



Report

of the

Legal Education Committee,
Bombay
1949



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CHAPTER I.

INTRODUCTION.

1. The question of the reform of legal education was for a long time engaging the attention of the Hon'ble the Chief Justice of Bombay, Mr. M. C. Chagla, who has been intimately connected with legal education for a number of years. After he became the Chief Justice on August 15, 1947, he wrote to the Premier, the Hon'ble Mr. B. G. Kher, in the matter, and correspondence followed, as a result of which Government passed a resolution—Resolution No. 5917 of the Education and Industries Department, dated December 21, 1948—appointing the present Committee, to consider the whole question of legal education in this Province.

2. The relevant portion of this resolution runs as follows :—

“ The question of the reform of legal education was considered by a Committee in 1935-36. Following on the recommendations of the Committee, Government sanctioned, in consultation with the University of Bombay, certain changes under Government Resolution, Educational Department, No. 5917, dated the 10th May 1938, which took effect from the academic year 1938-39. It is now considered that a review of the whole position of legal education is urgently necessary to take account of the subsequent developments and needs. Government is, therefore, pleased to appoint a Committee, consisting of the following members, for the reform of legal education under the chairmanship of the Hon'ble the Chief Justice of the High Court of Judicature at Bombay :—

- (1) A Judge of the High Court of Judicature at Bombay to be nominated by the Hon'ble the Chief Justice.
- (2) Mr. Purshottam Trikamdas,
Barrister-at-Law.
- (3) Mr. G. R. Madbhavi, B.A.,
LL.B., Advocate.
- (4) Mahamahopadhyaya Dr. P. V.
Kane, M.A., LL.M., D.Litt.,
Vice-Chancellor, University
of Bombay.
- (5) The Hon'ble Mr. Justice N. H.
Bhagwati, M.A., LL.B.
- (6) Mr. J. R. Gharpure, B.A.,
LL.B., Principal, Law
College, Poona.

Representatives of the Bar
Council of the High Court
of Judicature at Bombay.

Representatives of the
University of Bombay.

Representative of the Poona
University.

The Principal, Government Law College, Bombay, will act as Secretary.

The terms of reference to the Committee are as follows :—

(1) To reorganize the existing courses in Law so that the standard of a Degree in Law may be improved and raised

(2) To determine the stage of admission to the Law Courses and the minimum pre-legal education necessary.

(3) To reorganize the Post-Graduate courses in Law so as to include Advanced Studies and Research in Law.

(4) To determine whether Legal Education should remain as at present under the control of the three bodies, the High Court, the Bar Council and the University, or whether it is desirable to set up one single body, such as a Council of Legal Education; and if the latter, then to make recommendations regarding the composition and the powers of such a body.

(5) To suggest ways and means for the improvement in the methods of the teaching of Law.

(6) To consider the question of instituting short diploma courses in Law for the benefit of students desiring to enter various walks of life other than Law.

(7) To determine the qualifications, training and the method of recruitment to the teaching staff.

(8) To consider and report on any other question relating to Legal Education which the Committee thinks desirable.

Government has had under consideration the appointment of this Committee for some time. In the meantime the Government of India have appointed a Commission on University Education. There is, however, need for intensive consideration of the problems of this Province and also of some aspects which the Government of India Commission will not cover. Any recommendations which this Committee may make will be considered in the light of the general recommendations of the Government of India Commission."

3. In pursuance of the said Government resolution, the Hon'ble the Chief Justice was pleased to nominate the Hon'ble Mr. Justice N. H. C. Coyajee on the Committee as a Judge of the High Court of Judicature at Bombay.

4. The Committee in all held eight meetings, three of which were devoted to taking oral evidence. At the first meeting of the Committee held on January 13, 1949, a questionnaire was settled (Appendix "A"). This questionnaire was sent to various judicial officers, institutions, associations and individuals interested in legal education in the Province. It was also published in the *Government Gazette* with an invitation to the public to send in their replies by February 25, 1949. The press also gave wide publicity to the questionnaire. Considering

the small number of persons who take an active interest in legal education, the Committee are pleased to say that it received replies from 70 persons. A list of individuals, institutions and associations who sent in their replies is put in at Appendix "B". The Committee examined seven gentlemen and recorded their evidence. A list of the names of these persons is put in at Appendix "C".

5. The Committee had the benefit of a number of articles, pamphlets, books, compilations—both Indian and English—on the subject of legal education. A bibliography of the literature on the subject of legal education which was available to the Committee is put in at Appendix "D".

6. The Government Resolution appointing the Committee is dated December 21, 1948, and the time limit for submission of the Report was originally fixed by Government at March 31, 1949. Owing to usual difficulties attending the work of such committees and the two vacations—X'mas and summer—of the High Court when the Committee could not hold any meetings, Government was pleased to extend the time limit for the submission of the Report to August 31, 1949.

7. Not a few gentlemen suggested that the Committee should postpone its work *sine die*. In the opinion of these gentlemen, the time for making any reform in legal education is not yet ripe. The whole educational system in India is in the melting-pot. Primary, Secondary and even University Education is being reorganized. The question of the media of instruction both at the secondary stage and at the University stage has not been finally settled. The language of the Court may suffer a change and very soon English may come to be replaced by the national language—whether Hindi or Hindustani. There is a demand for the redistribution of Provinces on linguistic basis and, if a decision to that effect is taken in the immediate future, the Province of Bombay will be divided into three language groups—Marathi, Gujarati and Kanarese. The result of this would be that there may come into existence different High Courts for these different provinces. Lastly, regional universities are springing up in the Province. The Karnatak University Bill is already passed. The Baroda University has come into existence and there is a likelihood of a couple of Universities being established in Gujarat. If the Committee were to carry on their work now, all these Universities will go unrepresented and the Committee will lose the advantage of having the opinion of these Universities. It is, therefore, argued that the present time is inopportune for reorganising legal education and that the Committee should wait until some at least of the major problems have been settled.

8. We are unable to accept the suggestion. The question of language does not, in our opinion, fundamentally affect the principles of legal education. At the most, the courses which are now being taught in English may come to be taught in an Indian language. It is true

that the Universities which are now in the process of being formed cannot be represented on this Committee; but we think that, whatever the constitutions of these Universities, it is the lawyers and the law-teachers who will be represented on the Faculties of Law of these Universities. We have had the benefit of the replies from the Bar Associations from these three regional areas and we do not think it will serve any useful purpose to wait until some of the gentlemen, who have sent in their replies now in their capacity as lawyers or law-teachers, come on the Committee as representatives of the Universities. The redistribution of this Province into three provinces is not also, in our opinion, going to alter, in any considerable degree, the position of legal education. It may be that these three provinces into which Bombay will be divided may have different High Courts, or may choose to have one High Court for various reasons. But there is a large body of lawyers who would not countenance different standards of legal education in different provinces. Since the establishment of the Bar Councils in 1926, there is a consensus of opinion amongst lawyers that there should be uniformity in legal education, not only in the different Universities in each province, but also in all the provinces of India. The cause of legal education, therefore, will be served much better if uniformity of standard is adopted so far as this Province at least is concerned. It is in the interest of the judiciary, the legal profession and legal education in general that there should be a standardisation of legal education all over India. It is true that the redistribution of this Province may affect one or two recommendations of the Committee, especially with regard to the establishment of a Council of Legal Education. But we do not think that for that reason alone, it would be advisable to postpone the much needed reform in legal education.

9. There is another consideration which has weighed with the Committee. The need for reform in legal education has long been felt all over India. The late Sir Tej Bahadur Sapru, while delivering an address on the subject of "The Purpose and Method of Law Schools", under the auspices of the Law Society of the Allahabad University in 1934, expressed his conviction that "legal education has been neglected by the universities throughout India and that there was an urgent need to reorganise legal education." Speaking of the universities in the United Provinces, he said "that he had no hesitation in saying that it was impossible to maintain that, so far as universities in these Provinces were concerned, they had been discharging their functions in regard to legal studies efficiently, that he made no reflections upon their professors, who, he believed, were very competent men, that he made no reflections upon any person connected with law department, but he did maintain that, so far as legal studies were concerned, there was no seriousness attached to it, and that universities had, practically speaking, converted themselves into a sort of commissariat for the High Court and the District Courts". He asserted that "it was not peculiar to the universities in the United

Provinces, but it was true of all the universities in India, that so much less seriousness was attached to the study of law and so much more seriousness was attached to the other departments of knowledge.”*

10. This was said in February 1934. As the chairman of the Unemployment Committee appointed by the Government of the United Provinces in 1935, the late Sir Tej repeated these grievances in the report in these words :—

“...we are not prepared to endorse his (Dr. K. N. Katju's) view that the Indian Universities have been making constant endeavours to raise the standard of legal education. Our own view is that so far as universities in these provinces are concerned legal education has not occupied the place to which its importance entitles it; and we are not prepared to say that the standard of legal education has risen to the extent to which it has risen in certain other departments.” †

If this was the state of affairs fifteen years ago, the need for reform of legal education is all the more urgently felt now after the achievement of Independence in 1947. The whole system of arrangements, social, economic and political is under scrutiny, and even under attack from various quarters. The whole outlook on life and its problems has undergone a complete metamorphosis. If society is to be adapted to the profound changes in the basis of social and economic life, resulting from changes in world conditions after the war, and in India, particularly after 1947, we feel that it is mainly the lawyers that India must look to. The legal profession is called upon to take stock of this situation and to contribute to wise social adjustments. If it fails to do it, it will ultimately be eliminated from the revolutionary scene. India is going to be a Sovereign *Democratic* Secular State. If this ideal has to be realised, then law alone will hold the people together and provide the basis on which the whole super-structure will rest. We feel that lawyers cannot remain aloof from these processes of evolution, and legal education cannot wait until all other problems of the nation are solved. On the contrary, lawyers will be called upon to play an important part in these evolutionary processes. Their education, therefore, is of vital importance. This, therefore, is the right time for setting legal education on a sound basis. Let it not be said by the future historian that the bright prospects of our day came after all to naught.

11. We are not unmindful of the fact that there is a certain section of the legal profession which does not want any reform in legal education at all. They feel that law is not a subject which can be taught by professors, or learnt at lectures, and that the only way of

*The Leader dated February 19, 1934.

†Report of the Unemployment Committee, United Provinces, 1935, paragraph 153.

learning it is to go into chambers and learn it there. One must, in fact, be a neophyte and go in the Wizard's room and learn the black art which the public seem to associate with the learning and practice of law. They believe that all that need be done is to give a student general education and leave him to learn his law in Courts. Fortunately, the number of persons who hold this view is small and fast dwindling, and the necessity of treating law as an educational subject has been acknowledged by almost all.

12. Lastly, the Government of Bombay has expressed itself in its Resolution, thus:—

“...that a review of the whole position of legal education is *urgently* necessary to take account of subsequent developments and needs....”

13. We cannot, therefore, accept the suggestion to postpone our labours *sine die*.

CHAPTER II.

HISTORICAL REVIEW.

(A) *Bombay Province.*

14. It may be useful to take a historical review of legal education in the Province of Bombay and incidentally in India. The history of legal education in this Province is bound up with the history of the Government Law College, Bombay, till about 1924, as it was till then the only institution imparting legal education. It is interesting to note that legal education in Bombay had its origin in a demand to that effect made by the citizens of Bombay. The following quotation from the History of the Government Law College, Bombay, compiled by Mr. R. P. Karwe, Ex-Registrar of the College, tells us the origin of this institution in these words :—

“ On 9th November 1852, a meeting was called of gentlemen of the major community of Bombay to consider the best methods of expressing the feeling of the native community on the eve of the departure from India of the Hon'ble Sir Erskine Perry, the Chief Justice of the Supreme Court in Bombay. Rao Saheb Juggonnath Sunkersett, C.I.F., the famous Indian of those days, presided at the meeting and it was resolved that, to commemorate the memory of Sir Erskine Perry, contributions should be raised with a view to founding a Professorship of Jurisprudence in the Elphinstone Institution. This Professorship was to be designated as 'Perry-Professorship of Jurisprudence'.”*

Accordingly, representations were made to the Government of Bombay, and on March 17, 1855, the Governor-in-Council approved of the founding of such a Professorship. On a reference made by the Government of Bombay to the Government of India, the latter in July 1855 approved of the institution in the Elphinstone College of a Chair of a lecturer of Jurisprudence and the grant of allowance from the Government, sufficient to make up the salary of the professor to Rs. 300 per month.

15. Thus began legal education in this Province. In the first year, although there were 46 students on the roll, 110 attended. The courses of instruction between 1855-57 were as follows :—

First Year.—General Jurisprudence in connection with the elements of Roman Law and English Private Substantive Law.

Second Year.—The Law of Contract and Mercantile Law, the Principles of Judicial Evidence.

Third Year.—Equity Jurisprudence together with the Hindu and Mahomedan Law of Succession, Indian Penal Code and Outlines of Judicial Procedure.

*History of the Government Law College, Bombay (1855-1935): Compiled by R. P. Karwe, page 1.

At the beginning, there was only one Professor, but in course of time, in 1858, one additional post of a Professor was sanctioned. The course extended over three years; but in 1858, Mr. R. D. Reid, LL.D., the then Perry-Professor of Jurisprudence, made the following recommendations with regard to the extension of the course:—

“Experience has satisfied me and I believe that the Law Professors concur in the opinion that a four years’ course of study is the very least that will suffice to give the best native students any real insight into law for practical purposes. . . . If then we lay down the four years’ course of Law Studies of which the three last should be practically legal in character as the minimum sufficient for native students, I would propose that 12 exhibitions should be established.”*

This was the state of affairs till 1861.

16. In 1857, the University of Bombay came into existence and an application by the School was made to the University for affiliation on August 13th, 1860, and the Government Law School, as it was then called, was affiliated to the Bombay University on September 16th, 1860. It may be stated in passing that it was one of the only four institutions that were affiliated to the University in the beginning.

GROWTH OF LAW COLLEGES.

17. Till 1870, there was in this Province only one institution imparting legal education. But there was a demand in the mofussil for such type of education and in 1890, five more institutions imparting education in Roman Law and Jurisprudence, which then could be done after F. Y. Examination, were started in the mofussil at Poona, Ahmedabad, Karachi, Baroda and Bhavnagar. These institutions, however, were closed in about the year 1908 when the concession that was made in favour of the undergraduates was withdrawn. In 1924, the Poona Law College came into existence and this was followed by the establishment of a law college at Karachi in 1926, one at Ahmedabad in 1927, another at Kolhapur in 1933, still another at Surat in 1935 and lastly, one at Belgaum in 1939. With the partition of India in 1947, however, the Karachi Law College was lost to the University.

DURATION OF THE COURSE.

18. As to the duration of the course, till 1909, the course extended over three years, one of which could be done before a student got his B.A. Degree. After 1909, when graduation was made the admission stage to law courses, it has been a two years’ course upto the present day.

LAW EXAMINATIONS.

19. Till 1889, there was only one examination in law. In 1890, Roman Law and Jurisprudence could be done before B.A. and thereafter, there was only one examination in law. It is from 1909 that

*History of the Government Law College, Bombay (1855-1935): Compiled by R. P. Karve, page 10.

both the law examinations are being held after graduation—one for the First LL.B., and the other for the Second LL.B. It may be incidentally noted that till 1908, the University held the examinations only once a year. But thereafter, these examinations are being held twice a year. There was no system of “exemptions” till 1909 and a student had to pass in all subjects at once. It was in 1921 that the system of exemptions was introduced for the first time, and a student who secured 50 per cent. of marks in a paper, was exempted from appearing in that paper at any subsequent examination. This was modified in 1927 when the University granted exemptions in two papers at a time. From 1938 in the First LL.B., a graduate in Arts is entitled to an exemption in the English paper alone; and in the Second LL.B. exemptions are granted only in groups. From 1927 it has been the University rule that a student getting exemptions in all but one subject in the first LL.B. can keep terms for the second LL.B.

ADMISSION STAGE.

20. Till 1861, Matriculates and even non-Matriculates were admitted to law courses. When the University instituted degrees in Law in 1861 undergraduates alone were entitled to admission to the law courses. According to the Regulations of the Bombay University in force upto 1889 a three years' course in law could be attended in a Law College for the degree of LL.B. concurrently with the lectures in Arts, but a degree in law could not be had until two years after B.A. or B.Sc. In 1889 a change was made that the course in law for the last two years could be attended only after a candidate had graduated in Arts or Science. It will thus be noticed that till 1908, law courses were open to Undergraduates. A change came in 1908 owing to the recommendations of the Indian Universities Commission, 1902. So far as the admission to legal course is concerned the recommendation of the Commission was as follows:—

“Our first recommendation in regard to law study is, that it ought to be postponed until the student has finished his course in Arts. If he is intended for one of the lower branches of the profession he may begin after the Intermediate Examination; if he is going to the Bar, or means to take the B.L. Degree, he should begin after passing the B.A.... Jurisprudence should not in any case be admitted as an optional subject in any course leading to the B.A. Degree.”

On the said recommendation of the Indian Universities Commission B.A. and B.Sc.s alone were entitled to take the law course and the door of the Law College was closed to Undergraduates. It is curious to note that it was only in 1931 that B.Com.s were allowed to take to the study of law.

LAW COURSES—LL.B.

21. The history of the LL.B. Courses is interesting to follow. We have already referred to the courses of instruction in law that were

being taught till 1860. In 1861, the following subjects formed part of the legal courses :—

- (1) Jurisprudence.
- (2) Personal Rights and Status.
- (3) Rights of Property and Succession.
- (4) Contracts.
- (5) Procedure and Law of Evidence.
- (6) Criminal Law.

A change came soon after and in 1866-67, the six papers for the Law Examination were reduced to four as follows :—

- (1) Jurisprudence and Roman Law.
- (2) Hindu and Mahomedan Law.
- (3) Contracts, Torts and Penal Code.
- (4) Codes of Civil and Criminal Procedure, and Evidence.

