

## THE ORMROD REPORT AND LEGAL EDUCATION IN NEW ZEALAND—A COMMENTARY

I. L. M. Richardson\*

Very considerable advances in legal education have been made over the years, particularly in the last ten to twelve years. The first and most significant single factor in the improvement in legal education in the period is the increase in the number of academic legal positions in New Zealand. In 1953 there were some 6 full time academics, 10 years later there were about 20 and now there are approximately 90. Law school libraries have improved dramatically. For example, at Victoria in 1963 there were 8,000 books and space for 45 readers. Currently the library has 40,000 volumes and seats 180—and it is still too small. The number of law students in the country has more than doubled within 10 years. But it is not just an explosion in numbers. The change from very largely part-time law study to full-time study in conjunction with these other changes has resulted in students being much more immersed in the study of law than ever before. Without doubt the vast majority of students work harder and standards are higher than was the case a few years ago. The last 10 years have also seen the development of LL.B. (Hons.) courses, the expansion of post-graduate work and a sharp increase in the quantity, and I think too, the quality of student research and writing.

Yet there are clouds on the horizon. As Professor Sim said, conditions change and change rapidly and some new factors have quite recently appeared. Paradoxically, the success achieved in recent years in some respects is itself beginning to give rise to new problems. One problem which is likely to require special consideration is the difficulty of relating law in the statute books and the law reports to the day-to-day practice of law. It is highlighted by the extreme swing of the pendulum towards full-time study for the whole course, and the manner in which the academic career structure seems to be developing.

For reasons which are nowadays so generally accepted that they scarcely need to be stated, I favour organising the law degree as a full-time course for the first three years. What troubles me is the increasing tendency—due partly to the bursary structure and partly to pressures within law schools—for students to remain full-time for the final year of the degree and in many cases in the professional year too. Now a law school is not the place to provide practical training. As was said of Harvard its graduates are equipped to argue cases in the United States Supreme Court, but are of no immediate use in a law office. Nor do I think that special legal practice courses in law schools or reference in ordinary courses to practice problems are a sufficient substitute for day-to-day contact with law as practised in a private firm or government department or business organisation. Apart from the narrowing of job opportunities as students come on to the market at a later age with higher qualifications and higher salary and work and status expectations—apart altogether from those considerations—I consider that students who are working in a legal setting in the latter stages

\* LL.B. (N.Z.), LL.M., S.J.D. (Mich.). Professor of Law, Victoria University of Wellington.

of their courses benefit from the combination of university study and practical legal work.

Turning to the second element in the problem, the academic career structure, it seems to me that law schools in New Zealand have gained substantially from the blend of academic expertise and practical experience within the faculties. There are various problems and tensions which arise where full-time staff members undertake private practice or advisory work for government. How do you preserve the balance? Does their teaching research and contact with students and other staff suffer too much? Again it is not all that easy for those appointed to law schools after some years in practice or in the government to adjust to the university environment. But I do not think the law schools can function effectively unless a good proportion of the staff have themselves had reasonable and recent experience of the practice of law. In the same way I consider that most people are likely to be better academic lawyers in their 30's and 40's if they have had the widest possible work experience in their 20's. This is contrary to the ordinary academic career pattern in the university system based on, first full-time study for an Honours degree, plus perhaps a Masters or Ph.D. followed by a token two years at an overseas university and then straight back into the career structure as university lecturers — and if applied to lawyers — with little or no experience of the practice of law or indeed of the world outside the ivy walls. In my view, this pattern should be discouraged in a professional school and potential academics encouraged to spend their 20's widening their experience. I would also like to see some staff members spending refresher leave periods practising law in New Zealand, in law offices or in a government or business setting, as an alternative to the traditional overseas leave.

Turning to the content of the law courses, there are two points I want to discuss. First I whole-heartedly support Professor Sim's thesis that the law course should not be lengthened. The degree itself should in the ordinary course take four years, preferably with the last year part-time plus a period of professional training. One problem a Dean of Law faces is to resist requests by keen staff members immersed in their fields for extra hours and extra work in their courses. Those requests have to be resisted. Otherwise it is soon impracticable for students to take say five subjects in a year and inevitably the course eventually takes an extra year to complete. For similar reasons, although I accept the points Professor Sim makes, I would be reluctant to see professional courses made too much more intensive. Ideally a full-time programme of three to four months after a student has been working in a law office for about a year after graduation, has a lot to commend it, but the price in terms of effort and money would be very high. For myself I prefer the present compromise of a part-time professional year with all its faults. It seems to me very important that the professional subjects should be able to be completed in one year by students who in that year are primarily committed to their office work.

Second I share Professor Sim's view that the broadest possible education for lawyers must be beneficial to the profession and to society and, also, accepting the Ormrod Committee thesis, consider that the compulsory core of the law course in New Zealand could well be reduced—although Professor Sim did not himself urge the latter. A lawyer is much more than a technician. He needs to have a broad education. He needs an understanding of social and economic policies

as well as what I might call a knowledge of black letter law. But in my opinion he needs above all to have a sound judgment and if we law teachers are doing our job properly we should be developing the skills of research, analysis and the forming of judgments which are vital for the lawyer in private practice, but important too for anyone who in business or government is involved in making decisions. This is why I consider a law course should also be recognised as a multi-purpose course, not simply as professional training. Viewing the role of the lawyer and the object of legal education in that light I favour the following changes in the current law course:—

1. A reduction in the compulsory core.
2. More emphasis in the social and economic purposes of law.
3. Extending the range of elective units in Part III to allow a student to take two or three more arts or commerce units—surely accounting analysis and economics are just as relevant for a potential commercial lawyer as, say, international institutions and comparative law.
4. The introduction of part units in various law and society and legal practice courses.

My final comment relates to continuing education. The situation here has changed remarkably. Twenty years ago would it have been possible to persuade one thousand lawyers and accountants around the country to pay \$20 a head to spend a week day at a series of seminars? Yet the Accountants Society seminar series have attracted that participation in recent years. Clearly there has been an awakening on the part of the legal profession to the importance of continuing education. The running of seminars is one of our growth industries. I believe this is an area, as is law reform, where the universities and the profession have co-operated for their mutual benefit. But I suggest that the next step is the establishment of continuing legal education on a more organised basis. We might take a leaf out of the accountants' book and establish a continuing legal education programme on a national basis organised by a full-time courses officer. I suggest too that there is a need for longer more intensive programmes of study of developing fields of law than any evening or one day seminar can provide. The law schools might well in conjunction with the New Zealand Law Society or District Law Societies run schools for say a week or ten days. Programmes of that kind have been successful elsewhere and in my opinion would meet a developing need in New Zealand.