COMMENT

A SURVEY OF LEGAL EDUCATION IN THE UNITED KINGDOM

It may be of interest to disseminate in a much abbreviated form some of the facts and conclusions embodied in the important *Survey** which has been carried out under the auspices of the Society of Public Teachers of Law.

The project began in 1964 with two basic questionnaires for the 23 university law schools and their teaching staff embracing all aspects of legal education in the United Kingdom.[1] The response was about 100% and 70% respectively. The statistics were brought up to date in December 1965. In addition, a questionnaire inviting professional opinion was circulated to all barristers and solicitors in April 1965. Complete replies were received from almost 450 barristers[2] and 1,250 solicitors.[3] In the summer of 1965 an attempt was also made to obtain information relating to the nature and extent of law teaching undertaken in 275 colleges of further education and technology. The response was 94%.

It is from this wealth of statistics and comment that the *Survey,* substantially the work of Professor J. F. Wilson, has been compiled.

1. *General Structure of Legal Education*

There are 23 university law schools at present offering full law-degree courses of three years duration[4] at the undergraduate and postgraduate level (seventeen in England, four in Scotland, and one each in Wales and Northern Ireland). There is a basic distinction between Scotland with its civil law tradition and the three common-law countries. Most universities insist on full-time internal study for their first degrees.

Further opportunity for acquiring a law degree has been provided by the recently created Council for National Academic Awards, which is a degree awarding body having the power to recognize suitable courses run by individual technical colleges as qualifying for one of

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* The complete text of the *Survey* is published in Volume ix of the Society's *Journal,* June 1966.

1 The subject is taught at different academic levels and in various institutions.

2 Of whom approximately 77% had chambers in London and 93% were graduates.

3 Of whom 23% were London solicitors and 77% were provincial. Only 56% of solicitors concerned were graduates.

4 With the exception of four-year courses at Belfast and for honours degrees in the Scottish universities.

its awards. The Council is about to appoint a Legal Studies Board and it is anticipated that there will be a strong approach from a number of colleges of commerce seeking the recognition of their law courses for degree purposes.

The qualification for entry into the two branches of the legal profession is based on the results of the Bar Examination and the Solicitors' Qualifying Examination respectively. Both examinations are divided into two parts and law graduates may gain exemption from papers in Part I if they reach a satisfactory standard in the corresponding subjects of their university degree syllabus. Instruction for both parts of the Bar Examination is given by the Inns of Court School of Law under the direction of the Council of Legal Education. Courses in preparation for the Law Society's examinations are held by the College of Law in London and Guildford.[5]

Mention might also be made of the Advanced Level paper in English law for the General Certificate of Education which combines the general principles of law and contract, ostensibly designed for the student with a professional ambition. There is little evidence of its popularity as a school subject, but it is taken by an increasing number of students in technical colleges. University law schools have adopted a rather lukewarm attitude towards this kind of legal education and the paper has not yet proved acceptable for matriculation.

In the matter of financial support, it is clear that the large majority of law students (over 80%) are dependent on grants from local education authorities.

The selection of candidates for admission to university law schools is inevitably handicapped by the absence of the subject from the school curriculum. Even so, 55% of law teachers were of opinion that the quality of applicants for the degree course was not thereby seriously affected. Indeed, many opposed the principle of legal studies at school level and deprecated the recent introduction of an Advanced Level paper in English law for the General Certificate of Education. They took the view—which was endorsed by practitioners—that some maturity was required for the study of law and that the subject was quite unsuitable for inclusion in the school curriculum. The majority of law schools appear to adopt no special procedures in order to attract or advise potential students about to leave school. Among the school subjects in which law teachers considered that proficiency should be shown, only English received much support. Of the others listed in the questionnaire, History attracted 31% of teachers and Latin 23%, while 27% favoured no prerequisite. Although most of the law schools using a legal aptitude test believe it to be valuable, the opinion of law teachers in general is unfavourable (36% in favour, 42% against and 22% indifferent).

5 Similar courses are also provided independently by colleges of commerce in the provinces.

2. *Staff and Accommodation*

In the matter of teaching law, 72% advocated full-time lecturers when possible, but the value of practitioners in the teaching of such subjects as conveyancing, evidence, procedure, and administrative law was widely recognized. Needless to say, the latter was endorsed by practitioners themselves.

The inadequate accommodation of many law schools will become even worse with the expanding intake of students and it is essential that each school be allowed to occupy a separate self-contained building. The latter must provide for reasonable expansion and be constructed in accordance with the special requirements of a law school. It was the view of 78% of law teachers, for example, that the library constitutes the lawyer's laboratory which, as such, should be housed in the law school. It was also thought desirable that the law librarian should be a law graduate and that the selection of books be under the control of the law faculty. Since law students tend to make more extensive use of the library facilities than is the case with students in other disciplines, it is recommended that one seat be provided in the ratio of two students—individual rooms or carrels being at the disposal of postgraduate students.