This reduction in the number of papers was not approved of by many lawyers and on February 3, 1879, the late Mr. K. T. Telang, wrote to the Registrar of the University complaining of this reduction. The main grievance was that it was not possible for a student to be tested in a large number of subjects within the limitations of four papers. It appears from a letter written by Mr. C. F. Farran in this connection to the Registrar of the University that this reduction was made on the ground of expense. At the suggestion of the late Mr. Telang, a Committee consisting of five gentlemen was appointed by the University to go into the question. The committee was composed of F.L. Latham, Esquire, M.A., Rao Saheb V. N. Mandlik, C.S.I., C. F. Ferran, Esquire, B.A., James Jardine, Esquire, M.A., and K. T. Telang, Esquire, M.A., LL.B. We quote this report as it will be useful in more ways than one. The report runs as follows :—

“We have considered the question of the better arrangement of the Examination in Law referred to us by the Syndicate, and we have the honour to submit, as the result of such consideration, a scheme for the Examination distributed into six papers. This arrangement is in our opinion the most convenient that can be adopted if the subject of Procedure, Civil and Criminal, is to be retained. If it were not that the LL.B. degree is at present accepted as a qualification for admission as a Pleader, and that it might probably cease to be so accepted if the subject of Procedure were eliminated from the course of study and the Examination preliminary to the Degree, we should have recommended the omission of that subject, as inappropriate to a University course. But under the present circumstances, the Syndicate will probably agree with us in thinking that the possible injury to the Law School, if the privileges now conferred by the LL.B. degree were to be seriously diminished, outweighs the disadvantages of including an inappropriate subject in the University

course. We recommend, however, that it be an instruction to the Examiners that questions in Civil and Criminal Procedure paper are never to form more than one-half of Paper No. 6 in which they occur, and to be directed to ascertain the candidate's general knowledge of the constitution of the Courts and the course of Procedure, not to test his knowledge of minute details of practice."

The six papers which the Committee suggested were as follows:—

- (1) Roman Law, Jurisprudence and International Law ;
- (2) Succession and Family Rights (Hindu and Mahomedan Law) ;
- (3) Contracts and Transfer of Property ;
- (4) Equity, Trust, Mortgages and Specific Relief ;
- (5) Torts and Crimes ;
- (6) Evidence, Civil and Criminal Procedure.

22. In 1890, a third revision of the course came about and a candidate was entitled to give his first examination in:—

- (1) General Jurisprudence, and
- (2) Roman Law,

after the Previous Examination ; and the second examination, which was really the law examination, could be given four terms after the B.A. or B.Sc. in the remaining subjects out of the six that were introduced at the last revision. In 1906, the five papers were redistributed and changed into six as follows:—

- (1) Succession and Family Rights ;
- (2) Property, Easements ;
- (3) Equity, Trust, Specific Relief ;
- (4) Contracts and Torts ;
- (5) Crimes and Criminal Procedure ;
- (6) Evidence, Civil Procedure and Limitation.

In 1909, the scheme was again revised and examinations called the First LL.B. and the Second LL.B.—were instituted. The course of the First LL.B. consisted of the following subjects:—

- (1) Roman Law ;
- (2) General Jurisprudence and Constitutional Law ;
- (3) Contracts and Torts ;
- (4) Crimes and Criminal Procedure.

And the Second LL.B. course consisted of:—

- (1) Succession and Family Rights.
- (2) Property and Easement and Tenures.
- (3) Equity, Trust and Specific Relief.
- (4) Evidence, Civil Procedure and Limitation.

In 1927, the second paper of the First LL.B. was split into two, and Company Law and Insolvency were added to the Second LL.B. course. In 1937, Contracts and Torts in the First LL.B. were divided into two papers ; and in the Second LL.B., the law of Mortgage was shifted from

the paper in Property Law to that in Equity. In 1938, with the coming of full-time colleges into existence, the papers for the two examinations came to be redistributed. A paper in English was added to the First LL.B. course in view of the fact that the Intermediate Examination was made the stage of admission. The other law subjects were distributed over a two years' course.

23. This, in short, is the history of the degree courses in law. One thing may be pointed out that, although on several occasions the courses were revised and re-revised, no fundamental change appears to have been made. The number of papers were either reduced or increased and a few more subjects were added, but nothing beyond this was ever done.

LAW COURSES—LL.M.

24. With regard to the Post-Graduate Course, the LL.M. degree came to be instituted in 1906. In 1861, a course for Honours-in-Law was introduced and candidates who were placed in the First Division were alone eligible. For the Honours Course, a candidate had to take two of the following subjects:—

- (1) The Law of England.
- (2) Hindu and Mahomedan Law.
- (3) Mercantile Law.
- (4) Roman Civil Law
- (5) International Law.
- (6) Conflict of Laws.

In 1864, a candidate could take only one of the two following groups:—
Group "A".—Consisting of—

- (1) Hindu and Mahomedan Law.
- (2) Contracts, Torts and Penal Code.
- (3) Civil and Criminal Procedure and Evidence.

Group "B".—(having 3 papers)—

- (1) Roman Civil Law.
- (2) International Law (Private).
- (3) International Law (Public).

The Honours Course was, however, discontinued in 1906 and the present LL.M. course was introduced. One observation may be made that, except in the third group of Property Law, there appears to be no homogeneity in the grouping of the subjects in the remaining three branches.

LAW TEACHING.

25. As regards teaching, the colleges in the Presidency were only part-time institutions in the past. Till 1932 there was only 6-hours of

teaching per week. Thereafter, the number of periods was increased to 8. Classes were held in the evening and sometimes also in the morning. In 1938, full-time instruction was introduced in law colleges and we have now 18-hours instruction per week. The method of teaching adopted in the law colleges all along these years has consisted only of lectures. Moots are sometimes held, but they are more in the nature of theatricals than intended to teach the appropriate procedure to the students. Tutorials are almost unknown. Terminal examinations are held and in some colleges tests are held in the various subjects. So long as the colleges were part-time colleges, there was practically no opportunity for contact between the students and the professors. In the Government Law College it was, however, made obligatory on the Principal to be available on the College premises for giving guidance to students for an hour or so till 1930 and this was increased to a couple of hours thereafter. From 1938, full-time Professors are required to be on the College premises for 4 hours every day. It may be noted that during the last 10 or 11 years, this contact between the students and the Professors is becoming more and more intimate. Extra-curricular activities have been started and a sort of *esprit de corps* is now to be found in these institutions.

TEACHING STAFF.

26. From 1938, the staff consists of part-time and full-time Professors. Part-time Professors usually take 4 to 5 periods a week and the full-time Professors 10 to 14 periods per week. In the past, lawyers of five years' standing were appointed to the post in a Law College. But the University last year laid down the minimum requirements for appointments in law colleges. The rule of the University in that respect now stands as follows :—

“*Professor.*—LL.B. (1st Class) or LL.B. with B.A., and five years' practice as an Advocate in a Court of Law (in either case). The Professor of English must have the additional qualification of a 1st Class at the B.A. with English or a 2nd Class at the M.A. with English as a voluntary subject.

In all cases in which minimum qualifications have been indicated, equivalent qualification or eminence recognized by the Syndicate shall be accepted as satisfying the requirements for teaching appointments.”

27. Generally speaking, the full-time Professors in the mofussil colleges are given a scale from Rs. 150-250 and the part-time Professors are paid Rs. 100-150 per month. In the Government Law College, Bombay, the revised scale of the full-time Professors is from Rs. 530-780 and the Principal's scale is Rs. 800-1,250. But we are told that the latter is under revision. The full-time Professors are not allowed by the University rule to practise in Courts, but they can do Chamber-work. The last facility is not available to Professors in the Government Law College.

23. The history of legal education in our Province is bound up with the history of the Government Law College till 1924, and therefore, it may be noted that this institution has been under the care of a Board of Visitors since 1899. The Board came into existence in that year as a measure of reform introduced by Government for the management of this institution. The Board has all along been presided over by the Chief Justice of Bombay. The constitution of the Board has been revised once in 1920 and finally, in 1930. At present the following is the constitution of the Board :—

PRESIDENT :

- (1) The Hon'ble the Chief Justice (*ex-officio*).

MEMBERS (OFFICIAL) :

- (2) A Puisne Judge.
 (3) A Puisne Judge.
 (4) The Advocate General (*ex-officio*).
 (5) The Government Pleader (*ex-officio*).

MEMBERS (NON-OFFICIAL) :

- (6) One Advocate (Original Side).
 (7) One Advocate (Original Side).
 (8) One Solicitor of the High Court.
 (9) One Advocate (Appellate Side).
 (10) One Advocate (Appellate Side).

HONORARY SECRETARY :

The Principal of the Government Law College,

All these are nominated by Government. The constitution shows that this body is a thoroughly independent and representative body of the Bar and the Bench. It controls the administration of the Government Law College, and Government have always sought and followed its advice in all matters connected with this institution. In the past this body has influenced to a considerable extent the legal education in this Province. The existence of such a body has brought about a close contact between the University on the one hand and the Bar and the Bench on the other. This probably explains why legal education has not been so neglected in our Province and that the Government, either at the instance of the Board or at the instance of the University, have not been slow in introducing frequent reform in legal education in this Province.

(B) Indian Universities.

29. It may be useful to take a bird's eye view of legal education in other Indian Universities. Legal education started almost simultaneously in the three major Provinces of Bombay, Bengal and Madras—even before the Universities came into existence. It need hardly be added that with the establishment of the Universities in 1857, the Universities in these Provinces opened Faculties of Law and introduced law courses, conferring degrees in law. The number of Universities having Law Faculties increased in 1936 to fifteen and today the number has still further risen to about twenty. Some of these Universities have Law Departments of their own; but a good many of the Universities are affiliating Universities. In many Provinces, till about 1888, law classes were attached to Arts Colleges and they had no separate existence; but thereafter we find institutions being established which solely cater to the needs of the students of law. The number of such institutions is well nigh over thirty now.

30. Without going into the details of the legal curricula of these Universities, we may note a few general characteristics. The work of compiling a comparative table of curricula and other matters has already been done by Mr. N. N. Ghose, Dean of the Faculty of Law, Dacca University, and this has been published by the Inter-University Board of India in about 1928 under the title "Standardisation of Legal Education in India". This publication is an old one, but even to this date, it is substantially true to facts. It may be noted that in all the Universities except Andhra and Bombay, graduation is the stage of admission to law courses. A student has to be a graduate either in Arts, Science or Commerce before he can take to the study of law. In Andhra and Bombay, Intermediate Examination has been made the stage of admission. From this follows the result that a student has to spend six years in other Universities before he gets his Degree in Law. The actual course in law covers a period of only two years, except in Calcutta and Dacca, where the course extends over a period of three years. There is a University examination at the end of every year. Some Universities allow exemptions at these examinations in single subjects, others in groups. Generally, it may be found that the so called cultural subjects in law such as Jurisprudence and Roman Law are taught in the first year, while the greater portion of the actual laws which a practitioner has to deal with in Court is relegated to the second year. Most of the Universities have part-time teaching in law, although the tendency now has been to make the study of law a full-time business. The attendance in classes is compulsory and the method of teaching that is mainly followed is by lectures. Almost all the Universities have instituted post-graduate degrees, either LL.M., Ph. D. or LL.D., and a student has to be an LL.B. before he takes to the study of law for the LL.M. or other post-graduate degrees. It may, however, be mentioned that no special arrangements for teaching of the post-graduate courses are to be found in most of the law colleges in the country.

31. A few general observations may be made on the courses in law that have been adopted by the Universities. These courses seem to have been framed with an eye to the profession. The main object of Universities appears to be to train students for the profession of law, as advocates, judges, solicitors etc. This explains the large number of enacted laws that are to be found included in the curricula. Local Acts, Procedure Codes, other procedural laws, all find a place in the study of a law student in the University. This was probably necessary in the beginning when the country needed both lawyers and judges, and the whole judicial system had to be newly established. But during all these 90 years, there does not appear to be any substantial change effected in the University courses. Universities have never looked upon Law as an educational or cultural subject.

32. This historical review will lead one to the conclusion that legal education as it was imparted in the past perhaps satisfied the needs of the country; but modern conditions require a complete reorientation of the outlook on legal education, and this is the task to which we have now to address ourselves.

CHAPTER III.

GENERAL.

33. Before we tackle the problems which are before us, it will be necessary to indicate a few principles which we have observed in the solution of these problems.

34. The time has now come to look upon law as an educational and cultural subject. In the past, it is the professional aspect of law that alone was looked to in legal education. It is the professional point of view with which the Universities framed their curriculum and the teaching of law was adapted to that aim. Law was never treated as an educational or cultural subject. As far back as 1885, the late Mr. Justice Muthuswamy Iyer said:—

“Law is hitherto studied in this Presidency more as an art founded on certain arbitrary and technical rules than as a science which consists of principles laid down for protecting human interests in various life-relations. Until lately law was studied even in England more as case-law than as a science. In most of the English text-books, which alone are accessible to law students in India, the division of the subject and the mode in which each branch of law is treated have reference more to the development of English Law as case-law than as a science. A College, therefore, where legal education is to be imparted on a scientific basis, will be of great value to the country, and exercise a very beneficial influence on the practice of law as an art.”*

The Director of Public Instruction in his report 1906-07 observed:—

“We produce many graduates in Law, but, I fear, few real lawyers. Those qualified to judge tell me that what distinguishes the Pleaders in Courts is an utter want of grasp of the principles of Law. It must be confessed that men do not make the most of the present system but it must be confessed equally that the system does not afford them the opportunity of becoming scientific and philosophic lawyers.”†

35. The University Reforms Committee appointed by the Government of Bombay in about the year 1925, observed in their report:—

“It has been pointed out to us, and we admit a large amount of truth in the criticism, that the course of this University seems to have too much in view the practice of the lawyer and case-law, and too little the science and principles of Law. This was not the conception of the Law School when it was founded. In 1868 the Chancellor, Sir H. W. R. Fitzgerald, in his Convocation Address said: “The

*Chandavarker Committee Report (1916), page 52.

†History of the Government Law College, page 43.

University Examination in Law is not an examination in the knowledge which qualifies a man to be a successful practitioner—it is not a knowledge of cases and decisions and practice. It is a knowledge of the principles of Law and Jurisprudence. It is a knowledge of the history of Law". The University's courses include Criminal (1st LL.B.) and Civil (2nd LL.B) Procedure. We doubt whether procedure can be taught by lectures or from books or in fact in any way except by experience gained in Courts."*

36. What has been said about Bombay and Madras is equally true of the Universities all over India. The late Sir Tej Bahadur Sapru, in his Report of the Unemployment Committee, U. P., to which we have referred in our first chapter, says:—

"The aim of legal education everywhere in these Provinces is to produce lawyers for the Bar and the Bench and nothing more. There is an impression abroad that Law classes or colleges are maintained by the universities or different colleges as a source of revenue." †

After quoting Professor Jenks on the purposes of legal education in Universities, the late Sir Tej proceeds:—

"Judged in the light of these remarks we do not think that we could really claim very much for legal education as it is imparted in our Universities. They do not aim at all at producing men who want to adopt professional work as the main occupation of their life, or who would like to devote themselves to legal authorship The only object which Universities have in view is to produce graduates-in Law so that they may join the legal profession or secure some Government appointment. This we think to be wholly inconsistent with the ideals of University Education in a cultural subject such as Law. Judged, therefore, by the standards of legal culture and scholarship, we are afraid that the legal education which is given is of a very narrow, and limited character. For a practitioner in a Court of Law, no doubt it is necessary that he must have an accurate idea of the statutory law or the case-law, but we think that, if legal education has for its object the broadening of a man's mind and enabling him to contribute to the development of legal ideas or to the correlating of law to the sociological needs of the country, then the legal education which is imparted to our graduates at present falls very short of the necessary standard." ‡

37. Thus, it is clear that the Universities had the professional training of a law student in mind and this was not confined to India alone. Even in England, the same attitude towards legal education was adopted till very recent years.

38. It is this professional aspect in legal education that explains the absence of Juristic Literature in our country. The complaint has always

*History of the Government Law College (1855-1935): page 63.

†Report of the Unemployment Committee (U. P.): para. 168.

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been made that India has produced no jurists of eminence. We have lawyers who can stand comparison in forensic ability with any lawyer in the West. But we have had no jurist. It will also be observed that there is a total lack of periodicals devoted to legal topics as such.

39. The reasons for such a situation are not very far to seek. Public life in this country was dominated by lawyers in the past. A new judicial system was being introduced in its history. In the Law Departments of the Universities there was also a preponderance of lawyers. The situation was aggravated by the fact that there was no organised body of law teachers. For a long time, law teachers worked part-time. There were no teachers who devoted their lives to the teaching of law. Such a body is now slowly coming into existence. But the absence of such a body in the past is reflected in the attitude of the Universities towards legal education.

40. Whatever the situation in the past, we have no doubt that Law must now be treated as an educational subject. Lawyers who took part in public life in the past played an important role in the political life of the country. But the lawyer's role in Free India has changed. Mr. K. M. Munshi in his evidence before us spoke of this new role in these words:—

“.....my view is that we have to think of the lawyer not in terms of a practitioner only. Today, after 15th August 1947, he has to play a fourfold role which he did not do before. First, he is a practitioner; secondly, he is the only guardian of democratic values of the rule of law. There is a great tendency (I say this without meaning reflection on anybody) towards what I may call a kind of totalitarianism and the only group that stands between that tendency today is the lawyer. If we want to maintain a democratic State, the role of lawyers would be entirely different from what it has been so far, because in every assembly, even in the Parliament, the notions associated with the rule of law and freedom of the individual—the two fundamentals of democracy—are opposed often unconsciously by many persons in and out of power. Therefore, the lawyer cannot rest content with making money in Courts. The third ground is that on account of the variety of laws passed in a modern State with several legislatures, a class of lawyers, as apart from practitioners who would be administering the laws, has become indispensable. That would be a new role for the lawyer of the future. And the fourth one is that if we are going to have an evolution and not a revolution, there must be a class of lawyers who would help in achieving and interpreting evolutionary social progress by Advanced Studies—an activity in which the lawyers in America and England play a great part. Therefore this entirely new role requires a new outlook on legal education.”

41. It must also be remembered that the whole basis of society is now being reorganised. Social, economic and political changes are

taking place rapidly and on a vast scale. The lawyer's help in this evolutionary process will be indispensable. The lawyers all over the world have been policy-makers. A large amount of constructive work has to be done. In commerce, in factories, in labour organizations, in banks, in the administrative machinery—everywhere—the scientific training of a lawyer is required to lay down policies and therefore the lawyer's education must now be fundamentally changed.

