LEGAL EDUCATION IN NEW ZEALAND: A SYMPOSIUM
THE ORMROD REPORT AND LEGAL EDUCATION IN NEW ZEALAND

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Bibliographies of writings on legal education show that over the past twenty-five years or so the output of published writings and discussions on the subject runs into many thousands of items. One bibliography published twelve years ago listed 3178 entries,[1] and a check of entries in the Index to Legal Periodicals since that date indicates a continuing production of articles at the rate of about one hundred each year. Here in New Zealand a not insignificant number of publications has appeared over the past 30 years.[2] Among the most important recent contributions in New Zealand have been an assessment of the then state of New Zealand legal education made by Professor D. P. Derham delivered at an Auckland law students' conference in 1965 and subsequently published in the New Zealand Universities Law Review.[3] Today's chairman, Mr Justice Haslam, who as Chairman of the Council of Legal Education has worked tirelessly in the interests of education and research in law in this country, has expressed his views in two published addresses, one to the Commonwealth Law Conference in Sydney in 1966 and again in a public lecture at the University of Otago in 1969.[4] And in 1970 the Legal Research Foundation held a conference in Auckland on this topic at which major issues were canvassed and the proceedings of which were published.[5] In New Zealand itself in fact over sixty articles have been published—a number which is small in relation to the total output of the common law world, but indicative none the less of a concern for local issues and local problems.

I mention the quantity of writings in this field to indicate that I am well aware that to accept the invitation to speak on this occasion on the topic of legal education requires considerable temerity when so much has already been said, and said so well. My justification—or excuse—is that despite the fact that the central problems and issues for debate tend to remain constant, conditions change and change rapidly. Some new factors have quite recently appeared; new ideas

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1 Francis C. Sullivan, *A Bibliography of Materials on Legal Education*, New York University School of Law (1961).

2 See the Bibliography contained in *Legal Education in the Seventies; Proceedings of the Forum on Legal Education*, Legal Research Foundation, Auckland (1971).

3 2 N.Z.U.L.R. 130 (1966).

4 See Record of the Third Commonwealth Empire Law Conference, Sydney 575 (1966); 2 Otago L.R. 113 (1970).

5 *Legal Education in the Seventies; Proceedings of the Forum on Legal Education*, Auckland (1971).

canvassed; new experiments undertaken. It is upon some of these that I would like to concentrate today. In particular I wish to suggest some possible implications for New Zealand legal education arising from the publication in England of the report of a committee under the chairmanship of Mr Justice Ormrod.[6]

University education for lawyers

When Professor Derham gave his address in 1965 he focussed attention on some issues which he then saw as affecting profoundly the future of legal education. These issues included, first, the need for a full university education for lawyers. This is no longer controversial in New Zealand though it may carry the implication that there is scope for an increase of para-legal personnel—legal executives—with some less extensive training available to them. This was a matter raised in Professor Derham's paper and has been of interest within the profession. As yet however no form of training for legal executives has been established. In 1965 the Council for Legal Education took the step of re-shaping the formal requirements for entry to the legal profession by making graduation n law at a university compulsory. (This was not as far reaching a change as it may sound, for the majority of entrants to the profession had been graduates prior to this change, though for a minority other means of entry without graduation had been available). The justification for requiring a broad education at university level seems stronger than ever with each passing year. The lawyer is called upon to work in an increasingly complex environment. To work in it, whether in private practice or in other fields of activity, he cannot be fully effective if he has no more than his technical knowledge and skills. Blackstone wrote in the eighteenth century "If practice be the whole he is taught, practice must also be the whole he will ever know; if he be uninstructed in the elements and first principles upon which the rule of practice is founded, the least variation from established precedents will totally distract and bewilder him: *ita lex scripta est* is the utmost his knowledge will arrive at: he must never expect to form, and seldom expect to comprehend, any argument drawn *a priori*, from the spirit of the laws, and the natural foundations of justice."[7] Blackstone's view was expressed in a world in which change, though present (for change never ceases) was change of an order and of a speed quite different to that of the age in which we live. *A fortiori* the lawyer in the twentieth century needs a training which equips him to deal with change—technological, social, cultural and legal—on a hitherto unknown scale. The view that lawyers should have a full university education to meet this need is now fully accepted. What that education should include may still be a matter for discussion.