3. *The Syllabus*

It is reassuring to note that 95% of law teachers were of the opinion that a law degree can provide a liberal education for students who do not intend to enter the profession. Three out of four teachers, however, expressed the view that the law degree syllabus should try to strike an even balance between the merits of a liberal education and the demands of professional training. Only 3% preferred a bias in favour of professional training. A significant proportion of practitioners (24% of barristers and 22% of solicitors) did not think that it was the function of a university to train students for professional life.

It appears that only two law schools accept non-legal subjects (one subject only) as an integral part of their first degree structure. However, 57% of law teachers advocated the introduction of subjects such as Sociology, Economics, Philosophy and Politics. The Cambridge Tripos system, of course, enables a student taking his first degree to combine one—or even two—years' study in another discipline with a balance of legal subjects.

Law schools were not all of one mind as to the number of subjects making up the degree. Some elect to place emphasis on the importance of encouraging the student to think like a lawyer and believe that the best method of accomplishing this is to explore in depth a smaller number of well-selected subjects. Thus, the first-year syllabuses at Bristol and Newcastle include introductory courses in subjects which will be studied intensively in the following years. Others prefer a more extensive coverage of the field on the assumption that the student

should become acquainted with as wide a range of legal subjects as is compatible with a good university education. Nevertheless, the normal degree pattern comprises 14 subjects of which four are taken in the first year, and five in each of the two succeeding years. There seems to be general agreement on the basic content of the syllabus, while the provision of optional subjects depends to a certain extent on the availability of staff to teach them.

Contract, Torts and Constitutional Law are compulsory in every law school, with Criminal Law, Jurisprudence, Equity (or Trusts) and the English Legal System obligatory in all but one or two schools. Academic opinion (and that of the two professional bodies) was solidly behind this choice of compulsory subjects.

4. *The Art of Teaching*

Teaching experiments in the United Kingdom with the American casebook method have not been uniformly successful and only five law schools were conducting such courses. The majority of teachers were critical of the casebook method because it tended to concentrate the student's attention on detail to the detriment of general principle, resulting in such slow progress that it was rarely possible to cover more than a small part of the course. On the other hand, the present inclination of many law schools is to develop the tutorial system even at the expense of formal lectures. This makes heavy demands on staff and its value is held to be in inverse proportion to the size of the tutorial group. 87% of teachers stressed the importance of regular essay writing. There was also surprisingly strong support for mooting as an integral part of the teaching programme; two out of every three teachers being of the opinion that student participation in moots should be obligatory.

A strong plea came from the Bar for regular outings to courts, prisons, borstals, and the like. Students should be accompanied by a tutor during their visits to the court—their presence might even be judicially noted as it was in Lord Mansfield's day—and an opportunity could be provided afterwards for the discussion of matters arising out of the cases. Solicitors suggested that small parties of students might be invited to their offices in order to give them some idea of what takes place there—supplemented by occasional explanatory lectures given by the profession.

5. *Examinations*

The examination of the first-year subjects is treated as a qualifying examination in no way affecting the classification in the final degree. But the student is usually required to achieve pass standard in all the papers before he can proceed to the second-year courses. If he should fail in only one subject, most of the law schools allow him to re-sit that paper several months later.

Almost unanimous support (99%) was given for the type of question which is designed to reveal the student's ability to apply principles in the solution of problems. However, 44% of teachers considered that a good memory was an important attribute of the lawyer and should not be ignored in the drafting of questions. 54% were in favour of testing the student's skill in the use of reference books and law reports. Only 14% favoured the introduction of a short dissertation as part of the degree examination.

The statistics revealed the increasing number of students who tend to regard the law degree as a valuable preparation for careers in other walks of life. In recent years, for example, many law graduates have chosen employment in the Civil Service, industry, commerce and local government. The significant fact that almost one in every three appears to have no intention of becoming a legal practitioner was cited against those critics who advocate a more professional content in the degree syllabus.

6. *Training for the Profession*

It is generally accepted that some practical training is an essential element in the education of a solicitor. Historically it has taken the form of articles of clerkship. Even at the present time, each student must before qualification as a solicitor have completed an uninterrupted period of two years' apprenticeship with a practitoner in England or Wales. This is the minimum required of university graduates, although the normal period of service for non-graduates is five years.

The biggest problem which solicitors have to solve in this connection is how to provide an adequate system of professional training. Widespread criticism has been levelled in particular at the haphazard methods by which the student is brought into contact with his future principal and at the arbitrary value of articles of clerkship that depend on numerous factors entirely outside the student's control. Not only does the range of experience vary according to the type of work undertaken in the office, but the quality of instruction is affected by the amount of time that the principal is able or willing to devote to the pupil's training. In a busy office the articled clerk could fare badly in this respect, while in other offices the principal might be tempted to regard him as a form of cheap labour. It was therefore suggested that the Law Society should institute a regular system of supervision of articles to ensure that firms which accepted clerks had adequate facilities for training them and that, in the event, suitable instruction was actually provided. Moreover, official machinery should be made available for assisting the student to find articles and to aid in the selection of a suitable office.

