

UNIVERSITY OF CANTERBURY FACULTY OF LAW

AN HISTORICAL NOTE, 1873-1980

The establishment of Canterbury University College, which in 1957 became the University of Canterbury, was “a protracted and complex episode”.¹ The beginning of higher education apparently took the form of a Canterbury Collegiate Union set up in 1872 and which offered courses in classics, mathematics, physical science and modern languages. To these was added in 1873, a course in Jurisprudence.

Charles James Foster, a colourful character in whose long career there were many vicissitudes, was appointed Lecturer in Jurisprudence in 1874. He was a brilliant academic lawyer who in 1849 had succeeded to the Chair of Jurisprudence in the young University of London, the first holder of which had been the famous John Austin. In 1864 he decided to try his luck in New Zealand. He lectured for a year in the Collegiate Union and was then asked to continue his lectures at Canterbury College. Response to the introduction of the teaching of law must have been poor, for in 1876 he offered to lecture for the second term without a salary. The LL.B. degree was introduced in 1877 but according to the Official History of the University, students completed their courses mainly by private study. Nevertheless, Foster lectured until 1879. At the beginning of 1880 lectures were discontinued.²

At this time examinations for Barristers and Solicitors were in the hands of the Chief Justice, and just what this entailed is indicated by the reprinting in [1975] N.Z.L.J. 191 of what would now be called “Course Prescriptions”. The extract comes from the Colonial Law Journal of 1875, exactly one hundred years earlier. The examination was to be “by papers and orally” and the latter was held on four consecutive days by “the Judge when on the circuit next after the candidates had answered the papers”. An aspiring barrister was required to sit what was described as a “general knowledge” examination. This included translations from set Latin and Greek authors and grammatical, historical and geographical questions based on the passages translated; the first four books of Euclid; Algebra up to quadratic equations; and the etymology of the English language and English Composition. (Some candidates might have found a crumb of comfort in being allowed to substitute French or German for Greek, but Latin remained compulsory.) The history paper covered English history, including English Constitutional History, and the history of Europe, Greece and Rome. *Blackstone’s Commentaries* was a set text.

In so far as Law was concerned, candidates were required to know the “Theory and Practice of Civil and Criminal Law of England and New Zealand”. Twelve topics were tested including the Law of Property, Contracts and Torts, Crimes, Equity, Rights and Liabilities of Married Women, Mistake, Injunction, Satisfaction, Pleading and Procedure in the Supreme and Inferior Courts, the Law of Evidence and “a knowledge of the leading decisions in the Court of Appeal in New Zealand”. Finally, for good

¹ W. J. Gardner, E. T. Beardsley, T. E. Carter; *History of the University of Canterbury 1873-1973*, p. 47.

² For a more detailed account of Foster’s career see J. H. Farrar, *Dr C. J. Foster—Canterbury’s First Law Teacher*, *infra*.

measure they were examined in the elements of Public and Private International Law. There was a rider to the effect that the passing of first and second year University of New Zealand examinations would be regarded as sufficient "general knowledge" provided that the candidate had been examined in at least Latin, Greek (or French and German), Mathematics and History.

Intending solicitors had to pass examinations in Ancient History (Greek and Roman); Modern History; the Feudal System and the Middle Ages; Reading aloud and writing from dictation; Latin (but apparently not Greek); Arithmetic including vulgar fractions and decimals; Euclid and Algebra as prescribed for barristers. As to their Law, they were advised to read "in addition to the subjects and books specified in rule 22 of the *General Rules of the Supreme Court* of 1863, Joshua Williams on *Real and Personal Property*, Dart or Sugden's *Vendors and Purchasers*, Smith on *Contracts*, Broome's *Commentaries* and Smith's *Equity*.³ These examinations too were written and oral, and candidates were also excused the general knowledge papers if they had passed the Senior Civil Service examination.

In 1882, Canterbury instituted a scheme of prizes which were to be awarded to the candidate gaining the highest marks, irrespective of where he lived, and a gold medal in the Barrister Class was awarded to James Hay, M.A., LL.B. in October 1883 (a brass tablet in the University Great Hall recording his services to the University recalls this fact). A suggestion in 1885 that the awards should be made by the New Zealand Law Society was not approved and the awards seem to have lapsed until 1912, when the Canterbury District Law Society resumed awarding gold medals but now only to Canterbury graduates.

When lectures were resumed in 1883 the appointment of lecturer went to William Izard who had read Law and History at Cambridge, graduating M.A. and LL.B. His lectures were described as being "sound, delivered in a pleasant, informal and chatty manner", and his term examinations and occasional class discussions were said to have helped "to develop habits of steady reading". G. T. Weston followed Izard in 1901, and in 1906 T. A. Murphy took over and continued until 1921. These early lecturers must have been dedicated men, for until T. W. Rowe was appointed an assistant lecturer in 1912, the whole course had been taken by one man. Rowe was appointed Director of Legal Studies in 1922 and given two assistants. A. S. Taylor, who had been an assistant lecturer since 1923, followed him as Head of the Department in 1928. He in turn was succeeded in 1936 by K. M. Gresson (as he then was), one of Canterbury's most distinguished sons.