The reasons that underlie the now accepted view that all entrants to the legal profession must have taken a law degree have been buttressed by the views expressed in the Ormrod Committee's Report. On the question of university education for lawyers the committee recommended that the taking of a law degree should become the normal method of entry to either branch of the profession. This, the "academic stage" of education, should, the committee said, "provide the student with three

6 *Report of the Committee on Legal Education,* H.M.S.O., Cmnd 4595 (1971). (The Ormrod Report).

7 I am quoting from the 15th Edition of Blackstone's *Commentaries* 32-33, the last edition published with the author's corrections.

of the essential requirements of the practitioner: a basic knowledge of the law and where to find it; an understanding of the relationship of law to the social and economic environment in which it operates; and the ability to handle facts and to apply abstract concepts to those facts. The first requires specific training in law; the second requires that the training be broadly based with some exposure to other disciplines and techniques; and the third, which is rooted in the ability to reason logically and analytically, is the product of intellectual training and experience."[8]

That the Ormrod committee should recommend a law degree requirement (except for candidates in a few specified categories) as the normal mode of entry to the profession is, in the English context, a far reaching proposal. This is apparent when one considers that the Report records that of solicitors now being admitted in England, only about 40% are law graduates and 7% graduates in other subjects. The remaining 53% are not university graduates. The committee estimated that of those entering practice at the bar, about 80% are law graduates and another 15% hold degrees in subjects other than law. Whether or not this recommendation is implemented in England is of little direct concern to us in New Zealand because it advocates a position at which we have already arrived. But the Report's discussion of the purposes of university study for lawyers and its views of the nature and content of such study merit reflection in relation to our own courses.

The present New Zealand law degrees attempt to meet the need for what the Ormrod Committee described as "a training that is broadly based with some exposure to other disciplines and techniques" in several ways. First, the degrees of each university require the inclusion of three units—a year's work for the average student—in arts or science subjects. Secondly, a limited amount of work in the optional courses which now form part of all New Zealand law degrees involves, "some exposure to other disciplines and techniques". This is so in courses such as criminology and a number of specialised Honours courses offered at the various universities. Thirdly, the Council of Legal Education has accepted the principle that individual students may have the legal content of their courses decreased by up to two law subjects which may be replaced by papers or units selected from the subjects prescribed for any degree or diploma when such papers or units are, in the opinion of the Dean of the Faculty of Law at the university at which the candidate is enrolled, related to the candidate's law course. The purpose of this is to enable a student with special interests in, say, criminology, to get credit for a course or courses in, say, statistics, or one who wishes to pursue commercial law studies in depth to include some work in fields such as accounting or economics or management or industrial relations. Fourthly, the point should be made that in considering the aim of breadth in legal training, much will depend upon the way a subject is taught by individual teachers; whether, that is, it is seen as a matter of Blackstone's *ita lex scripta est* or whether an attempt is made to relate particular areas of law to their social background and to problems of social policy. This last consideration does not, of course, lend itself to formulation in regulations.

If we accept that, especially in modern conditions, a law degree should provide a broad education and not a purely technical approach to law, are we doing enough by means I have mentioned?

8 Ormrod Report, 43.

On any view of the matter, a law degree will have to be supplemented by further training for practice, a question to which I shall return. The present question involves, in essence, this: apart from a final course or courses aimed mainly at professional training, what should be the relative balance between legal and non-legal content in a training for law at the academic stage. An examination of practices in other parts of the world shows various approaches:

(1) One view (that at present held in New Zealand) is that a law degree should have a certain minimum of non-law content but should nevertheless consist principally of legal studies.