42. This is exactly what is happening in America. The following paragraph written by Professor George E. Osborne of Stanford University Law School as part of his contribution to the report in December 1946 by the Committee on Aims and Objectives of Legal Education of the Association of American Law Schools points to the way in which legal education is being sought to be reorganised there:—

“This country, in a relatively short time, has been transformed from an organization of society with predominantly local self-government, individual enterprise, and comparatively mild governmental regulation to a highly centralized, bureaucratic state of behemoth proportions in which practically all economic life is subject to or affected by governmental rule and regulation. This transformation poses and will continue to pose with great urgency tremendous problems upon the solution of which the preservation of a free society depends. Predominately our policy-makers in the field of government and public administration, the men who make and carry out our decisions, who shape our way of life, and who determine this country's destiny, have been, are, and in the foreseeable post-war world will continue to be lawyers. A survey of the direct role lawyers play in our federal and state governments and the powerful indirect influence they exert in their professional capacities makes this statement a simple, inescapable truth. Because of the inevitable part lawyers will play in the solution of these problems it seems obvious that one basic function of any law school in the future must be the conscious and systematic training of leaders in policy-making and policy-administration for the achievement of those values which are the goal of a good way of life in such a free society. A lawyer grounded only in the technical aspects of the law lacks the equipment to guide those destinies which his position and his activities necessarily determine. His training must include a synthesis of relevant human experience and knowledge in order to provide adequate guides for making and carrying out wise policy decisions.”*

43. Even from the professional point of view, it will be difficult to keep abreast of laws which are being enacted. Government, in modern times, are encroaching in multifarious ways upon the lives of its citizens, and legislative activity is very rapid. Numerous laws are being forged on the legislative anvil. It is not possible for the University to give to-

* “Lawyers, Law Schools and the Public Service”—By Esther Lucile Brown, page 5.

its students even a bird's eye view of all enacted laws. In the past, this was what was sought to be done and the curriculum was overcrowded with laws enacted or otherwise. The idea was to give an encyclopaedic knowledge of law. This is becoming impossible now. The lawyer, therefore, must be trained in the fundamental principles of law rather than in the laws themselves. Once the basis is firmly established, a student may be left to himself to add the super-structure.

44. It is sometimes forgotten that there is no real antimony between the professional and the cultural aspects of law. A lawyer will be a better lawyer and a judge a better judge, if he has studied the science of law. A thorough grounding in the principles of law is absolutely necessary in the make-up of a real lawyer. This fact has been recognised in America and now even in England. We, therefore, are of the opinion that greater emphasis must hereafter be laid on the scientific aspect of law in legal education and the whole legal course will have to be reorganised to suit the new changes that are coming on in the country.

45. We also feel that some of the social sciences must be included in legal courses. Life in modern times is becoming very complex. Law touches all sides of human activities and legal education cannot be perfect without a study of the humanities such as politics, economics, history, etc. The idea that a law student has to deal with law and nothing else must now be abandoned because law is becoming the very basis of life in its manifold activities. In America, the tendency to include the social sciences in legal courses is fast increasing. This need is felt because of the various roles which a lawyer has to play in modern society. We are of the opinion that social sciences, therefore, ought to be introduced in the education of a law student at some stage or the other. Whether that is done at the pre-legal stage or simultaneously with the study of law is immaterial. But we firmly believe that the education of a lawyer is not complete without the study of some of the important social sciences.

46. Lastly if a distinction is to be made between the professional and the scientific aspects of legal education, we believe that the Universities must concern themselves with the study of law as a science, leaving it to the professional bodies such as the Bar Council to control the professional side. It is the scientific aspect which should preponderate in the education which the Universities impart. This is not exactly a new idea, and the Report of a Committee which was appointed by the Syndicate in 1879, and from which we have quoted on a former occasion, shows that even the Universities were conscious of the fact that their business was to train students in the science of law and not in the technical aspect of law. "A University education should be education in the law and not only, or possibly not even primarily, education for the Law." In the recommendations that we shall make, we shall try to observe, therefore, this bifurcation. The detailed study of procedure, of the Law of Evidence, of conveyancing, etc., is

not well suited to University courses. The University will teach and examine in general principles and academic subjects, leaving it to the professional bodies the task of teaching and certainly of examining in the technical and practical subjects.

47. With these general principles in view, we shall proceed in the next chapters to deal with the following problems that are before us:—

- (i) The Stage of Admission and Duration of the Legal Courses ;
- (ii) Legal Courses for Graduation in Law ;
- (iii) Post-graduate courses in Law ;
- (iv) Control of Legal Education ;
- (v) Diploma Courses in Law ;
- (vi) Methods of Instruction in Law ; and
- (vii) Law Teachers, their Qualifications, Recruitment, Emoluments, etc.

CHAPTER IV.

STAGE OF ADMISSION.

48. The most difficult problem we have to tackle is the determination of the stage of admission to legal education. In dealing with this problem we are assuming that the duration of the law course will be three years, as will be found from our discussion on that question in the next chapter. The stage of admission and the duration of the course are so inter-connected that the consideration of the two cannot be completely dissociated from each other.

49. Three different views have been urged before us. In the opinion of a good few, the stage of admission to law courses ought to be the Matriculation. Others have pressed before us the view that nobody should be allowed to take to law course without first being a graduate. The third view is in favour of the retention of the Inter Examination as the stage of admission, as is at present in our University. We have given a very careful consideration to all these three points of view in coming to our conclusion for the retention of the present qualifications for the admission to law course.

As to the first.—A few who sent in their replies to the questionnaire and also two lawyers who gave evidence before us were strongly of the view that a student of law should be taken in hand at the earliest opportunity, if his legal education is to equip him for the objectives which are in view. Their point of view has had the support of the Hon'ble Dr. B. R. Ambedkar, Law Member, Government of India. In 1936, when he was the Principal of the Government Law College, Bombay, Dr. Ambedkar for the first time gave expression to this view, which is stated in these words :—

“ Having given my views on the questions relating to the course of studies and the period of studies, I take the consideration of the first question, namely, at what stage of his education, a student may be permitted to commence his study of law. I have no hesitation in saying that it should begin immediately after he passes his Matriculation. I am driven to this conclusion by my inability to answer satisfactorily to myself the following two questions :—

(1) Why should the study of law be regarded as a post-graduate study ?

(2) Does the under-graduate curriculum gone through by a boy in an Arts College give him the training which is necessary as a preliminary for making him an efficient lawyer and the want of which has been a matter of constant complaint by the Examiners ?

With regard to the first question, it may be pointed out that in the Bombay University no Degree in any Scientific subject such as Engineering, Medicine, Chemistry and Physics is treated as a post-graduate Degree requiring the passing of the B. A. as a condition

precedent for being admitted to the Degree Course. Why Law alone should be treated as an exception, I can see no good ground for justification. Secondly, what the boy studies during his four years in an Arts College for obtaining the B.A. Degree Ex-Hypothesi has been found as of no material benefit to him in the study of Law. It is the consideration of the matter from this point of view which has forced me, as I have said, to come to the conclusion that Law should not be treated as a post-graduate study but should be treated as a graduate study commencing right after the Matriculation.... I may mention in passing that the Barrister's course is not a post-graduate course.... I see three distinct advantages in my proposal of allowing a student to commence the study of law immediately after the Matriculation :—

(1) The first advantage to which I attach the greatest value is this. At present a student who joins the Law Course has not the fixed objective of studying law for the purpose of qualifying himself for the profession. He comes there merely for the purpose of adding one more string to his bow. It is his last refuge to which he may or may not go for shelter. Probably he comes to the Law College because he is unemployed and he does not know for the moment what to do. Due to this unsteadiness in purpose there is no seriousness in the law student and that is why his study of law is so haphazard. It is therefore necessary to compel him to stick to it. A boy who is a B.A. cannot have this fixity of purpose because as a B.A. he has other opportunities in life open to him. My scheme has the advantage of compelling the boy to make his choice at the earliest stage at which everyone in this country is required to make a choice of his career.

(2) The second advantage of my proposal lies in its combination of economy and efficiency. A boy will be able to complete his legal education within four years. This is a saving of two years over the present system.

(3) The third advantage is that it will introduce a process of selection. Those who have not the definite object of entering the profession will be weeded out. Only those with the definite object will join. It will thus help to prevent the overcrowding of the profession.

There is only one objection which may be urged against it by some with whom I have discussed it. It is that a Matriculation student will not be able to follow lectures in Law. My reply to this is two-fold. My friend, Mr. S. C. Joshi, M.A., LL.B., Advocate of the Bombay High Court, assures me that there is no substance in the objection.

.....My second reply is that under my scheme the course for the LL.B. is of two years and the study of Law need not commence from the first year. It may commence in the second."*

50. We have taken this opportunity to quote from Dr. Ambedkar's article a little at length, because it contains the strongest argument in favour of introducing legal education at the Matriculation stage in our own Province. The LL.B. course in the English Universities is a graduation course and the study of law begins immediately after the Matriculation. Even in some of the Canadian Universities, for a long time, the Matriculation was retained as the stage of admission.

51. We have been very much impressed by the arguments advanced before us in this connection. We have no doubt that there is a good deal of merit in the suggestion, and, if we have rejected the proposal, we have done so with considerable hesitation.

52. But there is no doubt that the Matriculation standard in the Province is rather low so far as general education is concerned, much lower, in fact, than is to be found in England. Even there, some uneasiness as regards the admission stage to the law course is being felt. In the course of his Presidential address to the Society of Public Teachers of Law at its Annual Meeting held in 1923, Dr. H. D. Hazeltine, Litt., D., Downing Professor of the Laws of England, University of Cambridge, expressed his dissatisfaction at the entrance qualifications for the Barrister's course in these words:—

“Even a casual examination of the existing requirements for admission to our law schools, and for entry into the two branches of the profession, might well lead one to the view that the standard of prelegal study in this country, if compared with that in certain other jurisdictions of the common law, is surprisingly low. One realises, of course, that the problem of general education to be exacted of law students is inextricably interwoven with many other problems of university and professional life. But there are some features of the English educational system which are, in large measure, the survival from former times and are retained solely by reason of a strong spirit of conservatism. We are living, however, in an age of educational reform. Is not the time opportune for a serious consideration of that aspect of educational system which concerns the general culture of the young men and the young women who are to become barristers and solicitors? In certain of our schools of law there seems to exist an alertness as to the importance of this matter. In some of them subjects of general education, which are important at the present day to the maintenance of the utility of the profession in social and economic life such as political science and economics, are included in the legal course of study itself and this policy is consonant with the practices of many of the leading law schools of the Continent; for example, the Law School of the University of Paris. In at least one of our own schools the new regulations require one year's collegiate training in arts or science, subsequent to matriculation—as a preliminary to entry upon studies for the degree of LL.B. To my own mind this is a notable step in advance.”*

*JSPTL (1924): “English legal Education” page 6.

53. If this is the view expressed with regard to law studies in England where the Matriculation standard is comparatively high we doubt whether it would be a piece of wisdom to introduce a law student to legal course immediately after his Matriculation in this country.

54. In Dr. Ambedkar's opinion a Matriculate, after he is admitted in a law college, will have to devote a couple of years to the study of the subjects of general culture. In principle legal education of this type is necessary; but in that case the law colleges will be really doing the work that the Arts Colleges can efficiently do. We see no reason why it is necessary to introduce such a duplication of work. We feel that a couple of years spent in an Arts College will tend to broaden the mind of the student and widen his outlook. In this Province boys very often pass their Matriculation at the age of 16 or so. We do not think that they should be called upon to choose a career at such a tender age.

55. The second suggestion is to open the law courses only to graduates. It is said in support of this view that a student of law should have a broad cultural background which can only be attained if a student studies for a Degree in Arts, Science or Commerce. This view has the strong support in England of A. E. W. Hazel, who says:—

“What should be the lawyer's education? Paston J. in the 15th century desired his son to ‘be a Bachelor of Art before he go to the Law’ and the principle is sound. The best foundation for a legal career is liberal education. A degree in honours in some subject other than law should, if possible, precede the study of law either academically or professionally. What, for choice? The Oxford School of *Literae Humaniores* is, I think, the best possible—but I will not stop to say why! Any honours degree is better than nothing. Our lawyer certainly ought to know something besides law. A famous educationist has recently said: ‘One of the most dangerous persons we can produce in the world is the uneducated specialist.’ Scientists, please note!”*

It may be pointed out that Professor Hazel's remarks are made in connection with the entrance requirements as they exist in England. We do not dispute that a cultural background is very essential to a student of law, and so long as this requirement is satisfied we do not see any reason why the law courses should be linked up with graduation.

56. It is said that a graduate has a mature understanding so that he is able to grasp legal principles easily and that he can express himself in English with sufficient accuracy. Lowering of this standard will, therefore, be harmful to legal education. This aspect of the question was considered by a Special Committee appointed for opening a Law Faculty in the Andhra University, under the chairmanship

of Sir Alladi Krishnaswami. We cannot do better than quote from this Report :—

“..They (the Committee) have however a special proposal to make in regard to the eligibility for admission to the law course. While, under the Madras University regulations, the only requirement for being admitted to the professional degree courses like Medicine, Sanitary Science, Engineering, Veterinary Science and Commerce is the passing of the Intermediate Examination, the Madras University insists upon a degree in the B.A., B.Sc., or in the Honours as a qualification for entrance to the law. The Committee are not impressed by the special rule in regard to the qualification for admission to the law course obtaining in the Madras University. The only reasons that have been advanced in support of the retention of this qualification are of a twofold character :—

(1) As English is the language of the Courts and as lucid exposition of the client's case is a most important part of the lawyer's work, he must have a better knowledge of English than is attained by a student completing the Intermediate course.

(2) Persons entering the legal profession must have a mature understanding of the problems of life and a wider culture than is attained by students passing the Intermediate Examination.

Without controverting the reasons adverted to above, the Committee do not feel impressed that the present rules of entrance to the Law College in Madras are calculated to serve either of the two objects. A pass course in B.Sc., or an Honours course in subjects other than History and allied subjects is not likely to afford special facilities in the way of equipping a student for the legal profession, or give the student the requisite command of English language and literature. The Committee are inclined to think that a preliminary course of one year in general literature, outlines of European History, and Politics (theory and practice), after a student passes the Intermediate Examination, is likely to be of greater practical value to the student pursuing his legal studies than degree in Arts, in B.Sc., or in Honours.”*

We agree with Sir Alladi's criticism of the two objections taken to making the Intermediate Examination as the stage of admission to law courses. It appears to us that the real question is not whether a graduate has a more mature mind than the Intermediate student, for that is a proposition which one may not like to controvert. But the more pertinent question is—‘has the Intermediate student a sufficiently mature understanding to be able to study the course which we are recommending for the Law Degree?’ And we are of the opinion that he has. In England, a Matriculate is considered capable of studying law subjects such as Jurisprudence. In many Universities in Canada, a two years' Arts Course is considered as sufficient to entitle a student

*Report of the Special Committee for opening a Law Faculty in the Andhra University—(1936): page 2.

to join the law course. Surely, an Intermediate student in India has not less maturity of understanding than a Matriculate in England, or an Intermediate student in Canada. This seems to have been accepted—tacitly at least—by the Bombay University. All Indian Universities including the Bombay University allow an Intermediate student to take to the study of Philosophy and Economics. We do not think that law requires a more mature understanding or a greater proficiency in English to grasp its principles than Philosophy or Economics. We may add one more fact that, under the scheme that we are proposing, an Intermediate student is not called upon to undertake the study of law as such all at once. He has to go through a year's course in pre-legal education before he goes to the study of law proper.

57. It is urged that if the entrance qualifications are placed sufficiently high, that will result in an elimination of the many intellectually unfit persons from the law courses and that this would be all the better for the profession. This aspect of the question was considered by F. C. Cronkite, Dean of Law, University of Saskatchewan, Canada, who disposes of this argument in the following words:—

“There can be little doubt that a college course serves to eliminate many of the intellectually unfit. With these students out of the way the task of the law teacher is much simplified and the intellectual level of the law school is raised. This argument applies more forcibly, perhaps, to the two-year standard, since most failures in an Arts course occur during the first or second year. Experience has abundantly proved that the student who has successfully completed one or two years in college is much more likely to be able to complete a law course than is the mere matriculant.”*

What has been said above with regard to the circumstances existing in Canada is equally true of those obtaining in India.

58. Lastly, it has been urged that it is desirable to have a uniformity in the standard of entrance qualifications all over India. Except the Universities of Bombay and Andhra, all other Universities require a student to be a graduate before he takes to the study of law. The graduation standard was adopted in this country 40 or 50 years ago and it is the usual conservatism of lawyers which has succeeded in retaining that standard. We have been unable to appreciate the reasons which led to the introduction of this particular standard in the past. In our opinion, two reasons have presumably induced the Universities to adopt this entrance qualification. The first of these finds its expression in the Report of the Saddler Commission in the following words:—

“Ever since the foundation of the University, the regulations have uniformly required that degree in law can be taken only by persons who have previously taken a degree in the Faculty of Arts

*13 Canadian Bar Review (1935): page 378.

or since the creation of a degree in Science, a corresponding degree in that Faculty. There has been some variation, however, in the requirement of attendance at lectures for a prescribed period. From 1858 to 1871, the regulations prescribed that a candidate for the degree of Bachelor of Law must have received instruction for a period of three years in a college affiliated in law. But two of these three years of instruction might have preceded admission to the degree of Bachelor of Arts. Consequently, during the period mentioned, it was open to a student, immediately after he had passed the F. A. examination, to enter simultaneously upon a study of law and of the degree course in Arts, and this in fact was the practice ordinarily in vogue. If a candidate failed to pass the B.A. examination at the end of two years, his law study was necessarily interrupted and could be resumed for the concluding period, only after he had passed the B.A. examination. From 1871 to 1891, the regulations required attendance at lectures for a period of three years in a college affiliated in law, but prescribed that one of these years only could be taken before admission to the B.A. degree. The position thus was that students commenced the study of law in the middle of their course for the B.A. degree. Very often, as the student failed to pass the B.A. examination at the first opportunity, his law study was interrupted, possibly for a number of years, if the student was unsuccessful at successive B.A. examinations. The consequence of the system, which prevailed from 1858 to 1891, was found unsatisfactory in practice. A student in a state of uncertainty as to whether he would or would not be able to pass the B.A. examination, could not very well be expected seriously to undertake the study of law. The result was that in 1892, the period of study required for admission to the B.L. examination was reduced from three to two years, both of which must be after the B.A. examination. This alteration was made on the assumption that the extra year previously required and permitted to be taken before the B.A. examination was essentially nominal.*

59. These remarks were made with reference to the position of legal education in Bengal; but making allowance for differences in dates, the same situation was found in this Province. The Saddler Commission point out the evils which obtained in those days and it was to remedy all these that graduation was introduced. If those are the reasons which led to the adoption of graduation as the stage of admission to law courses, we do not see any reason why this should any longer be continued. Those evils no longer exist, and simultaneous study of Arts and Law is no longer allowed in any University.

