in the law. School children are now taught something about the Constitution, the Courts, and even the substance of the law itself — unheard of when I was a child. The community asserts a right of judgment upon the techniques and the results of both the judicial process and the professional process.

May I suggest that this phenomenon may influence the work of the Faculty of Law in the century to come? It would, I believe, be quite disastrous if either the Faculty or the legal profession held to the view

that the law is a sacred mystery revealed only to its qualified disciples. On the contrary, I believe that we must welcome the responsibility of contributing to public enlightenment. The duty of the Faculty to be committed to its two functions of teaching and research must remain unqualified. Those two functions are, of course, the principal means whereby it *does* contribute to public enlightenment. But the contribution may perhaps in the future be made more broadly. I am sure that among its undergraduate members there will in future be a very much greater proportion of those who do not intend to be legal practitioners. That must have its effect upon the Faculty's teaching. So, there will be a considerable broadening of the scope of those who read and study the results of legal research. It may be that the Faculty will, to a greater extent than it does now, embark upon programmes of direct communication with the community on questions of law and its effects.

Let me take one example of a matter which has become one of considerable interest in the community — and, one has to say, of frequent public misunderstanding. What actually happens, when a court is presented with a novel situation, in which it has to make a judicial decision? What is the true nature of the legal process? The community is very interested in *how* the law works: not only the question, say, *whether* the Commonwealth can lawfully stop the building of a dam in Tasmania, but also in the question *how* the decision — whichever it be — is reached.

We can begin with what might be called a classical over-simplification which was never true. That is, that the judge applies no personal choice to the problem, but merely takes the existing law as he finds it, and somehow distils a solution; he finds the answer in the existing law. The theory that the judge merely finds the law and does not make it is a false simplification.

The reaction to that false simplification has gone to the opposite extreme. By some, the judge is now seen as an unfettered law-maker who is free to make the law what he thinks it ought to be. We have departed from one false simplification and arrived at another. At the popular level — though the view is not confined to that level — we see, for example, a newspaper article which purports to be a serious contribution to public understanding of the Tasmanian dam case. What it says is that Mr Justice X is an upholder of State rights and Mr Justice Y a conservationist, and so on.

I suggest that the truth is not simple. The truth is that each of the false simplifications has an element of truth. The legal process is two things at once. It is *both* the application of existing law, of which the lawyer is the humble servant, *and* the application of judgments of value which the lawyer makes in his capacity as a human being.

My purpose in talking about this particular problem, how the lawyer makes law, is to illustrate my point; that there is a public demand for greater understanding of the law, and that unless that demand is met in a responsible manner, misunderstanding and misinformation will be the deplorable result. I suggest that in its next century the Faculty of Law may find itself more deeply involved than it has been in the past, in contributing to the non-professional and non-academic understanding of the law. I venture to express the hope that that will be the result of a willing attitude and a deliberate policy by the Faculty.

Finally, may I refer to that function of the Faculty which is the least likely to attract public attention, but is second to none in importance — the teaching of undergraduate students. There are ways and ways of teaching law. There is for instance the teacher (I am talking in the abstract) whose message floats on the effervescence of his enthusiasm. When such a one lectures on the law of negligence, at one minute he plays the part of the girl drinking the ginger beer, and at the next, that of the snail in the bottle. Such a teacher has a talent of enormous value. Students love it, especially the younger ones. But when they are a year or two more senior they may, one hopes, appreciate equally highly the talents of another lecturer whose manner is cold and distant but whose words command rather than attract attention.

In its teaching also, the Faculty as it is today is vastly different from what I knew both as an undergraduate and as a teacher of law. Seminars, tutorial classes, written assignments, which are commonplace today, were unheard of for most of the Faculty's life. In both the times I remember, the lecture was — I am sorry to say — almost the only medium of instruction. It is not because I oppose lectures in principle that I am sorry to say that. On the contrary, I claim to be something of a connoisseur of the lecture. I have certainly had plenty of experience of it. I have attended hundreds of undergraduate lectures, and I have listened to most of them. I have endured the worst imaginable, and I have been filled with pleasure and admiration by the best. As a means of imparting information, the lecture should have been superseded by the invention of printing. But as a means of stimulating thought, and of fostering the true understanding of material with which the student already has some acquaintance, the lecture is truly an art-form in its own right. There is no mistaking the feeling of mental satisfaction — indeed fulfilment — which comes from hearing a lecture by one of the great masters of the art.

But I must come down to earth. I know, and this also from long experience, how extraordinarily difficult it is, as a lecturer, to *achieve* that standard of lecturing. It is far more difficult to *maintain* such a standard. But what is most important is to have a background — an educational atmosphere, in which lecturing at that standard is appropriate — that is to say, a Law School in which the students are able to regard their own reading as their primary means of instruction, their tutorial classes as their secondary means of instruction, and their lectures as a means of intellectual stimulation and re-organization of their knowledge. That is an aim which will not be easy to achieve, but I am sure that the Faculty will continue to regard it as an aim to be achieved.

I have spoken much about the past, because that is appropriate on this occasion. The University can properly take pride in the history of the Faculty of Law, but pride in our history helps us to bear the burden of responsibility for the future. We all have that responsibility; and in saying "we all" I think specially of those present here who are about to become members of the Senate of the University by admission to the degree of LL B. I believe that I speak for all here today in offering congratulations to the Faculty of Law on this happy occasion, and also in expressing confidence that the achievements of its first century will be surpassed in its second.