(2) The Ormrod Committee would support as sufficient not only law degrees of this type—though the English law degrees (three years in duration and not four as here and in Australia) typically have less non-legal content than our own. It also endorses what are described as "mixed degrees". These are three year degrees providing study in law and a major study in another field. The Committee said that "intending practitioners should not be discouraged from taking degrees of this type which we think can be a valuable form of preparation for practice."[9] It felt that such a degree should be accepted for the purpose of professional qualification if, *inter alia,* it included not less than eight law subjects (of which five should be compulsory "core" subjects).

(3) What I may call first law degrees which have developed at some Australian universities. These are not unlike the English mixed degrees and may be terminal for a student not intending to practice law but who sees his future in commerce, government, teaching, journalism, foreign affairs and the like. The intending practitioner however, is required to undertake a further two years of law study to complete an LL.B. The Monash B.Jur./LL.B. is an example of this type of structure. It has the effect of increasing the length of unversity study from four years to five. (This of course is, for the intending practitioner, followed by further professional training).

(4) The North American pattern which makes study in law school a graduate study: a candidate must have obtained a degree in some other discipline before gaining entry to law school and embarking on the study of law.

Although our present degrees seem to conform to the aims and purposes expressed in the Ormrod Report, some would regard the present levels of non-legal study as inadequate and would support a fuller (and longer) training. I note that in 1972 the President of the New Zealand Law Students' Association called for an investigation of the feasibility of the establishment of a graduate LL.B. course, including a consideration of recent Australian trends.[10] This view implies that the Ormrod Committee's proposals are seen as sound in principle but as not going far enough in carrying out their expressed educational intentions. I would like to comment briefly upon the view which

9 *Ibid.,* 49.
10 1 Wagon Mound (1972).

would prefer to see law as a post-graduate study in the North American pattern.

Professor J. F. Flynn of the Department of Political Studies at the University of Otago has recently argued (though in a much wider context) the case against such a structure following an analysis of the problems of universities in the United States.[11] Very briefly stated, the argument runs as follows. The spread of university education in that country has led, he argues, to a situation in which a first degree has become the test of formal literacy required for ordinary white collar occupations. (In New Zealand this task is performed by the School Certificate Examination or sometimes University Entrance). Thus those who aspire to be salesmen, clerks and so on are practically forced to take a degree of some sort. This is seen by many of them as irrelevent to the intended career and leads to frustration and disillusionment. As obtaining the degree is time consuming and expensive, the under-privileged see the university as, in Professor Flynn's words, "a giant swindle machine—as an institutional statement by the entrenched white middle class that 'we intend to hold on to the white collar jobs'." To widely held beliefs concerning the irrelevance of much that has in fact come to be required in United States education in relation to later employment he attributes both a decline in standards at the under-graduate level and much of the student discontent which the United States universities have suffered. In the present context he adds that in New Zealand "there is still a reasonable correlation between what one does at a university and what occupational doors a university degree opens up. To enter the professions, one need not gain a B.A. or a B.Sc.; one enters Law School after one year of Arts and Medical School after one year of Med. Intermediate." (I should in fairness to Professor Flynn's views make it clear that he is *not* arguing that all university work should be vocational).

Though Professor Flynn elaborates his argument with a force and persuasiveness to which this bare summary cannot begin to do justice, I think the argument is worth drawing attenton to. To require all prospective lawyers to be graduates in some other discipline before being admitted to law school at all may indeed create risks of disenchantment and discontents. And yet I myself have been arguing the need for breadth in legal education and for the lawyer's need, especially in the conditions that now obtain and will obtain in the future, to have some knowledge of and insights into the content and methods of other disciplines. If we accept Professor Flynn's basic thesis, the Australian double degree structures are not open to the same objections for the student enters upon his law studies at an early stage and in his preliminary degree pursues law studies alongside his work in other disciplines. Perhaps it is a matter for flexibility. (I note that at Monash for example a student may still be admitted to a four year LL.B. without being required to take the five year B.Jur./LL.B. though I have no knowledge of the numbers of students who in fact choose this alternative). Granted that lawyers need not only a training in legal knowledge and skills, but also the broadest possible non-legal education we should remember that we have arrangements for combined degrees in arts and law which have been available for a considerable time. In my own university