60. The other reason which led to the course adopted by the Universities is to be found in the opinion that the profession of law does not require any special study, and the best place to learn law is the Law Court. Therefore, for a long time, the opinion was held that a student should be given a broad general culture and then be left to

*Calcutta University Commission Report (1917-19); Volume III, page 34. -

study law for himself. This finds support in the Report of the Bombay University Reforms Committee appointed in 1925. This is what the Committee say :—

“The Calcutta Commission strongly approved of the prolongation of the Law Courses from two to three, if not four years, urging that the assimilation of new ideas requires the lapse of adequate time. We are not in favour of such an extension. Law students are men of mature years already graduates and they have ample time to assimilate legal ideas during the early years when a practice has still to be built up.”*

61. This argument has been dealt with by Professor L. R. Shiv Subramaniam, M. L., Dean, Faculty of Law, Delhi University. In dealing with the question of the duration of the course, he says :—

“The supporters of the two years’ course hold that since law is a post-graduate course, little or no instruction is needed in it and that a student can be left much to himself. There is also a belief in some that law could be learnt well only at the Bar and that the University course is only to get a degree to enable one to get admittance to the Bar. Much of this may be based on observation of present conditions but as arguments are fallacious. The LL.B. course is in no sense a post-graduate course. It is the first degree course and not an advanced course in law. That it is a study reserved for graduates under the present rule in this country does not make it a post-graduate course. Excepting that graduates are by their long-academic training and maturer minds expected to follow legal principles more easily, Law is as new to them as to anyone else. Since the courses are crowded and are rapidly dealt with the subject fails to soak into the student and create an intelligent interest in him. The law student begins to take to cram-books and failures in the first year are more than in the second.”†

62. Lastly, it is urged before us that if we introduced a lower standard for admission to the study of law, it would be really unfair to the other Universities in India. There will be an exodus of students from other Universities to this Province and, therefore, it is urged that one should follow in the foot-steps of other Universities in this matter. We may point out that under our scheme, the law course is going to be a six years’ course after the Matriculation in order to enable a student to be admitted into the legal profession and no ground for complaint in the matter should now exist.

63. The difficulties in adopting this proposal are manifold. In the first place, graduation can be taken in many subjects. Are we to allow all graduates, irrespective of the course which they take, to be

*History of the Government Law College (1855-1935)—page 62.

† ‘Legal Education in India and its Reorganization’—By L. R. Shiv Subramaniam M. L., Journal of the Benares Hindu University 1939 III page 284.

admitted to the law college? If this is done, the very object of adopting graduation as the stage of admission will be frustrated. Many of the graduation courses can hardly satisfy the pre-legal requirements. Very often a student chooses subjects for his graduation course with an eye to a Degree. In such a case, if he happens to choose wrong subjects, his two additional years at the college are a waste from the point of view of legal education. This difficulty was expressed by Mr. Cronkite, whom we have quoted above in this chapter, thus:—

“Of course, there is no magic in the B.A. degree. If the same result can be achieved by means of a longer law course which is made to include certain subjects not included in the standard law curriculum, there would seem to be no theoretical objection, although many practical difficulties might arise. The degree in Arts, however, would seem to offer a fair prospect of solving part of the difficulty. But if a degree in Arts is required ought it not to include certain prescribed studies? Just as Chemistry and Biology are prerequisites to Medicine, are not Economics and Political Science, for example, natural prerequisites to law? It is difficult to understand how a lawyer can be of any great assistance in the modern world without some knowledge other than that found in the reports and the statutes. A college is a good place to get that knowledge although ambitious and interested people read it up for themselves.”*

64. The same view has also been expressed by the Dean of Law in the University of Minnesota, Canada, when he says:—

“Although the law schools have this conception of the law and the lawyer’s function, they have devoted their energies almost exclusively to teaching the rules of law. They have relied upon the colleges for this broader training, and expected it to be had before students entered law school. For this purpose they have required three or four years of college work for admission. The college student does not understand the nature of law and the function of the lawyer in society, does not see the relation of his college work to his career as a lawyer, does not know what to choose for a college course, and lacks interest in his college work. Too often prospective law students spend the college period on work that is of little value to them in their profession. Their course is chosen with the view to qualifying for a degree rather than in accordance with their future needs. Many regard the college period as a time that must be served before they can get into a law school. Habits of idleness are developed which are a hindrance to future effort.... Our faculty believes that better results can be had by curtailing the college period of study and extending the law school period. Our records over several years show that students with two years of college work do as good law work as students with three or four years of college. The University of Chicago Law School has found that

* 13 Canadian Bar Review (1935):—“Legal Education—Which Trend?” by W. F. Cronkite, page 384.

students with four years of college do markedly poorer law work than those with only three years. So our Law School admits on two years of college and is able to devote the time thus saved to the type of training of which we have been speaking."*

65. It will further be noted that a law class of graduates would present heterogeneous elements. There would be such different levels in the class that it would be difficult for the teacher to so arrange his lectures that it will neither be stale nor unintelligible to every section in the class. A uniformity of pre-legal education, therefore, is highly desirable if teaching in a class has got to be successful. We also feel that a graduate is not so serious about his legal education. The passage we quoted from Dr. B. R. Ambedkar supports our contention.

66. The last consideration that has weighed with us is the fact that if graduation is made the stage of admission for legal course, the whole course will extend to seven years after the Matriculation, on the assumption that three years at least are necessary for legal education. In the interest of the students as they are situated in our Province, it is necessary to shorten the period as far as we can do, consistently with efficiency. In our scheme, a student will get his law degree after five years and will qualify himself for entrance to the profession six years after the Matriculation. We are, therefore, unable to accept this second view which has been urged before us.

67. We are in favour of the retention of the present stage of admission, namely, the Intermediate Examination. This proposal has the advantage of a combination of economy and efficiency. If a law student has to spend at least six years after the Matriculation, as he does in other Universities, we are of the opinion that the only course that can be adopted is to curtail the period of pre-legal education and extend the law course. In the opinion of Professor R. L. Shiv Subramaniam, there are many advantages in this course that we propose to adopt. He points out the following advantages:—

"(1) This course will not be longer than the present B.A. or B.Sc. and LL.B. courses put together.

(2) The economic incidence will therefore be the same, or even less.

(3) It will enable the first year to be devoted to teaching those subjects like Economics, Politics, History etc. etc., which are regarded as preliminary and necessary for a course in law.

(4) It will allow of sufficient time to read and receive instruction in legal subjects... In short, this arrangement will put law on the same footing as other professional courses like Engineering or Medicine."†

* 13 Canadian Bar Review (1935) "A Minnesota View of Legal Education" page 418.

† "Legal Education in India and its Reorganization", page 235.

68. We also feel it necessary that law colleges should take in hand a student when he is younger so that his habits of thinking may be moulded. It has been the experience of the law teachers in this Province who have worked the present courses during the last ten years that an Intermediate student has a more receptive mind than a graduate. This opinion was expressed by Mr. A. A. A. Fyzee, M.A. (Cantab.), LL.B (Bom.), Barrister-at-Law, now India's Ambassador to Egypt, when he was the Principal of the Government Law College, Bombay. Mr. Fyzee is of the opinion that the Intermediate examination should alone be made the stage of admission to the law course. He expressed himself thus :—

“In my opinion a student should be diverted at this stage, and should not be allowed to proceed to the B.A., if we are to make a successful lawyer of him. He should at this stage be taken in hand and gradually brought to the stage when he can be trusted with legal work..... It is sometimes suggested that an Inter Arts student cannot understand the Law, and the graduate has greater powers of assimilation. With the greatest respect to those who hold this view I do not agree. I think there is hardly anything to choose between the intelligence of the Inter Arts and the B.A. students. Moreover the Inter Arts man is superior in two respects: he is younger, he is more amenable to teaching and college influence, and secondly, his mind is still flexible and the legal habit of mind can still be inculcated. In the case of the graduate, he is already a finished product, he has formed fixed habits of thought and study and I find from experience in Bombay that he is not quite so responsive to legal study as his young contemporary. Therefore, if we increase the legal course to 4 years, there seems to be no danger in reducing the preliminary period to two years. Thus we can have a 4 year course of law, without lengthening the total period of study, and this may with advantage commence after passing the Inter Arts examination as in Bombay.”*

This view was expressed by Mr. Fyzee in 1945, and he adhered to it in his evidence before us.

69. We may mention that the Andhra University has adopted the Intermediate Examination as the stage of admission to the law courses, and the relevant portion of the report of the Special Committee has already been quoted before. The Legal Education Reforms Committee appointed in 1937 in the United Provinces adhere to graduation as the stage of admission, for reasons which have been dealt with by Dr. R. U. Singh, LL.D., M.L.C., in his minute of dissent. He supports the view which we are taking in these words:—

“I am not unaware of the importance of requiring a student to have a good general education before he begins the study of law,

*Law College Magazine (1946), page 11.

but a student does not have time enough to secure all the general education and also all the technical law training that would be good for him. Therefore, if the law course must be lengthened to three years, as in my opinion is very necessary, and if the total time of six years, which candidates for the first degree in law devote to their education after the high school, is not to be increased, the only way to do it is to reduce the period of general education by a year. And this, it appears to me, can be done without detriment to the cause of effective legal education..... Moreover, the entrance requirement of a University Degree, the symbol of a good general education, as a condition of admission to the law course will have to be given up and students permitted to join law after two years of college work in the near future..... If the ground for admitting graduates is to ensure competency to do the work, a preliminary course of a year, after Intermediate, as recommended by Sir Alladi Krishnaswami Committee, in basic disciplines e.g. English, History and Political Science, will constitute a better preparation for law students than a Bachelor's degree. This preliminary course is to precede the three-year legal curriculum..... My colleagues have rejected this view on two grounds: 'first, it is considered to be too stringent a rule to require candidates to choose a career once and for all after passing the Intermediate examination as the lengthened course for a law degree will preclude the graduates in other subjects from choosing the legal profession after taking the degree in other subjects; secondly, it is felt that if a candidate, who, after passing his Intermediate examination, has pursued for two years or more, his study in the law classes, fails through some accident to complete his legal education, all that he will have to fall back upon is his Intermediate class certificate'. The age of 18 or 19 years which is the average age of candidates passing the Intermediate examination is not early for choice of a profession. In fact that choice should be, and is generally, made at that age if not earlier. And then as regards 'graduates in other subjects' they may be permitted to join the three years' law course without going through the preliminary course, thus suffering a loss of one year at the most. The second objection of my colleagues can easily be met by awarding the B.A. degree in law at the end of the second or third year of his study, after the Intermediate, including the year devoted to the preliminary course."*

70. It may be pointed out that in Canada, a two years' college course has been adopted by many Universities as sufficient for entrance to law courses. For all these reasons, we have no hesitation in recommending that the Intermediate Examination should be the stage of admission for law courses in this Province. We hope that other Universities in India will, in course of time, adopt the same attitude in the matter of entrance qualifications.

*Report of the Legal Education Reforms Committee (1939): (U. P.)—page 17.

Although we recommend that the Intermediate Examination should be the admission stage, in our opinion, this should be restricted to Inter Arts and Inter Commerce students alone, and should not include the Inter Science students as at present. The Beaumont Committee, which reviewed the question of legal education in 1935, recommended the same course. The tentative conclusion arrived at by the Committee in this respect runs as follows :—

“that LL.B. course should commence after passing of the Intermediate Arts or Commerce Examination.

In spite of this recommendation, we are at a loss to understand why the Bombay University allowed the Inter Science students to go in for the study of law. An Inter Science student can in no sense pretend to have had any pre-legal education at all. The University does not allow an Inter Science student to change his course to that of Arts. Why law alone should have been selected for such a change is very difficult to understand. If an Inter Science student is no good for Arts we do not understand how he would be good enough for a legal course. We, therefore, are of the opinion that the law course should be open only to the Inter Arts and Commerce students and not to the Inter Science students.

CHAPTER V.

DURATION OF THE COURSE.

71. The duration of the course in our Province is two years and, excepting Calcutta, Delhi and Lahore, in all the other Universities the same period is devoted to the study of law. But the general feeling amongst lawyers and law-teachers is that this period is insufficient to cover a large number of subjects. It was the late Sir Tej Bahadur Sapru who gave expression to this feeling in his lecture quoted in another connection in this Report. He said:—

“I have for a long time maintained for the last 25 years that it is impossible to traverse even a respectable area of law within two years, and if the Universities want to raise their standard of legal education, if the Universities want their graduates in law should have a more extensive, if not more intensive, knowledge of law, then the least they can do is they must provide a three years' course.”*

72. In his Report of the Unemployment Committee (U. P.), he made the recommendation that “the course of study for a law degree should not be of less than three years”. The Saddler Commission were strongly in favour of retaining the period of three years for the study of law. This is how they express themselves:—

“As regards the second point, the most recent judgment of the University based on the experience of over half a century has been pronounced, as we have already seen, in favour of the three years' course. This is in accord with the trend of the best modern opinion and is amply justified by the peculiar circumstances of the Indian students of law. It is not necessary for our present purpose to review the stages through which the controversy relating to the proper length of a course of law study has passed in various Universities; a lucid summary is contained in the admirable reviews of the progress of legal education which form part of the annual reports of the Commissioner of Education of the United States. It is sufficient to state that there has everywhere been a gratifying advance, not merely in the way of increase in entrance requirements but also in respect of the length of the period of study. A three years' course is now prescribed by most law schools of standing and repute in the United States, which also require a degree in Arts, as an essential pre-requisite for admission. The tendency in quite recent years has, indeed, been in the direction of further advance; and it is stated that there is growing feeling on the part of law-teachers that the course should, if possible, be increased to four years, though only a few years ago a suggestion that this might be attempted was received with disapprobation, if not with derision. We do not advocate that the course of legal study in this country should at once be extended from three to four years. There are obvious objections to such a course. But although we refrain from recommending an extension of the

* “Purpose and Method of Law Schools”—Address delivered by Sir Tej Bahadur Sapru at the Allahabad University in 1934.

period of law study, we desire to make it clear that we do not advocate any reduction and that we do not regard the proposed extension of the B.A. and B.Sc. courses by one year as justifying a shortening of the courses of legal studies. The elementary truth that the process of assimilation of new ideas requires lapse of adequate time cannot be too strongly emphasised.”*

73. Dr. R. U. Singh, in his dissenting minute to the Report of the Legal Education Reforms Committee, United Provinces, also expressed his opinion in favour of a three years' law course. He says:—

“The truth is that there is hardly any time at his disposal for mental digestion as distinguished from unprofitable cramming and this in the face of the fact that if there is any branch of study which requires independent thinking on the part of the student it is law. Some improvement in legal education can no doubt be effected by improvement in methods of teaching but a good training in law is not possible in two years. The Universities of Calcutta, Delhi and the Punjab have already discarded the two-year law course in favour of a three-year one. Adequate time to accomplish results is a prerequisite to effective education. The necessity of a three-year law course is recognised in all the leading countries of the world, the course of legal studies in France, Germany, England and the United States of America, generally covering a period of three years. In recent years a tendency towards increasing the course to four years has appeared and in Italy the law course already extends over four years. . . . The disadvantages involved in the proposed extension of the law course from two to three years, namely, the desirability of getting men to start practice early and the added expense to the law student, will disappear if we do not insist on a Bachelor's degree as a condition of admission to the course of law studies.”†

74. Persons who have sent in their replies and given their evidence before us are almost unanimous in their opinion that the law course ought to be extended to three years and we recommend that this should be done. Our proposal involves a study of law proper for two years for the University Degree and one year for the study of vocational subjects for the professional examination which we are proposing. A student, therefore, will be studying his law in all for a period of three years in order to be able to enter the profession. In fact we are proposing a three years' pre-legal course and a three years' law course. Out of the first three years, a two years' study of pre-legal subjects will be under the control of the Arts Colleges and a one year pre-legal course will be done by the law colleges; and out of the three years' study of law, two years will be devoted to the study of law for a degree in law and one year for the professional subjects under the supervision of the Bar Council or the Council of Legal Education. We are of the opinion that this sort of division will enure to the benefit of the law student in the circumstances as they exist today in this Province.

*Calcutta University Commission Report, Vol. V, page 121.

† Report of the Legal Education Reforms Committee, U. P., page 17.

CHAPTER VI.

LAW COURSES.

75. As mentioned in the last Chapter, our scheme for legal education is a three years' course in pre-legal education, two years' course for a University degree and one year devoted to the study of procedural subjects. We are of the opinion that a University degree in law is essential for entrance to the profession and, in the scheme that we are proposing, we are suggesting a division of work between the University and the professional bodies. The University ought to confine itself to the scientific and academic study of law, whereas the professional bodies like the Bar Council, will take a student in hand and train him in the procedural laws of the country. As A. E. W. Hazel has put it,

"The function of University Law teachers is in the main to teach fully those subjects which, while valuable to the properly equipped lawyer, are not definitely practical. The detailed study of procedure, of the law of evidence, of conveyancing, and of specialized topics such as negotiable instruments or bankruptcy is not well suited to a University Course."*

It is quite true that there cannot be water-tight compartments in the study of law and that the scientific study of law cannot be completely divorced from the professional, and that the work which the two bodies will be doing will be more or less complementary. This sort of coordination between the University and the professional bodies was approved of by the Legal Education Committee in England under the Chairmanship of Lord Atkin. In paragraphs 9 and 10 of the Report, this is how the Committee express themselves:—

"It seems reasonable also that University faculties, without diverting their attention from their essential object of giving a scientific education, should bear in mind the legitimate aim of these students to acquire necessary professional qualifications by passing the prescribed examinations. It is inevitable that instruction in law, whether given for University course or for professional qualification, must, to some extent, be the same; just as the test by examination of proficiency in law will be to some extent the same. Your committee fully accept the principle that it is for the professional bodies alone to decide what degree of professional knowledge shall qualify for admission to the profession and to determine the tests by which that proficiency shall be ascertained. It is inherent in the differentiation of function of University and professional body that the teaching and examination in such a subject as law should to some extent differ. The professional body will necessarily emphasise the practical side of the teaching and test proficiency from that point of view. The application of principles to concrete cases, the multitudinous provisions of statute law must form a considerable part of the body of knowledge required from

*47 *Law Quarterly Review*: "Law Teaching and Law Practice", page 511.

a student before he is 'let loose' upon a world of laymen. The University is more concerned with the teaching of law as part of the universitas of knowledge; it will necessarily emphasise principles and, as far as it can, will develop the scientific side of its subject. Nevertheless it would be a mistake to exaggerate the distinction between academic and professional teaching of law."*

We have, therefore, suggested a course where the University and the professional bodies will combine their efforts to create a class of qualified lawyers.