From his somewhat Dickensian office in Hereford Street, he ran the department for 11 years until he was appointed to the Bench in 1947. Indicative of his warm humanity as Dean is the memorandum sent to his students in Bankruptcy and Company Law when he had to cancel the last two weeks of his lectures through having as he put it to "to undertake other duties". Calculating the cost to students as 1/6 per hour, he personally reimbursed them the appropriate amount, and in wishing them success in

³ Several of these texts are listed in the Law Holdings section of the Canterbury College Library Classified Book List, 1918.

their examinations added the dry comment that "much hard work before November will, no doubt, be necessary". Sir Kenneth subsequently became the first President of the New Zealand Court of Appeal and a Privy Councillor. A delightful story is told of him, when on leave in London, he was invited to sit with the Judicial Committee of the Privy Council. While his noble and learned colleagues went off to the House of Lords for the luncheon adjournment, "K.M." as he was affectionately known to generations of students and practitioners, ate his sandwiches out of a brown paper bag and put his feet up. This had been his practice over the years and with his sturdy antipodean independence he saw no reason to change. The University of Canterbury recognised his long and distinguished service by the award in 1972 of the Honorary Degree of Doctor of Laws.

The Department was next in the hands of L. W. Gee, "Laurie" to innumerable students to whom he had lectured since 1928, and then from 1955-1956 E. P. Wills took over. 1957 saw the establishment of a Chair of Law, and with the appointment of Hamish Ross Gray from Nottingham and London Universities as the Foundation Professor, the Law Department had come of age.

A second Chair was set up in 1968 and filled for one year by Professor G. W. Hinde. Professor Gray returned to England in 1968 having been offered the Barber Chair of Law in the University of Birmingham. By this time student numbers had reached 360, the great majority of whom were studying full time for at least their first three years, and the foundations of a strong and vigorous Faculty of Law had been laid.

Professor Gray was succeeded in 1969 by Professor J. L. Ryan (Canada and London). Professor Caldwell was appointed to the second Chair in 1969 and took over as Head of the Department and Dean of the Faculty when Professor Ryan moved to New South Wales in 1974. Dr J. F. Burrows, himself a student of Professor Gray was appointed to the third Chair in 1973. He now occupies the second Chair and was appointed Head of the Department in 1979 and Dean of the Faculty in July 1980. Professor J. H. Farrar, formerly a Senior Lecturer in the University of Bristol, holds the third.

The Faculty has been well served by other distinguished graduates. A. L. Haslam, graduating LL.M. with first class honours in 1927, gold medallist and Rhodes Scholar (the first Canterbury Law student to receive this award), returned with his Oxford D.Phil. to lecture part-time from 1936 till 1950. As Sir Alec Haslam, Senior Puisne Judge and Chairman for 13 years of the Council of Legal Education, he delivered the Centennial Oration at the University of Canterbury's Centennial celebrations in 1973 and received an Honorary Doctor of Laws degree. When Sir Alec retired from the Bench in 1976 he might well have thought that the time had come to take his ease. The Faculty was therefore delighted that he elected to renew his long association with the University by accepting as from February 1977, an appointment to the position of Senior Teaching Fellow. In January 1975, E. J. Somers Q.C. was appointed to the Supreme Court Bench. A gold medallist in 1952, he lectured in the Faculty for 20 years and was a practitioner member of the Council of Legal Education from 1971 until he became a Judge; as was Mr A. D. Holland for a short period before he too was appointed to the Supreme Court Bench. Sir Alfred North LL.M. 1927 and Sir Clifford Perry LL.M. 1930, ended their

long judicial careers as President of the Court of Appeal and Senior Puisne Judge respectively and Sir Clifford succeeded Sir Alec Haslam as Chairman of the Council of Legal Education until he too retired from the Bench in 1979. A current member of the Court of Appeal is Mr Justice Richardson, gold medallist in 1954 and formerly Professor of Law at Victoria University Wellington and member of the University Grants Committee.

One more personality must be mentioned, A. C. Brassington, that "elder statesman of the law" as he has been called, lectured for 22 years from 1929 until 1951, and the Faculty owes him much. Wise, witty, known affectionately to generations of law students as "Brasso", he was one of those who from the first saw the learning of law as an academic discipline as well as a professional qualification. Over the years his generous gifts of books to the Law Library have been a practical expression of this belief and it is appropriate that three of his most recent presentations should be recorded here—C. J. Foster's *Elements of Jurisprudence*, published in London in 1853, a copy of John Austin's *The Province of Jurisprudence Determined*, published in 1832 and bearing Foster's signature dated 1849 on the fly leaf, and Foster's *Supreme Court Code*, published in 1885 by the *Lyttelton Times* Newspaper.

The years under review have seen many changes. Twenty-five years ago students numbered 97. They were taught by busy practitioners between 5 p.m. and 9 p.m. and 80 per cent studied part-time. In 1979 the number had grown to 708 including 203 women; there is a full-time teaching establishment of three professors and 16 other ranks, while the range of subjects taught has greatly increased.

In January 1974 the Faculty moved from the old University to the new site at Ilam and a mere two years later had already outgrown its new home. The next stage in its development is at present under active discussion. Whatever form this may take, the Faculty seems assured of a strong and vigorous future both inside the University itself and in the wider community outside.

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