11 Report to the Council of the University of Otago, 1972, to be published in the Universities Quarterly. A similar argument is advanced briefly in Seale, *The Campus War* (1972).

approximately 25% of law students are taking a B.A. as well as an LL.B. In the last year or so clear signs have appeared of students wishing to combine studies in commerce and law and recently steps have been taken to rationalise cross credits so as to make possible a B.Com/LL.B. which can be taken in the same length of time—five years—as can the B.A./LL.B. The point to note about the combined degrees is that the students who undertake them do so of their own volition. It may be purely from interest in pursuing some other subject, philosophy, history, political science. It may be that in the present situation in which not all law graduates intend to practise law (a point I will return to later) it is for some a calculated safeguard for the future—keeping one's career options open. But if, with the Ormrod Committee, we take the view that legal education should be broadly based we can applaud the fact that significant numbers of law graduates leave law school with not only the breadth of knowledge that a law degree *per se* should give, but also with some training in other fields, be they economics or political science or history or, as seems likely in the future, commerce. The total contribution that the legal profession as a whole makes to society stems not only from its professional work. Its members include community leaders in many fields, law reformers, influencers of public opinion. From this point of view the broadest possible education for its members must be beneficial both for the profession and for society. The plea I make is that if in the future more extensive study in fields other than law is to be required of entrants to the profession, we should look to possible modifications of our existing conjoint degree requirements and to the Australian development of preliminary degrees with a fairly substantial legal content—and be wary of the North American model.

The law content of law degrees

What ever else we may think it desirable to require as part of a complete legal education, what of its actual legal content? The report stresses that no course of theoretical training in law can cover all the fields that a lawyer may find himself working in. The sheer quantity of material which would have to be covered to attempt to do this clearly makes the task impossible. But also such an attempt would be wholly unnecessary. The purpose of the academic stage is described in the Report as being "to provide [the student] with the equipment which he will need and can use throughout his professional life to ascertain the law as and when he wants it. Stated in very general terms this means teaching legal principles and the basic subjects . . . without which no one can begin to be a lawyer and developing the intellectual processes which are referred to as 'thinking like a lawyer'. The curriculum must therefore be prototypical in character so that the student can apply the modes of thinking and the methods of research which he has learnt in the study of a limited number of law topics to other fields as and when the occasion arises." While we can readily accept the view of the Ormrod Committee that there is a certain basic core of law subjects which any student must be required to cover, universities in New Zealand, following trends elsewhere, have increasingly felt the need to provide flexibility in the form of optional courses. The reasons are twofold. The first is to cater for students who may have discovered a particular interest and wish to shape their degree course so as to give their studies a particular emphasis. This might be so for example

in the case of a student with a special interest in international law and hopeful of making a career involving work in the field of international relations, or a student intending to pursue a career in commerce and wishing to emphasise commercial law studies. Secondly, scholars working in universities and specialisng in particular fields may wish to offer courses in the areas of their speciality and to promote research in those areas. Optional courses may provide opportunities for studying areas of law which in the past may not have been a part of the curriculum at all, or for studying a field in greater depth. One university in New Zealand in particular, the University of Auckland, has recently altered its degree structure in such a way that a number of optional courses are "advanced courses" in the sense that they are designed to build on work in the same subject taken earlier and to develop it, or aspects of it, in greater depth. The University of Otago has in its LL.B. (Hons) degree a similar system. The Honours courses offered are all advanced courses in this sense.