76. For the First Year's Pre-legal course we recommend the following subjects:—

- (1) (a) English text—Prose and Poetry.
(b) English—Essay, Precis and Composition.
- (2) Outlines of Social, Economic and Constitutional History of India from 1773 to modern times.
- (3) History and Development of Social Institutions.
- (4) Politics.
- (5) Elements of Constitutional Law.

77. In suggesting these subjects, we are assuming that the Universities in the Province will keep the subjects which the Bombay University has prescribed at present for the two years' course in Arts. That course is as follows:—

First Year's Course—

Group "A"—

- (1) English Prose and Poetry (texts).
- (2) Composition in English (with texts).
- (3) Modern Indian Language with texts, or an additional section in English with texts.
- (4) Classical language or a Modern European language other than English with texts.

Out of the following subjects, a candidate has an option to take any such subjects as carry 300 marks in the aggregate—

- (1) Indian Administration.
- (2) Civics.
- (3) Outlines of Ancient Indian History and Culture.
- (4) Geography.
- (5) Mathematics.

Inter Arts Course—

- (1) English Prose and Poetry (texts).
- (2) Composition in English (with texts).
- (3) Modern Indian Language with texts or an additional section in English with texts.
- (4) Classical Language or a Modern European language other than English with texts.
- (5) World History.
- (6) Elements of Economics.
- (7) Mathematics or Logic.

*Legal Education Committee (Lord Atkin) Report: (England). Page 6.

78. This First Year's course in law which we are recommending is designed to give a broader basis to the law student. The utility of these subjects in a law course, in our opinion, is beyond question. All over the world it is now being increasingly felt that a study of the social sciences is absolutely necessary if the lawyer is to successfully play his role in modern society, when problems of life are getting more and more complex. Because of his legally trained mind, the services of a lawyer are required in every walk of life as a policy-maker, especially when democratic methods are being adopted for solving the manifold problems, not only in politics but also in the economic, social and industrial spheres. A lawyer cannot keep himself aloof from the many currents that go to make modern life so complex. We have, therefore, thought it necessary to add one more year to pre-legal studies to the two years which a law student devotes in an Arts College.

79. We have recommended two papers in English to meet the criticism of those who complain that an Intermediate student's knowledge of English is inadequate. The language of the law, as the language of the Courts, is English and there is no doubt that proficiency in English is necessarily required in the case of a law student. We, however, feel that the more a student takes to the study of standard books on law, the greater will be his mastery over the English language. This we expect to be the result of our recommendations in respect of the law course. The study of law is a great help in the improvement of one's own knowledge of the English language. Mr. E. I. Howard, the then Director of Public Instruction, in his Report on Law Examination in 1856, said :—

“As the English Law is a science that, perhaps, above all others, deals in nice distinctions, which require the utmost precision of language to express them, I would suggest that the students should be invited to study the English language more deeply. They must not content themselves with the possession of a copious vocabulary, but must advance to a knowledge of the distinctitive meaning and precise force of each word, phrase and sentence ; without such previous knowledge the study of the law can produce but little fruit, whether the end in view is to practise it as a profession or to strengthen and improve the mind. I may mention that *no science supplies the student with a better opportunity of extending his acquaintance with English than the Law*. It is essentially a science that weighs and appreciates terms, so that a student can, with the utmost convenience to himself, acquire the principles of law and at the same time gain a mastery over the English tongue. It is very probable that the general inaccuracy to which I have adverted may be owing, in some instances, to an inability on the part of the students to entertain clear ideas on the branches of learning in which they are examined. Still it will be well to urge all to spare no pains in making themselves perfect in the English language, as an accurate knowledge of the meaning of terms is known to be the first step towards the acquisition of clear ideas.”*

* Director of Public Instruction's Report (1856-57): page 7 of Appendix 'F'.

We agree with Mr. Howard in his view and feel that a lawyer who goes through the course we are recommending, will not be found deficient in his knowledge of the Court language.

80. In recommending that this course should be taught in law colleges, we have the idea that these subjects will be taught from the lawyer's point of view and that it will be done more conveniently in a law college. We recommend that those graduates who have studied any of these subjects in their Arts course should be exempted from those subjects from the First Year in Law. There will be an examination at the end of the year by the University called the Law Preliminary.

81. The subjects for the three years' law course are as follows :—

First LL.B.—

- (1) Principles of Criminal Law,
- (2) Principles of Contract,
- (3) Law of Agency, Bailments, Sale of Goods, Negotiable Instruments, Partnership and the Law of Surety,
- (4) Broom's Legal Maxims and Principles of Equity,
- (5) Torts.

Second LL.B.—

- (1) Hindu and Mahomedan Law (without Intestate Succession),
- (2) Law of Succession,
- (3) Law of Property, Easements and Transfer of Property,
- (4) Trust and Specific Relief,
- (5) Principles of Jurisprudence and Conflict of Laws.

The course for the third year, to be controlled by the Bar Council or the Council of Legal Education, should be as follows :—

- (1) Civil Procedure,
- (2) Criminal Procedure,
- (3) Evidence and Limitation,
- (4) Company Law and Insolvency, or, in the alternative, Land Revenue Code, Court Fees Act and Suits Valuation,
- (5) Elements of Book-keeping and Drafting.

82. It will be noticed that the two years' law course for the University consists of subjects involving more or less the fundamental principles of law, and the third year's professional course consists of subjects which are more useful in the professional career of a student. The idea is not to give an encyclopaedic knowledge of law. We have recommended only five subjects for each year's course. This reduction in the number of subjects will result in an intensive study of the subjects. The complaint against the present courses in law is that they are overcrowded, with the result that a student does not study them intensively and does not go to standard works, but confines himself to cram books. If the number of subjects is reduced, we feel that the student will devote his attention to acquiring a complete mastery of the subjects and will have recourse to standard books of law. The temptation to rely upon mere cram books will be considerably lessened and the student's knowledge of the subjects will be more intensive as well as extensive.

83. It will be noticed that in mentioning the subjects for the University course, we have taken care to avoid the use of the expression 'Acts'. Our intention is that broad general principles of the subject ought to be studied. Very often when an Act is prescribed, the study of sections results in overlooking broad principles underlying the Act and a student loses sight of the wood for the trees. We do not think it necessary for a student to master every section of an Act. It is enough if he studies and grasps the general principles embodied in the Acts, so that in his career as a lawyer, he will be able to interpret these sections by himself. In prescribing the professional course, we have mentioned 'Acts', because we feel that at that stage, when a student is studying for his profession, he may safely be entrusted to study the Act in the proper way.

84. As regards individual subjects, it will be noticed that we have omitted to mention Roman Law. There is a cry against the inclusion of the subject in the law courses. We are conscious of the fact that this subject is to be found included in the legal courses of all the Universities in India. It is also to be found as a subject of study in almost all the European countries. It is only in Canada and America that there are Universities which do not include the subject in their courses. The reason for this omission in these Universities probably is that their courses include the study of subjects of a more strictly practical character and there is no sufficient time left for the inclusion of Roman Law. In spite of this, we are of the opinion that the time has now come for the exclusion of Roman Law as a separate subject from legal courses. Even in England, the opinion of the student-world is against the study of Roman Law. Professor W. I. Jennings of the London University expresses himself against the inclusion of Roman Law in the law course in these words :—

"Roman Law should be wiped out because the student got little benefit from it and the argument advanced in its favour did not work out in practice."*

85. The difficulty of including Roman Law in a legal course has been expressed by H. F. Jolowicz, M.A., LL.M., Reader in Roman Law in the University of Oxford, thus :—

"The exact place which Roman Law should hold in English legal education has always been something of a problem. We must realise that the amount of Roman Law which can in any case be made compulsory is small. The ultimate difficulty is that we all feel that for us Roman Law is part of the theoretical side of legal instruction, and yet, as our own law is not based on Roman principles, we cannot make the teaching of it part of an introductory course on law in general, as it is to a certain extent on the Continent, where the student, while learning Roman Law, is at the same time learning the elementary principles of his own law. Whereas the German or French teacher can lead straight on from Roman groundwork to the existing law and hence has to refer mainly to the Digest from which the existing

*JSPTL (1932) : 'Culture and Anarchy in Legal Education'—page 11.

law, so far as it is Roman, is chiefly derived, the English teacher cannot at all easily make any contact between Roman Law and the law of his own country, and thus necessarily treats of it as a system of a particular foreign people, the Romans, and sets the text book of that people before his pupils.”*

It is interesting to note that the late Mr. Justice Holmes regarded Roman Law as ‘high among the unrealities’, and this opinion was also shared by the late Sir Frederick Pollock.

86. The greatest difficulty in the study of Roman Law in India is that a very considerably large majority of students do not know Latin. In England, the position is different. Without a knowledge of Latin the study of Roman Law is not going to be of any material benefit to the student even for a cultural background. Mr. H. G. Hanbury emphasised the need of the knowledge of Latin in the study of Roman Law. He says :—

“.....I will say one word as to the question whether Latin is necessary. Surely, this question can be answered only in one way. I would refer anyone who would advocate the study of Roman Law in the translation to Professor Buckland’s text book. He has shown us how the discovery of a feminine pronoun in a passage of the Digest dealing with pignus opened the door to a flood of new knowledge of fiducia. In one of the stories of Edgar Allan Poe, the realisation by the reader of a cryptogram, that a certain pun on the name Captain Kidd could be made only in English, led to the discovery of Kidd’s buried treasure ; if we abandon Latin as our medium for the study of Roman Law, we may be doing nothing less than resigning hope of gaining treasure that still lies buried in the storehouse of the Corpus Juris.”†

It is not possible, nor is it, we think, desirable, to make the study of Latin compulsory in order that a student should profit by his study of Roman Law.

87. If the transition from Roman Law to modern law is very great so far as English law is concerned, this difference will be still greater in India. We, therefore, do not recommend the study of Roman Law as a separate subject. In this decision we have the strong support of the first Indian Universities Commission, 1902, who, in their Report, at paragraph 120, express themselves against the inclusion of Roman Law in the courses of instruction thus :—

“Inasmuch as many of our Law students are ignorant of Latin, we do not recommend that Roman Law should be made a necessary subject.”

88. We do not desire it to be understood that we do not realise the value of the study of Roman Law. We recommend that a professor, when dealing with any particular subject, should refer to the relevant provisions of the Roman Law in that respect. Everything will be gained

*JSPTL (1926) : ‘The Teaching of Roman Law’—page 22.

†JSPTL (1931) : ‘The Place of Roman Law in the Teaching of Law Today,’—page 22.

by the study of Roman Law in a comparative way, and that advantage should not be lost. Professor P. H. Winfield, LL.D., Professor of English Law in the University of Cambridge, speaks of the way in which Roman Law ought to be taught even in England, so that a student takes interest in the study of that subject. He says:—

“I have shown some reasons for its study, yet the fact remains that Roman Law is unpopular in the law schools.....I offer, with some hesitation, two suggestions for making it more palatable. One is that the teaching of it ought to be progressive in the sense that a candidate in his second or later year should not be compelled to go over ground which he has covered in his first or earlier years.....My other suggestion is that the teaching might be humanised more so as to show the connection between Roman Law and existing systems... All this goes to show that the teaching of Roman Law can be vivified by tracing its influence on existing law. There are books—not nearly enough of them—in which the comparative method has been used. In 1911 Professor Buckland published a very interesting series of lectures on ‘Equity in Roman Law’.”*

We, therefore, suggest that Roman Law should be studied in comparison with modern law and it will be the duty of the teaching staff to bear this in mind. A. E. W. Hazel says:—

“I am a believer in the value of Roman Law as a branch of legal study, even for the practitioner, but I regard it as a luxury and portions of it as hardly worth the detailed study we give to them. If we are to insist on Roman Law as part of a general legal course, I think, we should concentrate on the law of property and obligations and teach even that rather comparatively than as an end in itself. One can feel no enthusiasm for the *Latini Iuniani* or for the *Tutores fiduciari* and we should be no worse off if they and all about them vanished from our scheme of legal education.”**

89. With regard to Equity, it is suggested to us that it should also be excluded from the law course. Many of the principles of Equity have no doubt been now embodied in statutes and, therefore, it is pointed out that there is no need to study Equity as a separate subject. Maitland in his lecture on Equity expresses the view that since the Judicature Acts Equity need not be studied as a separate system. He said:—

“When some years ago, a new scheme of our Tripos was settled, we said that the candidates for the Second Part were to study the English Law of Real and Personal Property and the English Law of Contract and Tort with the equitable principles applicable to these subjects. It was a question whether we ought not to have mentioned Equity as a separate subject. I have no doubt however that we did the right thing. To have acknowledged the existence of Equity as a system distinct from law would, in my opinion, have been a

*JSPFL (1930): ‘Reforms in the Teaching of Law’—page 3-4.

**47 Law Quarterly Review (1931)—page 509.

belated, a reactionary measure. I think, for example, that you ought to learn the many equitable modifications of the law of Contract, not as a part of Equity, but as a part and very important part, of our modern Law of Contract!"

We, however, think that Equity has played a very important part in the development of English and Indian Law. This subject ought not to be excluded altogether from the law curriculum. A thorough study of the principles of Equity will truly broaden the outlook of a student of law and is going to add considerably to the make-up of a lawyer. We, however, wish to point out that the whole of Equity covered by such text books as Snell's Principles of Equity need not be studied. Equitable principles applicable to Trust, Specific Relief, Injunction, Mortgages, etc., ought to be studied along-with those subjects. There are portions of that book such as Conversion and Reconversion which may safely be omitted altogether. Our recommendation is that the broad principles of Equity as are to be found in the first four chapters of Snell's Principles of Equity should be taught for the third paper which we have prescribed for the First LL.B. course. Professors who teach Property Law, Contracts and other subjects will include the principles of Equity in their teaching of those subjects. A student will thus be able to grasp the subject as a whole.

90. With regard to Contracts, it was suggested to us that this subject ought not to be divided into two papers and in two stages, as it is done at present, and that the whole of the Indian Contract Act should be included in one paper. But we are of the opinion that such a division as we have recommended will be of greater benefit to the student. If we have only one paper for the whole of the Contract Act, the time and the education that is necessary for the study of the principles of Contract will necessarily fall short and inadequate. We are of the opinion that the principles of Contract are of very great importance and, therefore, a whole separate paper ought to be devoted to this particular aspect of the subject. We, therefore, retain the present division of the subject into two papers.

91. Lastly, with regard to the third year's course in law, where a student will study professional laws, we recommend that the examination in this course should be under the control of the Bar Council or the Council of Legal Education. It is for the professional bodies to organise the study of professional subjects. Proper instruction in these subjects must be arranged and we recommend that Law Colleges should hold classes for these, and attendance at these classes should be compulsory. There is no need, however, to make the study of these subjects a full-time business and classes may be held either in the morning or in the evening so that a student will have time during the day to go and attend Courts and observe the procedure that is being followed. We also recommend that the teaching staff for this course should be recruited from practitioners of at least five years' standing working as part-time professors. While examinations for this course will be under the control of the Bar Council or the Council of Legal Education, instruction in these subjects should be under the control of the Law Colleges.

CHAPTER VII

COUNCIL OF LEGAL EDUCATION.

92. Legal Education in this Province is at present being controlled by the University, the High Court and also the professional bodies. But there is no central organization existing, which can help to systematize the common interests and give facilities to these various bodies for conferences on the subject of methods of instruction, examination, etc. There has been almost a uniform opinion that it is highly desirable to institute a central organization which will work as a sort of a co-ordinating body between the different bodies carrying on the work of legal education. The need was not so urgently felt in the past because there was only one University in the Province; but still, legal education in this Province, even at present, is controlled by four different bodies, viz., the Bombay University, the Bar Council, the High Court and the Incorporated Law Society. There is a good deal of difference in legal training required by these different bodies, and there is also overlapping of work carried on by these different bodies. For example, the High Court holds the Advocates' O. S. Examination. This examination is held because of the conviction that the LL.B. standard of the University is not sufficiently high to allow law graduates of the University to practise on the Original Side of the High Court. Many of the subjects for these two examinations are the same. If the standard of the University LL.B. is sufficiently raised, it is quite possible for the High Court to discontinue this examination, although it may retain the other necessary requirements in order to permit a person to practise on the Original Side of the High Court. It is in order to avoid this sort of duplication of work which is to be found in the LL.B., the Advocate O. S. and the Solicitors' Examination courses that the need for a co-ordinating body is felt. In England, Lord Atkin's Committee was appointed for reporting on the desirability of having such a central body for the purpose of closer co-ordination between the work done by the Universities and the professional bodies, and the Committee did recommend the setting up of a Standing Advisory Committee representing the Universities and the professional bodies for that particular purpose.

93. In India, the first suggestion in this respect was probably made by Dr. B. R. Ambedkar, in his article, to which we have heretofore referred. He says:—

“As a part of this scheme of reorganisation, I think a Council of Legal Education for supervising Legal Education and also for conducting Examinations in Law should be established. The body should consist of the following:—

- (i) Representatives of the University,
- (ii) Representatives of the Judges of the High Court,
- (iii) Representatives of the Bar,
- (iv) Representatives of the Professors of Law Colleges,
- (v) Representatives of the Public.”*

*Law College Magazine (Bombay): 1936, page 15.