A strong body of support existed for the introduction of a practical-training course, on the lines of an army staff college, to be administered by solicitors of wide experience and designed to fam-

iliarize the student with the basic work normally encountered in a solicitor's office, in addition to such topics as professional etiquette, book-keeping, costs and advocacy. The group instruction would include simulated conveyancing and probate transactions, the preparation of County Court and High Court actions, the formation of a company and the like. While no formal examination at the end of such a course was envisaged, successful completion might entitle the student to seek immediate admission as a solicitor, save that for a limited period he would not be entitled to practise on his own account or in partnership. This kind of training is not likely to be so valuable as first-hand experience in a solicitor's office and most practitioners were therefore convinced that a period of articled clerkship should be a necessary ingredient in the education of any aspiring solicitor.

7. *The Value of an Academic Background*

It is interesting to note that no student can be called to the Northern Ireland Bar unless he holds a university degree. This requirement of a B.A. degree, which is shared by the Faculty of Advocates in Scotland, means that the Bar is a graduate profession. It is understood that the Inn of Court of Northern Ireland is now prepared to 'recognize' the Belfast LL.B. for this purpose. The Law Society of Northern Ireland also insists that a person entering into articles of clerkship shall hold a degree from some recognized university or be a solicitor's clerk of seven years standing.

Many barristers and solicitors in England and Wales think that a degree should be the normal prerequisite for entry into the profession and in fact 93% of the barristers and 56% of the solicitors who replied to the questionnaire were themselves graduates. In Scotland, most of the practitioners are graduates, and of those who replied to the questionnaire, all the advocates (barristers) and 81.5% of the solicitors held a law degree. A substantial majority of Scottish law teachers was in favour of courses which strike an equitable balance between a liberal education and an introduction to professional training. This probably reflects the Scottish tradition of reading for an Arts degree before the LL.B. as well as the importance attached to general education by the Faculty of Advocates.

Scotland has a long tradition of incorporating non-legal subjects in its law-degree courses. They are available at all the universities and usually figure as optional subjects at both Ordinary and Honours degree level. Thus, for example, a candidate for the Ordinary LL.B. degree can include as many as four non-legal subjects at Edinburgh, and three at Glasgow where he is required to study at least one non-legal course.

On the other hand, no teaching is undertaken by the two professional bodies in Scotland, with the result that the Universities are solely responsible for providing the instruction necessary for professional qualification. This academic tuition is shared by both branches of the

profession thereby facilitating the movement later in life from one branch to the other. A large number of advocates first practised as solicitors.

8. *Conclusion*

The foregoing summary of selected portions of the *Survey* does not do justice to Professor Wilson's comprehensive analysis of legal education in the United Kingdom. Nevertheless, a useful purpose will have been served if it encourages those who are concerned with the welfare of law students to read the 144 page report. They will discover a rich mine of information and much food for thought. It is also interesting to see if one's own pet theories win general support.

The *Survey* will doubtless be used by Australian law teachers as a springboard for comparative appraisal of legal education in the two countries. The temptation is great—and indeed salutary—to tilt from time to time at orthodoxy and tradition. But it is obvious that institutions which have long been venerated are unlikely to disappear overnight. We may be sure that the Inns of Court will outlast the miniskirt. Indeed, experience has frequently shown us the futility of the present obsession for conformity at all costs. Many would agree, for example, that the world of politics is now paying the price of good intentions indiscriminately imposed in the name of imperialism.[6] What is good for England—or even the United States—may not necessarily be so for Australia. Rugby in New South Wales and Australian rules in Victoria. Who knows, we might witness a revival of legal apprenticeship in the United States or the conversion of Oxford to the case-book method. Professor Wilson has already detected the returning popularity in some law schools of tutorials at the expense of lectures.

Legal education is everywhere in a state of ferment, not least in Australia where the cross-roads have been reached. The question is which route to follow. Should professional training and examination—as in the case of discipline—become the exclusive responsibility of the practitioners themselves? Logic would certainly seem to point in that direction. But putting it into operation is quite another matter. Alternatively, the university law school could play the role of general factotum with the profession as stage-manager. If so, a healthy development suggests the creation of two law degrees—one of a more general nature for the increasing number of students who do not intend to practise, the other, a semi-professional degree of larger dimensions for the would-be lawyer. The road we shall in fact travel probably lies somewhere between the two.

However, this is only one of the problems which will have to be resolved. Perhaps it is now time for Australia to conduct its own *Survey*.

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[6] A good illustration is to be found in the article by Mr. R. B. Seidman, *On Teaching Jurisprudence in Africa*, which follows the *Survey* in the Society's *Journal*.