The extent to which optional courses are provided by a university obviously depends largely upon the numbers and the particular qualifications and interests of its staff. In theory the range of possible optional courses is very large. In practice in New Zealand the number of optional courses offered is comparatively limited. But whether the number of available options is large or small, the question of what courses should be required of all students remains. Here the policy in New Zealand has been to require a comparatively large number of subjects to be taken with a corresponding lessening of the amount of optional work that is open to the student. The underlying reason has been undoubtedly the belief that the majority of practitioners trained in New Zealand will practice as generalists. This will be so whether the practitioner works on his own account, is a member of a small city firm (and most law firms in New Zealand are all small by overseas standards) or whether he makes his career in a small country town where he may be liable to be called upon to advise his clients in a wide range of work. It has therefore been believed in New Zealand that there is a rather large number of areas of law which should be regarded as a compulsory part of every lawyer's training. Under the present regulations governing admission to practice, a student must include in his degree nine specified law subjects out of a total of fourteen leaving the remaining five to be selected from available options. The Ormrod Committee felt it necessary to recommend that only five subjects should be regarded as the essential compulsory core of a law degree. Beyond this the range of acceptable options was not defined or circumscribed. The "core subjects" recommended were constitutional law, contract, tort, criminal law and land law (which last, the Committee pointed out, would necessarily include some elementary instruction in trusts either as part of the land law course or as part of a separate course).

The brevity of this list would probably come as a surprise to most New Zealand lawyers. It is to be noted that one of the specified subjects, constitutional law, is not in New Zealand regarded as essential for professional purposes though all the four universities with Law Faculties include it as a required course in their degrees. Moreover the Committee in expressing its views on what it referred to as "mixed degrees"—that is degrees of the ordinary length of three years which contain a substantial amount of work in another discipline as well as work in law—recommended that such degrees should be acceptable as a

basic academic training for law practice as long as they included not less than eight law subjects including five core subjects. While I would not myself suggest a reduction of the required subjects to a number as small as the Ormrod Committee was prepared to accept, it is salutary that lawyers as eminent and experienced as members of the Committee were prepared to recognise the realities of legal education in this way. For the realities are not only that no law course can set out to cover the whole field; and that some fields which are not covered at all in formal study deal with aspects of the law which most practitioners will in fact meet early in their practising careers. In my own time as a student there was no course in family law and no instruction in the law of divorce or domestic proceedings except a brief reference to procedure by petition in the course on civil procedure. Nor did we ever hear mention of the Tenancy Act. And yet I, like most young practitioners of the time, gained my early experience in court work almost entirely by handling domestic disputes and matters arising under the Tenancy Act, then at the height of its operation. That we had received no formal instruction in either the law or practice of these matters did not seem to me then, as it does not now, to have been any great disadvantage. Nor do I suppose that young practitioners today making their early appearances in the traffic court find themselves seriously hampered by the fact that prior to starting work in their first office their only experience of the Transport Act 1962 and the regulations made under it has been either through what they may have read in the newspapers—or perhaps personally suffered. The point I am making is that—granting that certain subjects are basic—equally important as the content of a law degree in terms of subjects covered is the training the student obtains in method and technique. It may well be that the New Zealand requirements are at present rather too inflexible in the extent of their compulsions. It seems desirable that students should have the opportunity of studying at the university level and on an optional basis a wider range than is currently possible. Some of the optional courses which could be offered might seem to some lawyers to be somewhat esoteric. I am thinking of courses in subjects such as copyright or patents, international trade or comparative law or admiralty or air and space law. Nevertheless one would think that it would be in the interests of the profession as a whole to have among its members some who had received formal instruction and training in fields such as these. Perhaps the University of Auckland has found a compromise solution which other universities might wish to consider. This is by permitting certain of the required courses, namely those in commercial law, company law, and family law, to be taken by way of short introductory courses thus leaving the way open to extend the amount of work in optional subjects without increasing the total work load for the degree.