The Sapru Unemployment Committee, U. P., also recommended the setting up of such a body thus :—

“....a Council of Legal Education should be created consisting of representatives of (a) the teachers of Law and Civics, (b) some judges and (c) some eminent lawyers, whose function must be to promote higher legal education.”*

The need for the creation of such a body was felt in the United Provinces more acutely because in 1935 there existed more than four Universities in that Province.

94. Another reason which has induced us to accept the suggestion is this—that there is a feeling in the country that legal education ought to be standardised in all the Provinces with the ultimate object of creating a unified Bar. It is for that reason necessary to maintain a uniform standard of legal education among lawyers throughout India. There is no Indian Bar as such. Ever since the Indian Legislature enacted the Indian Bar Councils' Act, 1926, the idea is gaining strength that such a united Bar should be created. Professor N. N. Ghose, Dean of the Faculty of Law, Dacca University, in a letter to the Secretary, the Inter-University Board, expressed this view :—

“The Universities therefore have a most important part to play in effectuating the objects of sections 14 and 15 of the Indian Bar Councils' Act. They must collaborate to establish a uniform standard in their law degrees. The main thing to be borne in mind is that the absence of an Indian Bar, in the same sense as there are English, Scottish, Irish or Colonial Bars, is placing the legal profession in India in a position of distinct disadvantage as compared with those of the British and the Colonial Bars and this although the general standard of legal education in the Indian Universities is higher and more searching than that which has to be satisfied for admission into the other Bars. Members of the Canadian Bar, for instance, have come over and argued cases before the Privy Council. But neither Sir Bhashyam Ayyangar nor Sir Rashbehari Ghose would have been permitted to do so in an Indian Appeal. It is this which led to a determined attempt on the part of Messrs. Rangchariar and Neogi in the Legislative Assembly to advocate legislation for the creation of a unified Indian Bar. But this, although approved in principle, failed to materialise immediately, owing to the vastness of the country and the different institutions for legal education and varying standards thereof obtaining in the different universities and the varying rules for admission to the Bar in force in several High Courts.”**

Although it is not for us to consider this question, we think it highly desirable that such a uniformity should be brought about in our Province at least. The need, so far as this Province is concerned, is great at present and will still be greater in the near future. We had

* Unemployment Committee (U. P.) Report. Para 177.

** Standardisation of Legal Education in India. Page 2.

only one university up till now. Three more Universities have recently been established, viz., the Poona University, the Karnatak University and the Baroda University. One or more are likely to come into existence very soon. Gujarat is going to have a University of its own. In these circumstances, we think it highly desirable that a central organization for co-ordinating the efforts of all these bodies, should be set up in the Province. The scope of the functions of this Council will somewhat differ from that of the Standing Advisory Committee recommended by Lord Atkin Committee in England, or by the United Provinces Legal Education Reforms Committee. The latter confined the functions of such a Council to supervising and controlling the professional education of lawyers. We are of the opinion that the proposed Council of Legal Education should have a larger scope if the Council is to achieve the object for which it is sought to be set up. Its functions therefore should be as follows :—

- (1) To advise the Universities in the matter of law courses and Text books.
- (2) To bring about a co-ordination between the work of instruction and examinations carried on by different professional bodies and the Universities so that overlapping may be prevented.
- (3) To hold Diploma Examinations and confer Diplomas in Law, and,
- (4) Generally to supervise legal education in the Province so that a uniformity of standard may be maintained.

95. We do not desire to take away the autonomy of the Universities in the matter of legal education. The Universities will be free to prescribe their courses in law. All that the Council of Legal Education will do is to prescribe minimum legal education which is required for admission to the Bar. The Universities may add to these minimum requirements.

96. It was objected that legislation might be necessary for setting up of such a body. We do not hold that view. The function of the Council of Legal Education will be advisory ; its composition will ensure the carrying out of its recommendations. All the bodies which are carrying on the work of legal education will be represented on this Council, and we feel that persuasion and precedents will succeed in inducing these different bodies to accept and carry out the Council's recommendations. If, however, sanction behind its recommendations is found to be necessary, it will be found in the High Court's power of making rules for admission to the profession. If the High Court finds that any of these bodies fail to maintain the minimum standard of legal education that the Council will lay down, the High Court may refuse to recognise the examination of that body for the purpose of admission into the profession.

97. It has been suggested to us that we should not adopt the principle of election in recommending its composition. Mr. K. M. Munshi in his evidence before us gave expression to this view in the following words :—

“I do not like the way of elections for members for any Council of Education. Once you get to elections, the standard of

representatives tends to become different. I would rather have persons nominated or selected in some other way. Democratic elections to Boards conducting education has been more often than not disastrous to this country. The High Court, in my opinion, should elect men who have attained not only a high position in the profession, but who have acquired a theoretical background. Very often a very successful lawyer does not aspire to be academic in his outlook. So you will have to look for people like the late Sir Dinshaw Mulla who can be more useful."

We agree and recommend the following composition of the Council of Legal Education :—

(1) The Chief Justice of Bombay to be the President of the said Council.

(2) The following should be the Members :—

(a) The Universities to be represented by the Deans of their respective Faculties of Law ;

(2) The Advocate General ;

(c) The Government Pleader ;

(d) The President of the Incorporated Law Society ;

(e) One member from Teachers of Law in the Province to be nominated by the Chief Justice of Bombay ;

(f) Two Judges of the High Court nominated by the Chief Justice of Bombay.

(g) Two representatives of the Bar nominated by the Chief Justice of Bombay ;

(h) One representative of the Bar Council nominated by the Chief Justice of Bombay.

A Council composed as recommended above will be a body representing all interests in legal education, and we have no doubt that its advice will be followed by all the bodies concerned.

CHAPTER VIII.

DIPLOMA COURSES IN LAW

98. The suggestion for instituting Diploma Courses in Law is a novel one. It has its origin in the demand for men trained in some special branches of law. After the advent of Independence there have been so many openings for young men. A large number of jobs are going a-begging for want of such trained men. In commerce, industry, banks, co-operative societies, factories, everywhere, people are wanted who have knowledge of some one branch of law or the other, and a legally trained mind. Even in the Press, Local Boards and Municipalities, the dearth of such men is being felt. Government is opening a large number of new departments. They will have to be manned by trained men. For various jobs in all such fields, persons with knowledge of law are required. It is not necessary that they should have such a long course in law as is designed for lawyers. All that is required is training and instruction in particular useful branches of law. For instance as labour officers, men with knowledge of labour legislation are in demand. In banks, persons with knowledge of Company Law and Banking Laws are very often more useful. The need, therefore, of a somewhat special type of legally trained men is now increasingly felt. If the diploma courses in law are instituted, not only will this need be satisfied, but such diploma courses will be very useful to many young men, and will give them additional qualification to fit them for various jobs. Sometimes these men have to resort to legal training in Law Colleges, but it is felt that more often it is a waste of time and money to have such a long course. We are, therefore, of the opinion that Diploma Courses in Law should be instituted. In this we have almost the unanimous support of all those who have given their replies to our questionnaire. In their opinion, it is not necessary to give a full training in law to men who want to do work in these various walks of life. A full knowledge of law in a particular branch would serve this purpose.

99. We feel that the University ought to institute such Diplomas. A Diploma granted by a University has its own value in the public eye. The American Universities have already started giving Diplomas in various branches of knowledge. The Bombay University, as we were informed by the Registrar, Mr. S. R. Dongerkery, who gave evidence before us, may not approve of the idea of the institution of such diplomas by the University. We do not understand why the University should not institute such diplomas. They have diploma courses in teaching in spite of the fact that they have Degree courses in teaching. They have also instituted a Diploma course in Librarianship. If, therefore, the principle of instituting the diploma courses is accepted, we do not understand why the University should refuse to institute Diploma Courses in Law. Although, therefore, we are of the opinion that the University ought to undertake such diploma courses, if they do not do it, the Council of Legal Education should institute such Diploma

courses. The examination for these courses and the curriculum or the syllabus should be entirely under the control of the Council of Legal Education. We recommend that the stage of admission for a Diploma in Law should be the Matriculation. The teaching for these courses may be done by the Law Colleges and no full-time instruction is necessary. Part time instruction either in the morning or in the evening will be sufficient for the purpose. The Council of Legal Education may recognize other classes which may be authorised to undertake training for these purposes. There is no reason why instruction in diploma courses should be confined to the Law Colleges alone, although Law Colleges are the institutions where this can be most satisfactorily done. We recommend that a diploma course in Law should be a year's course. We recommend that at present the Diploma courses should be instituted in the following subjects:—

- (1) Insurance Law,
- (2) Income Tax,
- (3) Banking Laws,
- (4) Labour Laws,
- (5) Company Law, and
- (6) Mercantile Law.

The number of subjects for these courses may be expanded as further need is felt.

100. Although the idea of instituting such courses is a new one, we are convinced of the utility of such courses and feel that a great need will be satisfied if our recommendation is accepted and carried into effect. In a democratic State, knowledge of law should not be the privilege of a few, but it ought to be spread amongst a large number of people. Institution of diploma courses will tend to achieve this object and more persons will receive legal instruction than they do at present. We, therefore, think it highly desirable that such courses should be instituted by the Council of Legal Education and that Government should approve of them for the purpose of employment in Government departments.

CHAPTER IX.

POST-GRADUATE COURSE.

101. By our third term of reference, we are required to make recommendations for the reorganization of the ' Post-Graduate course in Law ', including ' Advanced Studies and Research in Law '. The terms in this respect are presumably very wide and include two things, which are not exactly the same, viz., (i) The Post-Graduate Courses leading to the LL.M. degree by papers, and (ii) Advanced Studies in Law including Research. There is a distinction between the two, which calls for separate treatment.

102. First, as regards the LL.M. course.

The LL.M. degree was first instituted in 1906. Before that year, there was only one Honours Examination in Law and the courses for that examination have already been mentioned in Chapter II. The following is the syllabus for the LL.M. course :—

Branch I.

Paper I	...	Jurisprudence.
" II	...	Roman Law.
" III	...	International Law (public and private).
" IV	...	Principles of Legislation.
" V	...	Constitutional Law (British and Indian).
" VI	...	Essay.

Branch II.

Paper I	}	... Hindu or Mahomedan Law, as the case may be.
" II		
" III Essay		
" VI		
" IV		... Testamentary and Intestate Succession (excluding Hindu and Mahomedan Law).
" V		... Marriage, Divorce and Guardianship (excluding Hindu and Mahomedan Law).

Branch III.

Paper I	}	Real Property (including the Law of Vendors and Purchasers, Mortgages,
" II		... Gifts and Leases and the Law relating to Mines and Minerals, Foreshore and Seashore).
" III		... Principles of Equity with special reference to the Law of Trusts and Specific Relief.
" IV		... The Law of Easement and Prescription.
" V		... Customary and Statute Law relating to Land Tenure in British India.
Paper VI		... Essay.

Branch IV.

Paper I	... The Law of Contracts (including Sale of Goods, Agency and Partnership)-
" II	... Companies and Insolvency.
" III	... Mercantile and Maritime Law.
" IV	... The Law of Torts.
" V	... The Law of Crimes.
" VI	... Essay.

103. The idea behind these courses appears to be to satisfy the need for a higher examination in law. It appears to us that the way in which subjects have been grouped under different branches leaves much to be desired in the matter of encouraging Advanced Studies in Law. In the first place, the subjects in every branch are too many, each one of which may require a two years' study, if specialization is to be achieved. For example, it is very difficult for a student to show any mastery over the five subjects in Branch III, nor can his knowledge of any of these subjects be expected to show any profundity within the limited time at his disposal. The second defect in these courses is that they lack homogeneity. As an illustration we point out Branch IV in which subjects which could not probably find a place in the first three branches have been huddled together. Such a grouping of subjects cannot, in our opinion, lead to specialization.

104. The arrangements for teaching or guidance in these courses are most unsatisfactory. Till 1929, the Government Law College, Bombay, did not even admit students for the post-graduate courses. In that year, admission was made available in the college to students intending to take the LL.M. course. The Principal alone was the recognised post-graduate teacher, and he devoted half an hour a day for guiding both the undergraduate and the post-graduate students. Apart from the time factor involved in such an arrangement, it seems to us well nigh impossible for one teacher to guide students in all the subjects covered by these four branches. In the full-time law colleges, the

position is in no way better. The number of LL.M. students is increasing, the average for the last five years in the Government Law College alone being over 30 students. In many of the law colleges in the Province, the Principal alone is the recognized post-graduate teacher. Generally no lectures are delivered, the so-called guidance by the post-graduate teacher is of very little value to the students. Only the Poona Law College and the Government Law College, Bombay, have decent libraries which are likely to satisfy the needs of an LL.M. student.

105. This is not a very satisfactory state of affairs, and we believe the whole post-graduate course needs a thorough overhauling. There is a large number of candidates anxious to study for a higher degree in Law, who, for some reason or the other, are prevented from or are incapable of pursuing an arduous course of Advanced Studies such as Research. It is necessary to consider the best method of meeting their requirements. It is desirable in the case of such a type of student to continue with increased specialisation the work which he has done during the undergraduate period and to subject him to an examination of the same kind as that for a first degree, though of a more severe and exacting kind. The system of such an intensified examination has the merit of encouraging a candidate to aim at some degree of excellence and some measure of profundity. The processes through which he has to submit himself will operate to consolidate and clarify his knowledge and to render him better able to engage in Research when the time arrives.

106. The question of the form which such an examination should take is one of considerable difficulty. The two alternatives before us are, (i) that it should consist of a test in a few specialised subjects, or (ii) that it should be a continuation of the undergraduate curriculum, emphasis being laid on one or more subjects of that curriculum. From every point of view, it would be desirable that an advanced examination should be of a character which will secure width and depth of knowledge. This, in our opinion, will be achieved if the examination calls for a specialisation in some one branch of law or the other. We, therefore, recommend that a student for the LL.M. degree should be allowed to choose one law subject in which he wishes to specialise. We recommend the following eight subjects any one of which a student may select for the LL.M. examination :—

- (1) Hindu Law
- (2) Mohomedan Law
- (3) Mercantile Law
- (4) International Law (including the Constitution of the U. N. O.)
- (5) Constitutional Law
- (6) Legal History
- (7) Jurisprudence and
- (8) Law of property.

107. We recommend that there should be five papers in the subject of his choice. The LL. M. course by papers should be a two years' course after the LL. B. and only those law colleges in the Province with adequate libraries and professors able to guide students in the subjects of their choice should be permitted to send up students for the said examination

108. Such an arrangement is bound to result in an intensified study of a subject. The groundwork for such study is already done when a student is studying for the first degree in law. He has grasped the general principles and has understood the correlation of various subjects. At the post-graduate stage he is called upon to undertake a thorough and a deep study of a subject in which he desires to specialise. He is presumed to take greater interest in the subject and is bound to put in more hard work which will lead to greater specialisation. His labours are not likely to be wasted. The courses as they are framed today exhibit the spectacle of a large number of students taking up the LL.M. courses, but failing to achieve success in the examination. Many take admission for the LL.M. course, few of these actually appear and very often none pass. It is true that the Bombay University has very properly kept a very high standard for the LL. M. examination and that may account for the large number of failures in this examination. But in our opinion it is the very great demand made on the student's capacity to do work in securing a mastery over a large number of subjects, very often unconnected, that is responsible for the waste of a student's time and energy. We believe that the remedy for this evil lies in directing the student's energy in one channel, namely, the subject of his choice. This will also pave the way for a greater effort on the part of the student so that he may legitimately claim to have gained a mastery over the subject.

109. It has been urged before us that a separate degree should be instituted for Research in Law, such as Ph. D. or LL.D., as has been done by some Universities in India. It is true that a student, who takes the LL.M. degree by papers after specialising in one subject, as we have recommended, is better able to undertake research in that subject. His deep knowledge of the subject is likely to goad him on to plunge deeper still in some special topic connected with his subject for the LL.M. by papers. It is also true that the ambition to get a doctorate often acts as an incentive to undertake research. But in our opinion, the disadvantages involved in instituting a separate degree for research outweigh the advantages to be derived from it. We are of the opinion that multiplicity of University degrees has done more harm than good to the Indian student. He has developed a passion for getting degrees forgetting all the while the real purpose and significance of these degrees, and forgetting also the fact that a man's degree matters little and that what matters is the education he in fact has received. He is anxious to bag as many degrees as he possibly can, and that by the shortest method possible, in the belief that these help him to improve his prospects in life. He is like the litigious client who can never rest content until he has exhausted all his rights of appeal. Degrees do not very often serve as the hall-mark of the possession of knowledge and ability indicated by them. Consequently, there has been an amount of waste of energy, money and time. We do not propose to add to this evil.

110. We, therefore, recommend that the LL.M. degree may also be allowed to be taken, by thesis as an alternative to LL.M. by papers. This should be at the end of two years after the LL.B. examination. In the case of LL.M. by thesis there should be a *civra voce* to test the

student's knowledge of the subject. No student should be allowed to do his LL. M. by thesis unless there is a professor to give him proper guidance in the subject of his choice.

111. Next as to facilities for Research.

It has often been remarked that India has produced lawyers of great eminence but very few jurists; and there is a good deal of truth in this criticism. Post-graduate training has been very much neglected in almost all the Universities in India. The Calcutta University has no doubt contributed a good deal to legal research by instituting the Tagore Law Lectures. But otherwise there seems to be a great deal of apathy on the part of the Universities in the matter of encouraging legal research. Whatever the position in the past, the need for research in law is very great at the present day. With the achievement of Independence, we have been called upon to frame our own laws for social, political and economic reconstruction. Our attempts in this respect are likely to fall short in comparison with the other nations of the world. Research in law, therefore, is of prime importance and it is for the Universities to give proper facilities and encouragement to students who undertake research. In other departments of University education such as economics, technology, medicine, the need for research has been recognized and attempts are being made to overcome many difficulties in the way. Law, as in the past, is still treated with a step-motherly disregard by the Universities. But if law is to be the foundation of human relations in life, greater attention ought to be paid to research in law, and we are of the opinion that Government and the Universities should join hands in encouraging research in law.

112. The word "Research" has been very much misunderstood. A mere compilation of facts put in a book form often goes by the name of research. Factual investigation is undoubtedly important and essential. But research is something more than that. In the opinion of Bruce Truscot, the word "Research" includes the following:—

"First, it will comprise all original work of a scholarly kind, such as investigation, criticism, the intelligent publication of texts, appreciation based on scholarship, and certain type of imaginative and creative activity. It will, of course, include the presentation of facts or ideas either in a new light or (as a rule) in such a way as to bring them within the reach of those from whom they would otherwise be excluded. It can further be extended to the keeping abreast of contemporary investigation and thought in one's own field and to critical receptiveness of new ideas in that field or in any other which one may have studied. Finally, it takes in, not only the pursuit of all these activities oneself, but the encouraging, stimulating and training of others to pursue them, and participation in the activities of bodies devoted to their furtherance."*

113. The need for research of the type described by Bruce Truscot was felt in England in 1932, and the Legal Education Committee appointed under the Chairmanship of Lord Atkin was called upon to make recommendations with regard to "further provision for advanced

* "Red Brick University" by Bruce Truscot, page 111.

research in legal studies". Following the scheme adopted in the memorandum submitted to the said Committee by the Faculty of Law of Cambridge University, the said Committee separated legal research into three broad divisions, viz. (i) Historical Legal Research, (ii) Comparative Legal Research, and (iii) Clinical Legal Research. In the words of the Committee:—

"By the last of these headings was meant ad hoc investigation of the rules of law and of equity in general with a view to their amendment by legislation where for one reason or another their present state is such as to produce anomalous or unjust results, or is calculated to lead to a degree of uncertainty which ought to be removed"*.

In England this purpose is now adequately served by the establishment of a Standing Advisory Committee on Law Revision. We feel that in India too, this matter can be dealt with by the Central Government alone, and the University cannot render any useful assistance in this direction.

114. But the first two categories require careful attention. In an independent India, both types of research are an urgent need. Nothing practically has been done in the matter of Comparative Legal Research and Historical Legal Research, and we feel that it is now high time that the Universities should take in hand the work of research in law.

115. Lord Atkin's Committee recommended the setting up of an Institute of Advanced Legal Studies in London and such an institute was established in the middle of the last year. It is highly desirable that such an institute should be set up in this Province. We are of the opinion that the Universities should undertake the task of supplying this need. The Bombay University at any rate has made large profits from law examinations in the past and it is in the fitness of things that a portion of that profit should now be spent for providing facilities for advanced studies in law.

116. We are however not unmindful of the fact that the present financial position of the University may not enable it to undertake this onerous task. What with the establishment of other Universities in the Province and the taking over of the Matriculation Examination by Government, the financial resources of the University have been depleted and it may have to fall back upon its past reserves in order to carry on the work of other departments which have already been set up. The question of setting up a new and independent department of Law seems to us to be very difficult of solution and may tax the resources of the University to an undesirable extent. Although, therefore, we are of the opinion that Advanced Studies in law should be carried on under the aegis of the University, it possibly cannot do so. We are, however, of the opinion that Government and the Universities should join hands in bearing the financial burden involved in affording facilities

* Legal Education Committee Report (England), page 12.

for Advanced Studies in law. Although a separate institute for Advanced Studies in law is desirable, still one need not wait till financial difficulties are solved. The Government Law College in Bombay is an institution where Advanced Studies can be carried on if proper arrangements are made and adequate facilities are afforded. In Poona, the Poona Law College can be turned into an institute for legal research. There is a distinct advantage in apportioning the financial burden between the Poona and the Bombay Universities on the one hand and Government on the other. We are of the opinion that Poona and Bombay should be made two centres for legal research in the Province. We are not unmindful of the claims of the Karnatak University that is already established, and the Gujarat University that will soon come into existence. But the resources of all the Universities are very scanty, and it is in the interest of Legal Research that these resources should be pooled together. Poona and Bombay afford great facilities for research work in law. The Poona Law College and the Government Law College have buildings of their own, and with a little more expense, greater accommodation in these two institutions can be made available for research work.

117. We also feel that the burden of carrying on the two departments of research, viz., the Historical Legal Research and the Comparative Legal Research, should be shared by the two Universities. If this is done, it will result both in economy and efficiency.

118. Poona affords very many advantages in the matter of Historical Legal Research. The intellectual atmosphere of Poona is permeated with a spirit of research. There are a good many libraries in Poona which can be made available to the legal research worker. There is the Bharat Itihas Sanshodhak Mandal which has a large number of books of historical importance. There is the library of the Servants of India Society which has a large collection of Government reports and other books. There is the Gokhale School of Politics which is carrying on research work in political science and in economics. There is the Bhandarkar Oriental Research Institute which has a large collection of ancient books and manuscripts. Lastly, the Deccan College Research Institute undertakes research work and has a good library. It may also be pointed out that the office of the Alienation Records is situated in Poona. A student doing research work in Land Law and the Land Tenures of this Province will get immense help from this Alienation Office. With all these facilities available in Poona, it ought not to be difficult for the Poona University to undertake Historical Legal Research through the Poona Law College. The co-operation of all these institutes will have to be enlisted and these various libraries ought to be made available to a student carrying on legal research; but that is not a very difficult proposition. We are therefore of the opinion that Historical Legal Research should be the domain of the Poona University.

119. Bombay affords facilities for Comparative Legal Research. Here too, the pooling together of the resources of the various law libraries in the City will be necessary. The High Court Bar has a library of its own. The Appellate Side of the High Court has its own

Kirtikar Law Library. The Tata Institute for Social Sciences is developing a library of its own for research in Criminology and Penology at least. The Royal Asiatic Society may also afford great assistance in the matter of valuable books. The Government of Bombay have a library which will be useful in Comparative Legal Research. The Government Law College has a decent library of its own.

120. It is true that large funds will be necessary in providing a sufficiently adequate library for Comparative Legal Research. It may not be possible to have a large Central Law Library, completely equipped with the law books of all the ages with adequate materials for the study of Comparative Law over the civilised world. This is impracticable to attain under the present conditions. We are, however, of the opinion that it is possible for all these libraries in Bombay to join hands and afford facilities for Comparative Legal Research. The burden can be shared. For example, duplication of books can be avoided. Law Reports are in great demand by lawyers practising in Courts. The High Court Bar Library can utilise its resources in the purchase of important Law Reports of various countries in the world such as the United States Reports of the Supreme Court, and the Canadian Bar Reports. The Government Law College should in that case be entrusted with the task of purchasing important text-books and law periodicals. Government, for its departments, may buy legislative enactments of various countries. With the will to help research, we think that the financial burden can be proportionately distributed amongst all the various institutions in Bombay. Capable librarians will be necessary to prepare a central catalogue of the contents of the Bombay libraries. But this is not an insurmountable difficulty. There is no doubt that there is a large collection of materials to be found in these various libraries, and it ought to be made available for legal research. We, therefore, recommend that Comparative Legal Research should be carried on in the Government Law College, Bombay, with the help of the University and Government.

121. We have stated above that it may not be possible to have a separate institute for Advanced Studies in law. But the establishment of such a department in a Law College is not without its advantages. As the Royal Commission on the University of London stated in its Report :—

“It is also a great disadvantage to the under-graduate students of the University that post-graduate students should be removed to separate institutions. They ought to be in constant contact with those who are doing more advanced work than themselves, and who are not too far beyond them, but stimulate and encourage them by the familiar presence of an attainable ideal.”*

It is also not desirable to separate in water-tight compartments the under-graduate and the post-graduate teaching. The association of the two is in the best interests of both students and teachers. As the said Royal Commission pointed out :—

“It is only by coming into contact with the junior students that a teacher can direct their minds to his own conceptions of his subject

and train them in his own method and hence obtain the double advantage of selecting the best men for research and getting the best work out of them. Again, it is the personal influence of men doing original work in his subject which inspires him in it, awakens enthusiasm, gains disciples."

122. We, therefore, think it desirable that under the circumstances as they are today, the department of Comparative Legal Research should be housed in the Government Law College, Bombay, and the department of Historical Legal Research should be housed in the Poona Law College at Poona.

123. The more difficult problem connected with Legal Research, or for the matter of that any Research, is to instil a love for research into the minds of students and teachers alike. One can afford ample facilities for a research worker, but one cannot make a person do research. One can take a horse to the water, but cannot make him drink. The only method we can think of is to encourage research in various ways.

124. In the case of students we are of the opinion that research scholarships ought to be founded. The condition of students in general in this Province is very poor. Immediately after graduation many capable students are called upon to earn, not only for themselves, but often for their families. The economic struggle gives very often a setback to the desire of many to do research work. A scholarship of Rs. 100 to Rs. 150 per month is likely to free a student from financial troubles, and, assuming that he has the will to do research, such sort of help is bound to be a great encouragement to him to carry on research. It should not be difficult to found a few such scholarships. It is in the interest of Government that such scholarships should be founded. Legal profession also ought to do its duty towards legal education and many a lawyer can be persuaded to make endowments to the Universities for the grant of such scholarships.

125. There is another way in which Government can help research. A research degree should be recognised as a highly desirable qualification in matters of judicial or other appointments. It is true that the best researcher is one who does research for the love of it, but taking things as they are, some sort of incentive is necessary to induce a student to devote his time and energy to doing research.

126. The problem of encouraging research in teachers of law is still more difficult and complicated. Teachers seem to have forgotten the fact that it is really impossible to direct the studies of others unless one is a student oneself. It is not possible even to try to cultivate in students qualities which the teachers have either never possessed, or allowed to rust through disuse. The University Grants Committee of the London University has employed a splendid and vivid figure of speech in describing the professors' qualifications:—

"He who learns from one occupied in learning, drinks of a running stream. He who learns from one who has learned all he is to teach drinks 'the green mantle of the stagnant pool'."

The remedies that we suggest for the removal of this evil may appear to be drastic. We recommend that a teacher of law should be appointed initially for a period of two years and at the end of this period, his work in research should be reviewed by a University Committee specially appointed for the purposes. If its report is satisfactory, there should be no hesitation in confirming him in the post. We also recommend that there should be annual reports made by the professor of his work to the University Committee which we have recommended. On the satisfactory nature of these reports should depend the increment and promotion of the professor. Even in England, the need for drastic measures in this respect is being felt. The suggestions which Bruce Truscot has made are as follows :—

“ Short term appointments. More outcry. ‘ But a man who has the fear of dismissal hanging over him can’t be expected to do research ’. An obvious retort would be that he could hardly do much less than the average professor with a life appointment does at present. As a matter of fact, lectures on a short-term tenure are often more productive than any others, though their abnormal activity is apt to cause a reaction once they have permanent appointments, and no one wants men to do research merely from the fear of losing their jobs. But it would be quite reasonable to appoint all professors for ten years at a time or, where the electors are doubtful about the appointments, for two periods of five years, followed by periods of ten years. In such cases it should be understood that the appointments are genuinely terminable failing satisfactory production. This should also be made clear to senior lecturers, save perhaps in rare cases, where they are appointed less on their research than in order to organise the bulk of administration of the school and the teaching.

Annual Reports. At Birmingham, there is a ‘ University Research Committee ’, the first duty of which is to ‘ receive and consider reports from each department showing the research work in progress and in contemplation ’. If every University had one of these, and every member of the teaching staff, from senior professor to junior lecturer, were required to report fully at the end of each session, not so much upon work ‘ in contemplation ’—there should be plenty of that—but upon work completed and published, upon fresh work actually begun and upon the state of work still in progress, it is probable that the importance of research would bulk larger in the academic mind, and certain that the Research Committee would be able to give valuable if sometimes embarrassing evidence to the committees considering the claims of members of the staff to reappointment and promotion.”*

If such recommendations are found necessary in England where research work is done comparatively in plenty, they are much more so in our Province. If research work is done on the lines that we have suggested, we have no doubt that better results will follow and a proper atmosphere for research will be created.

* Red Brick University by Bruce Truscot page 113.

CHAPTER X.

METHODS OF THE TEACHING OF LAW.

127. The question of suggesting ways and means for improvement in the methods of the teaching of law is one which bristles with many difficulties. Various methods, ranging from the Socratic method of questions and answers, down to mere dictation of notes have been employed, with varying degrees of success. Any great teacher will ultimately popularise any method he employs. It is surprising that the dictation lecture method which the late Dr. W. T. S. Stallybrass, Vice-Chancellor of Oxford, used in the teaching of Roman Law was quite successful. He says :—

“..... the most popular lectures I ever gave were those on Roman Law which I read out from notes dictated 30 years before to a man, who did not know Latin, by Dr. Prankard. They were quite the most successful lectures I ever gave—there were as many at the last lecture after two terms as that at the first—and perfectly good after 30 years though they were but slightly amended later.”*

After all, this method to be employed depends upon the personal equation between the teacher and the taught. A teacher, like the poet, is born and not made. But even poetry has its laws. We, however, do not propose to lay down any hard and fast rules for teaching law. We content ourselves with pointing out the defects that exist in the method of teaching employed at present in the law colleges in this Province, and will suggest ways and means, which, in our opinion, will result in improvement in the teaching of law.

128. One observation we are constrained to make. The whole method of teaching and learning, and the relation between the teacher and the taught, are dominated by the Examination system in vogue in this country. This evil was pointed out by the Indian Universities Commission as early as in 1902. They expressed the view that :—

“..... it was beyond doubt that the greatest evil from which the system of University education in India suffers is that teaching is subordinated to Examination and not Examination to teaching.”

The Government of India resolution on Educational Policy of 1904 affirms this view in these words :—

“In recent years, they (examinations) have grown on to extravagant dimensions and their influence has been allowed to dominate the whole system of education in India, with the result that instruction is confined within the rigid frame-work of prescribed courses, that all forms of training which do not admit of being tested by written examination are liable to be neglected, and that teachers and pupils are tempted to concentrate their energy not so much upon genuine study as upon the questions likely to be set by the examiner.”

*JSPTL (1948): Volume I, No. II, page 168.

The Saddler Commission recorded in 1918 a mass of evidence and examined the question very carefully. More than 80 witnesses examined by them pointed out to the examination system as one of the gravest defects in the Bengal system of Education; and many indicated that its domination of the teaching was the worst feature of the system. We think that the evil persists even to this day. The teacher, who can give notes most suitable for answering probable questions in the examination, is considered to be the best. His notes are crammed. Students have come to prefer a lecturer who gives systematic "notes" and points "important" questions. Not only this but good teaching results in many cases in the failure of the students so taught to pass the examination. Any good teaching is often done at a risk.

It is surprising that even in England, sometimes, teaching is subordinated to examination. Dr. Stallybrass, speaking in 1948 points out that lectures should not be of the kind which are designed to enable those who go through them to pass examination. And he gives an example:—

"Some of you will remember the Law Tutor who said there were only 72 questions in Jurisprudence and handed to his pupils the answers. He came back one day very indignant at a paper set by Professor Vinogradoff. He said it was most infuriating. I asked him why? and he replied that only one of those questions could be answered out of his 72. That kind of lecture is fairly open to criticism!"*

129. The fact that this evil exists even today must be admitted. So long as examinations loom large and cover almost the whole field of vision of the student, it is difficult to eradicate it. We are of the opinion that the University must so alter their examination system that training will be at a premium. We feel that the present system of Government administration, which makes practically everything dependent on success in examination, is largely responsible for the evil of the present system. The change in the attitude towards examination may take a long time to come, as it depends upon so many factors; but we are of the opinion that teachers of law ought not to subordinate their teaching to the strict requirements of the examination. They must bring home to the students the fact that success in the examination, although it has its own value, is not the be-all and end-all of education, but it is the intellectual development of the student which alone will ultimately lead him to success in life.

130. The most universal and almost the only method of teaching law that is followed in the Province, and all over India, is that of formal lectures. We recommend that this system should be retained. After

*JSPIL (1948): "Law in the Universities", page 165.

all that is said and done, there is no substitute for it. Professor Winfield expressed himself in favour of the retention of the system in these words:—

“ It may appear to you that I am urging the abolition of the formal lecture. But I certainly do not wish to go to that length. Where, owing to practical considerations, it cannot be reinforced by subsequent discussion, it must remain, because there is no other alternative to it. And, in the hands of the right man, it may be helpful in several directions. It may by its sheer force and originality inspire men with new views and with an enthusiasm for exploring them which they would never acquire from the reading of books; and even if it cannot do that, it may be a useful guide to their reading, especially if it is accompanied by some sort of syllabus or synopsis. Even where periodic instruction of the type in No. (1) is available, it may be advisable to retain the formal lecture simply in order to relieve the monotony of reading and to give men the opportunity of seeing the same subject from another angle.”*

Professor W. S. Holdsworth supports the view put forth by Professor Winfield. He says:—

“ we should all, I think, be agreed that in any scheme of legal education there must be formal lectures. . . . Formal lectures, which cover the subjects prescribed for a degree in law, or admission to one or other branches of the profession, have been one of the principal methods adopted both in the Inns of Court and the Universities from a very early period. No doubt they were more necessary in early days when books were few, or in comparatively recent days when most law books were written for the practitioner and very few for the student But even now lectures cannot be wholly dispensed with; and there must be in them some dictation By means of these formal lectures the teacher can stress what to his mind are the important parts of the subject. He can call the attention of his students to recent developments made either by the courts or the legislature. He can deal with the parts of the subject which his experience tells him cause special difficulties to his students.”†

The old form of dictation-lecture has now become archaic. They were perhaps necessary when text books were not available. The lecturer of today is not, and ought not to be, an oral text-book. As Professor H. D. Hazeltine observes, his function is a very different one. He says:—

“ (his function) is to inspire interest, to give a reasonable amount of information, to assist in resolving difficulties, to train the mind in the processes of legal reasoning. The teacher is put in his high place

*JSPTL (1930): “Reforms in the Teaching of Law”, page 8.

†JSPTL (1925): “The Vocation of a Public Teacher of Law”, page 4.

of trust and influence not merely to inform, but also to develop the mind of the student in lawyerly methods of thought and to infuse high ideals as to the purposes of law on the life of society. The lively, informing, inspiring, mind-developing lecture of the informal type—the type of lecture which is gradually displacing the old formal dictation—easily shades off into the professorial or tutorial ‘class’.”*

We think that the lecture of today must be of a kind which would stimulate the interest, which would send a student to work on his own and follow the outline suggested by the lecturer who had given him the sources, and which would lead to a personal contribution by the student himself.