Professional Training

Whatever shape degrees may take in the future, some form of further training in preparation for practice and as a requirement for admission must clearly remain as a supplement to the academic stage of training. It is perhaps here that the Ormrod Committee's views are in England most controversial. The Committee recommends that, following university training as a normal requirement for admission,

there should be a second "professional stage" of legal education concerned specifically with preparation for practice. Its objectives are "first, to enable the student to adapt the knowledge of the law and the intellectual skills, which he should have acquired in the academic stage, to the problems which arise in legal practice, and secondly to lay foundations for the continuing development of professional skills and techniques throughout his career". The professional stage is seen as being based upon the assumption that the academic stage has achieved its objective, that is that "the student has acquired a sound grasp of legal principle, a sufficient knowledge of the basic law subjects and the ability to handle law sources so that he can discover for himself with reasonable accuracy, and without unreasonable expenditure of time and effort the law which is relevant to any problem with which he is likely to be called upon to deal in his years of practice".[12] The Committee makes the point that it follows from this that the amount of substantive law to be studied in the professional stage of training should be kept to a minimum and the temptation to require candidates to cover additional law subjects resisted as far as possible. The corollary of the recommendations concerning the professional stage of training is, in the Committee's view, that the traditional system of articles for solicitors should be wholly abolished. The professional stage should consist of full-time training followed by a period of pupillage in chambers for barristers and supervised and restricted practice for solicitors. If the Ormrod scheme is adopted in England the young lawyer at the completion of his degree and his professional course will be qualified for admission to practise and will seek employment only at that point of time.

It is interesting that in their formal structure the Ormrod proposals are not unlike the formal structure that exists at present in New Zealand. The position here of course is that since the coming into operation of the Professional Examination in Law Regulations 1966 all legal practitioners are required to have obtained a degree in law and to have undertaken a course of professional subjects which requires a year to complete. Although the formal structure appears similar there are fundamental differences between our present system and the Ormrod recommendations. The type of professional training that the Ormrod Committee envisages is of a more intensive nature than in normally given in the courses provided in New Zealand. Concerning professional courses the Committee writes, "As we see it, the main function of the vocational course is to bridge the gap between the academic stage and the practical application of the law. . . . [The courses] should be strongly orientated towards the problems of practice and should contain as much practical work as possible. Conventional lectures in law should be kept to the absolute minimum. . . . [The] maximum possible contact with practitioners of all kinds—judges, barristers, solicitors, probation officers and others—should be maintained". The training should, the Committee adds, involve experience in legal aid clinics and cooperation with other disciplines such as business studies, psychology and so on. The committee makes the point also that such courses should primarily be examined by means of continuous assessment of the student rather than upon the basis of final examinations.

12 Ormrod Report, 61-62.

When the present New Zealand scheme was established it was envisaged that, while the majority of students would be full time during their degree course (and this is now the case), the professional courses would be taken by students on a part time basis while working in law offices. The Ormrod Committee made its recommendation for full time professional training in the belief that a full time course of the nature recommended would, if properly carried out, provide a better preparation for practice than the existing English system of service under articles or pupillage without further organised training. Many would no doubt vehemently disagree. I personally would not argue for substituting a full time professional course in place of the present arrangement under which the professional year is taken on a part time basis while the student is gaining his early office experience. But there are perhaps two lessons to be learned from the conclusions of the Ormrod Committee. The first, it seems to me, is that some of our professional courses might be made more intensive than at present. As the Ormrod Committee emphasises, there should be as much practical work and as little lecturing as possible. "The object of the practical exercise should, in our view, be to train students not by telling them what to do, but by making them do it themselves—under supervision and subject to correction". In my opinion there is room for improvement in this aspect of the formal training New Zealand students are at present obtaining. I should think that there would be little disagreement with an endeavour to increase the amount of actual drafting work, practice exercises and so on in our present professional courses. To do this would need staff and hence further financial provisions. But as it would need to be undertaken largely or wholly by practising members of the profession it would increase the opportunities for contacts and cooperation between the profession and the law schools, a desirable result in itself.

The other lesson arises from a new situation that the law schools are facing. This is that in at least some of the university centres the very large increase in student numbers has led to the situation that positions in offices are not available in sufficient numbers to enable all law students in their professional year to obtain a suitable job. One possibility for students in this position is to find employment outside the main centres and to take examinations extra-murally. Educationally this is an unsatisfactory solution. If numbers continue to increase to any significant extent one answer might be to provide an alternative full time professional training course along the lines recommended by the Ormrod Committee. Such a course could compress into say a six month period the work which is currently offered in the present one year part time course. To provide such a course would be by no means easy. But an alternative method of qualifying for entry to the legal profession in the Australian Capital Territory and in New South Wales organised along these lines has been established with the setting up in Canberra of the Legal Workshop which provides a six month intensive full time course for practical training. If student numbers increase further to any substantial extent this possibility may have to be considered in New Zealand.

Recruitment to the Profession

I have mentioned the fairly large proportion of law graduates who are taking another degree alongside their law training. This may be related

to another fairly recent phenomenon—the number of law students who may choose careers other than law practice. Prior to the Legal Research Foundation's 1970 Conference a survey completed among Auckland law students showed that 37% were planning careers other than law practice and that 28% were undecided as to their future. One would expect that more students than these figures suggest would in the end decide to enter practice, and other available information, notably a survey undertaken at the University of Canterbury, makes it possible to estimate, though in the absence of full information with some hesitation, that the present proportion of graduates who in fact follow other careers is about 30% of the total. A survey of some 400 established practitioners taken at the same time as the Auckland student survey in 1969 showed that 91% had intended to enter practice from the time they entered law school as against the 35% of 1969 students who had clearly formed that intention.[13] The increased numbers of law graduates entering upon other careers, though a recent phenomenon, is one which is familiar in other countries. This leads me to the question of recruitment to the profession.

Over the past two years or so there have been a number of references in the press and elsewhere to the large increase in numbers of law students in New Zealand. At Otago, for example, there were 99 law students enrolled in 1965 and 327 in 1969. There are now 404. Similar patterns of increase have been experienced in the other universities. These rapid increases have lead to some concern about possible overproduction of law graduates and of qualified barristers and solicitors. It is true that figures which indicate that in 1972, for example, there were approximately 2900 practitioners and 2500 law students enrolled, appear quite disproportionate. These figures cannot, however, be taken simply at face value and as the matter has caused interest and some concern I would like to say a word about their significance. The student figures must be discounted by two factors: Not all the students enrolled in law will in fact graduate in law. At my university, for example, the figures over the last three years show that of those enrolled in the first year on the average over 30% do not re-enrol in the law school. I would presume that the figures for other Universities would not be dissimilar, except perhaps at Auckland where there is a quota fixing the maximum number of enrolments in each faculty and hence a selection process. Some of those who do not return to law study are students who have been unsuccessful in their university work and have been suspended or excluded from further study or who have decided for themselves to leave the university. This in turn reflects one aspect of the open door policy of New Zealand tertiary education—the philosophy that every person who is educationally qualified for admission to the university is entitled to a place in the faculty of his choice (except in faculties such as medicine or engineering in which special facilities and equipment necessarily impose a limitation of numbers). Others of the students who do not return to law school are students who decide to give up law study in favour of continuing in some other faculty. The total number of students enrolled throughout the country at any given time is not therefore, in itself, an accurate indication of the numbers who will become available for professional recruitment.

13 The results of the Auckland surveys are discussed in *Legal Education in the Seventies; Proceedings of the Forum on Legal Education*, Legal Research Foundation, Auckland (1971).

Much more significant than total numbers is the number who complete their degrees and professional qualifications. In 1972 there were, as I have said, approximately 2900 legal practitioners in New Zealand. New admissions to the profession were 295, a fraction over 10%. In my experience, however, those who complete law degrees almost invariably complete the professional requirements and are admitted as barristers and solicitors even if they follow, or intend to follow, other careers; that is, the number admitted does not necessarily correspond with the number entering practice. The best assessment that one can make is that those following other careers at present comprise about 30% of the total. The entrants to practice would therefore be, in 1972, a number which is considerably less—up to 30%less—than 10% of the total numbers in the profession. As a replacement figure for death or retirement of practitioners and to allow for growth of population this does not appear unduly disproportionate. Although it is obviously dangerous to make comparisons with other countries whose social conditions and legal institutions may be markedly different, it is nevertheless worth noting that figures in the Ormrod Report show that in 1970 the total number of barristers and solicitors was 26,983 and that the number called to the bar or admitted as solicitors was 5.5% of this total. The long term output of graduates and those being admitted in New Zealand is uncertain, though it will clearly be maintained at present levels or show some increases for the next few years at least. Changing needs for numbers of practitioners are also uncertain. Changing patterns of legal work are unpredictable. The Ormrod Committee found it impossible to make projections of the probable number of legal practitioners likely to be required in the future and the lack of information which led the Committee to refrain from attempting a forecast of future needs is similar in New Zealand. My own assessment based on the figures I have just given is, for what it is worth, that current total law student enrolments and the numbers of entrants to the profession do not at this stage appear to be seriously out of line with the profession's need for new recruits.

Research and Continuing Education

I would advert briefly to two final matters, research and continuing education. The Ormrod Committee did not concern itself with the first, but laid great stress upon the second. The two activities are not unrelated for a good deal of what may be useful in continuing education—refresher courses, studies of new legislation and new developments in law—is necessarily based upon effective research.

Professor Derham in surveying the New Zealand scene in 1965 pointed to the need for improvement in facilities and opportunities for research work. Since then some advances have been made. University law libraries have greatly improved though not all of them yet meet acceptable standards. Substantial increases in the numbers of full-time staff and the introduction of LL.B. (Honours) degrees which include the preparation of a final dissertation have led to more students receiving training and experience in research, developing an interest in it and to an increased output of useful work. University involvement in Law Reform Committees, and the provision by the Government, through the Justice Department, of funds by means of which the Committees can commission individual researchers, often members of university staffs, to undertake work on particular problems as a background to possible

law reform, is an encouraging step. Nevertheless, law schools are, by overseas standards, still thinly staffed and the levels of demand made on the time of teachers is still such as to make substantial research difficult. What is needed here, as far as the universities are concerned, is still further improvement in libraries and better staff/student ratios.

With regard to continuing training, the Ormrod report laid great emphasis upon its importance. The Committee described it as the third stage of legal education, following upon the academic and the professional stages. The Report points the contrast with the medical profession which has a highly developed system of specialist qualifications and strong incentives to continue specialist study after basic training has been completed. The Committee saw signs of change in this direction in the legal profession in an increasing use of specialist conferences, refresher courses and courses on new and developing fields of law. It described continuing education both in the early years and throughout the professional career as "the area of greatest potential growth in legal education".[14] Efforts along these lines in New Zealand have been sporadic and tentative but there have been some successful ventures sponsored by all the universities, district law societies and some other organisations. As the law schools reach a degree of maturity—for throughout the post-war years and until the present time New Zealand law schools have remained in the stage of development and hence pre-occupation with their internal concerns—I believe that much more can be done in the direction of continuing education. This is, perhaps primarily the concern and responsibility of the profession (no less than 93% of the practitioners in the Auckland survey in 1969 felt there was a need for continuing legal education for practitioners). But the universities should in the future be in a stronger position, in cooperation with the profession, to make an increased contribution in the wider community of lawyers outside their own walls.

14 Ormrod Report, 98.