131. We, therefore, recommend that lectures should be retained as a method of teaching law. But we suggest that in order that the student should derive the highest benefit from these lectures, a synopsis of lectures should be given to the student in advance. In England, such a demand for synopsis of lectures has been made by the students. Students' Representative Bodies at Glasgow, Birmingham, Liverpool and other places have, between 1932 and 1941, asked for a change in the lecture system as it was in vogue in these years. Their suggestions amounted to this:—(i) that “lectures should survey basic principles rather than be as at present a dictation of a conglomeration of facts”, (ii) that “students should be given printed synopsis of lectures” and (iii) that tutorial classes, each of not more than a few students, should be formed. The National Union of Students at its Southampton Congress in April 1937 “emphatically endorsed the opinion expressed by the University Grants Committee that more time should be allowed for discussion groups, tutorials and seminars, and that lectures should be reduced absolutely to a minimum”. This decision was endorsed at the Cambridge Conference of 1941. The arguments in favour of a printed synopsis of lecture were summed up by an anonymous writer in *Sphinx*, a student magazine, thus:—

“Full advantage cannot be taken of lectures owing to the necessity for note taking. One has to decide between taking down a rough outline of the lecture, which means missing out many of the finer points, or taking down verbatim any special statements of the lecturer, and perhaps losing the thread of the discussion. The result is that, unless one loses a good deal of valuable time in copying up the notes, one only has a rough outline of the lecture; at the same time, it is impossible to concentrate upon the lecturer, and each point cannot therefore be driven home by the lecturer to its fullest advantage.”†

*JSLPTL (1924): “English Legal Education”, page 10.

†“Red Brick University”: by Bruce Truscott, page 92.

It is true that we have in India no such students' organizations, who have given any serious attention to such educational problems of vital importance to them. We have, however, no doubt that there is a good deal of force in the demands which the students in England have made. Professor M. A. Holland has indicated the drawbacks which the system of lectures without the synopsis given to the students involves. He points out that:—

“...They are apt to fail of their purpose by making too great a demand on the listener. During the prescribed number of minutes the lecturer's mind traverses a path of reasoning which is already familiar to it; during those same minutes the pupil's mind must attempt to follow that path and cope simultaneously with the quite distinct task of note-taking. The strain is considerable, and it must often happen that a student leaves the lecture room full of admiration of the learning displayed, but unable to reproduce any one of the facts or arguments recorded in his note-book. And his notes may constitute a very imperfect and obscure record.”*

Being convinced of drawbacks he started giving to the students type script sheets of the outline of his lectures and succeeded beyond expectation. One of his elder friends in the Law Faculty commented on this method and said:—“If you do that, they (students) will carry off your printed notes and they won't come to the lecturers”. Professor Holland states his experience thus:—

“I was not discouraged. In spite of handicapping myself by lecturing at 9 o'clock, and in spite of supplying printed outlines, I have never had any cause to complain of attendance at my lectures, which is purely voluntary.”

132. In giving a synopsis to the class one precaution has got to be borne in mind. A teacher of law ought never to give to the class such exhaustive notes of his lectures as to make it unnecessary for the student to take down any notes of the lecture; otherwise the student will miss the valuable training of precis-writing—not from a printed passage but from the spoken word. The student ought to get the experience of how to summarise the main points of a lecture without missing out the finer points. This is an important art for a lawyer. The main points in the topic of a lecture, indicating the preparatory reading that should be done for each lecture, should alone be included in a synopsis. We feel that such a synopsis will be very useful to a student for the organisation of his reading, especially when he is obliged to be absent. It will considerably help the teacher also to organise his lectures. The teacher will know exactly what he is going to say to the class. The students will have an idea of what they are going to listen to. This will lead to a greater co-operation between the professor and the students and will result in the lecture hour being more useful and more fruitful. We, therefore, are of the opinion that this

†JSPTL (1938): “Legal Education” page 2.

modification in the present method of formal lectures is highly desirable and should be given effect to in the interest of both the teacher and the taught.

133. In addition to the system of teaching law by formal lectures, we recommend that each class should have seminars or discussion groups of about 20 to 25 students. The value of this method of teaching has been recognised all over the world. This form of teaching can be adapted to the needs of each student and is based on cases or topics for discussion. The teacher for such a class is expected to assign beforehand some particular topic of legal importance, or some important case for discussion. The student is expected to have read about the subject and to have thought over it as deeply as he is capable of thinking. In the discussion of such a topic the teacher and the taught take part and this necessarily leads to a lively discussion and personal contact. The teacher is in a position, thus, to try to find the ways of thought of each individual and find out where he goes off the rails and put him back on his own rails. A good teacher knows that he must listen as well as talk, otherwise he is no good. The student must attend these discussion-groups and make it a point to prepare for them by attempting to work out the problems for himself before the class. The value of the class is lost if a student sits back and let the teacher or the other members of the class do the problems for him. It is necessary that the student should speak. This is more important in order to cultivate self-possession and to get used to hearing his own voice in public. In such a class there is opportunity for conversation and discussion, for the play of mind on mind is so valuable a feature of the Socratic method. Contact of minds is the essence of all teaching. The teacher should manage the class in such a way that the discussion is not at the mercy of its most loquacious members who are often not the most intelligent of students. It happens that the better and often the shyer students sit back in silence unable to explain their difficulties while the loquacious men waste the time of all concerned. A capable teacher will avoid these pitfalls and encourage every student to take part in the discussion. It must be borne in mind that the absence of arguments and of the healthy clash of ideas is bad for both the teacher and the taught. It is possible, however, to avoid these defects if a class is rightly conducted. For the smooth working of this plan, however, one condition seems to us to be important. It is that the same man should conduct both the formal lectures and the discussion class, otherwise there is a risk of "Coke, commenting upon Littleton with an imperfect idea of what Littleton has done." The students will not derive the highest benefit from this method of teaching if discussion groups are allowed to be conducted by junior lecturers or tutors. They must be in the hands of experienced men.

134. This system will work as a corrective to the defects of formal lectures. It enables the teacher to form a very clear idea of the character, intellectual or otherwise, of his students and to plan his

course of instruction to suit the case of the individual student. It also enables him to be sure that the student is working and working on the right lines. We may sum up the merits of this system in the words of the University Grants Committee, England, which, in its report in 1936, expressed itself on the subject thus:—

“Lectures might be fewer and need not be compulsory if a great use could be made of the seminar or tutorial system. The distinct advantage of this system is that the teacher meets the individual student or a group of students small enough to make possible a real discussion in which all present can take part, so that between the minds of student and teacher there is real give and take Students can there ask their own questions, submit their own ideas and in some subject even argue and defend their own ideas Students are thus enabled in discussion with the teacher and with one another to develop, clarify, and to correct their own ideas, and this is far more stimulating and educative than any mere assimilation of the ideas of the teacher, however excellent these may be.”*

We, therefore, recommend that seminars should be formed for the discussion of topics on each subject.

135. In America and in England, the tutorial system of instruction has been used on a pretty large scale. In this system the teacher of law is to be in charge of five or six students. The students are expected to write essays on subjects assigned by the teachers, and the teacher is expected almost to coach them. There is no doubt that such a system will enable a teacher to give individual attention to every student and this will result in the better training of a student in law. But the tutorial system is quite beyond the financial resources of law colleges in our Province. The Bombay University has laid down that the proportion of teachers to students in a law college should be 1-50 and this including both the full-time and the part-time professors. If this proportion is to be increased to 1-6, one will realise what an amount of expenditure this will involve. Apart from the question whether such an amount of expenditure is well worth incurring, we feel certain that our law institutions, poor as they are, cannot possibly afford it.

136. Moots and mock-trials have been recognised as essential for the training of lawyers. According to our scheme, the professional examination will be under the control of the Bar Council or the Council of Legal Education. All the procedural laws have been included in the curriculum for this examination. We, therefore, recommend that moots and mock-trials should be a part and an essential part of

*“Red Brick University”, by Bruce Truscot, page 95.

the training of students for this professional examination. The object of moots and mock-trials is twofold; first, to give the student a practical training for his professional career, second, to create the atmosphere of the law court, so that it will help him in his profession. We are, therefore, of the opinion that this method of instruction need not be adopted at the law graduation stage, when the student is not, according to our scheme, expected to study procedural laws or professional subjects. But this must form an essential part of the education of a student for his professional course. The educational value of this system has been recognised on all hands. There is no finer training for the young advocates in the argument of points of law than taking part in moots. We, however, feel that moots are very often used in our colleges as mere theatricals, more for entertainment than for instruction. We think they should be used as methods of instruction rather than as means of enjoyment. It is true that the proceedings may sometimes tend to be humorous, and there is nothing wrong in it. But the real object of these proceedings ought not to be lost sight of. These moots and mock-trials ought not to be held, as they are done at present, once in a while, but they should be held more frequently, and form an integral and important part of practical training. We recommend that there should be a minimum of at least 12 such moots and mock-trials in a year.

137. It has been suggested to us that we should recommend the adoption of the case-method by our law colleges as a mode of instruction in law. This method has been adopted in many Universities in the United States of America. The name of Professor Langdell is associated with this form of instruction and Dr. Joseph Redlich succeeded in developing it to a very large extent. Many law teachers have spoken of the utility of this method. It presents many advantages over the formal lecture system which is after all a deductive method of instruction. Many law teachers in other countries who, however, attempted to give a fair trial to this method are of the opinion that it cannot be universally adopted and it too has its own demerits. In the first place, it requires very experienced teachers, almost experts, in handling it. It fails to give the student a general grasp of a subject. It results in giving doses or bits of information to the students with the result that the students lose sight of the wood for the trees. This method cannot also be used successfully in all subjects. In England, the experience has been that whereas Common Law, Torts, Contracts can be taught with better results by case-method, it is utterly inadequate for the teaching of Statute Law. In India, in addition to these subjects, one can use this method for the teaching of Hindu Law or the Law of Property. But one cannot make use of this method in the teaching of Procedure Codes, Constitutional Law, etc. It must also be borne in mind that this method requires the preparation and the printing of special case books for the students. We do not think that the time has come to introduce this system as a universal method

of teaching in our law colleges. Professor W. S. Holdsworth examined the characteristics of this method and has partially rejected it in these words :—

“ Too exclusive a devotion to it may lead to an unsystematic and scrappy survey of the different fields of law ; and it is not all parts of the Law that can be equally readily adapted to such a system. It is not so easy to use it, for instance, in connection with all parts of the law of property, or in connection with all parts of equity, as it is to use it in connection with the law of contract and tort. And so most of our law schools have come to the wise conclusion to use it to the extent to which the subject matter permits its use, and always to supplement it with the systematic instruction which can be got from lectures or text-books. But though we decline to pin our faith to it as the sole method of legal instruction, no one of us would deny that it is one of the most essential modes of legal instruction, and quite the most attractive. No one of us would deny that the analysis and comparison of cases makes an ideal subject for the informal discussion class.”*

We recommend, therefore, that individual professors should utilise this method to its best advantage in teaching parts of law, but we do not think the time is ripe for recommending the wholesale replacement of the formal lecture by the case-method.

* Japtl (1925) ' The Vocation of a Public Teacher of Law ' page 5.

CHAPTER XI.

QUALIFICATIONS ETC. OF TEACHERS OF LAW

138. In the past, before 1948, there was no uniformity of standard observed by the various law colleges in the Province in the matter of qualifications for appointments at the law colleges. The appointing authorities of these colleges had their own rules, or suffered from absence of any rules. Ordinarily, however, lawyers of about five years' standing were selected for appointments. Government for the first time in 1946 made definite rules for recruitment to the staff of the Government Law College. The rule regarding qualifications runs as follows :—

“The applicants for professorships shall ordinarily have a standing of at least 5 years at the Bar or in their branch of the profession.”

This rule only confirms the practice that was in vogue in the past. The Bombay University made rules for appointments at the law colleges in the Province in 1948 and these have been mentioned in Chapter II paragraph 26.

139. One pertinent remark may be made with regard to these requirements for appointments. A five years' practice at the Bar is made the *sine qua non* for such appointments. The University rule in this respect is more stringent than the Government rule in as much as it restricts the selection of candidates to Advocates alone. No pleader who holds the District Sanad, nor any solicitor can be eligible under it for appointment as a professor in a law college. We do not see any reason why such a narrow restriction should have been imposed. Five years' practice at the Bar is a somewhat illusory qualification. Very often it means nothing, or at the most it only means that a candidate has enrolled himself five years before he has applied for the post. The appointing authorities of the mofussil law colleges must have very often found it a difficult task to find out what sort or nature of practice a candidate has had, or whether he had any active practice at all. In the case of the Government Law College, this difficulty did not arise because the recruitment to the staff of the said college was through the Board of Visitors of the college which had on it members representing all branches of the profession, who had first-hand knowledge of the candidates.

140. The more important question in this connection, however, relates to the necessity at all of such a qualification as the minimum. In the past, when the Universities were training students to follow the profession of law, there was perhaps some justification for such a rule. But now according to the scheme of legal education that we are recommending, the Universities will concern themselves with the study of the scientific or the educational aspect of law and not so much the professional. It is therefore now necessary to lay a greater emphasis on the academic distinctions of a candidate. Many eminent teachers of law in England and America are men who have never practised in Courts. We now need professors who will devote themselves to the

study of law as a science and it is probably from among candidates who have high academic qualifications that there is a greater likelihood of our getting men of such a type. There is also a practical difficulty in adopting the rule of a minimum of a five years' standing at the Bar. Both for the lawyer and the medical man, the gains in the profession are very high and tempting. Once a man has put in a few years in the profession, he gets the taste of blood and it is difficult afterwards to wean him over to accept a salaried post. Five or seven years' practice at the Bar often sees the end of the waiting period and a capable lawyer is not likely then to turn his back on the prospects which the profession offers. It is at the threshold of his career that a lawyer must be persuaded to join the educational line. The prospects in an overcrowded profession, as the legal one is, appear in the beginning both gloomy and uncertain. That is the psychological moment in the life of a young man when, with the offer of a post, honourable, secure and comparatively comfortable, he can be won over to take to academic life. We are, therefore, of the opinion that the condition of five years' standing in the profession is not only unnecessary in the scheme of legal education that we recommend, but it is definitely disadvantageous in as much as it will deprive for ever the teaching profession of many capable men.

141. We are not, therefore, prepared to recommend that a teacher of law for the University courses in law should be required to have any standing at the Bar at all. But for the final years' professional course, which will be under the control of the Bar Council or the Council of Legal Education, we do recommend that candidates for the posts must have at least five years' *active practice* in their branch of the profession. The said course consists of procedural and other laws of a professional character useful in practice. A practitioner is expected to handle this training much better. According to our recommendations, the staff for this course will mainly consist of part-time professors. It will not be difficult to get experienced men from the Bar to work as teachers for this course.

143. For the non-legal subjects, it is enough if the candidates are proficient in their own subjects. We fail to understand why the present Bombay University rule requires for a professor of English the same qualifications as are laid down for appointments as professors of law in addition to qualifications required for a professor of English. For non-legal subjects, it may be an additional advantage for teachers of these subjects to have a legal qualification. Between a candidate who has legal qualifications in addition to such qualifications as are required for appointment as professor of English, and one, who holds the latter alone, the former may be preferred for the post of a professor of English. But to make the possession of legal qualifications as absolutely necessary for a man who is going to be appointed to teach non-legal subjects, such as English, seems to us to be unnecessary and also likely to cause great hardship to the law colleges.

143. Our recommendations in this respect are, therefore, as follows :—

A. *For the First-Year's Pre-legal Course.*—

(a) A candidate must have special qualification in the subject in which he will be called upon to lecture.

(b) He must be a first class B.A. or a second class M.A. or must have teaching experience of 5 years in the particular subject for which the appointment is to be made.

B. *For the LL.B. Course.*—A candidate must be an LL.M. or first class LL.B. or have active practice for 5 years in any branch of the legal profession, or a man who has shown some special distinction in a branch of law, e.g., publication of a book on a legal subject.

C. *For the Bar Council or the Council of Legal Education (Examination) Course.*—For the course for the professional examination to be conducted by the Bar Council or the Council of Legal Education, a candidate must have at least five years' active practice in his branch of the legal profession.

We also recommend that for the three years' University course, full-time professors of law should be appointed to teach legal subjects and for the fourth year's professional examination, part-time professors should be appointed.

144. One last suggestion in this connection we venture to make. The importance of research in law has already been pointed out in another chapter. We want for the teaching staff of the law colleges men who will devote themselves to the work of research in law. In selecting men for these posts, the appointing authorities ought to give great importance to the candidate's capacity and ability to do research. It may not be possible for some time to come to find men who have already done some research or those who have some publication to their credit. But once it is known that great weight is attached to research work in making appointments to the law colleges, it will help to get men of the right type. We agree with the following suggestion made by Professor F. de Zulueta, D.C.L., F.B.A., for similar appointments in the English Universities :—

“ My main contention today is that a law teacher ought to have studied law as an advanced academic subject, by which I mean that he ought to have served an apprenticeship in research. I do not think that we ought to attempt to force men into taking their first degree in law, but I hold that we ought to use all our influence to make appointments in legal teaching go to men who, whatever their first degrees, have pursued advanced studies in law. For the present, I admit, it would be impracticable to make published work a condition

of candidature, but it ought to be common form in advertisements of vacancies to announce that the electors will give special weight to published work.

If such announcements were regularly made and acted upon, young men choosing or driven by necessity to the career of law teacher would find it at least advisable to undertake a piece of research, and conversely, young men naturally attracted to research would no longer be deterred by the practical consideration that research is a blind alley. Both classes would find that for their research they needed direction in regard to choice of subject and methods, and thus a real demand for advanced academic legal courses would arise to gladden the heart of many a teacher."*

Looking to the importance of the matter, we would go a little further and recommend that a teacher of law should be appointed in the first instance on a two years' probation at least. If, during the course of this period, he shows some substantial research, he may then be confirmed. His future increments and promotion should depend upon the continuance of his research work. This will ensure scholastic habits. Although the remedy may appear to be drastic, it is recommended in order to eradicate a deep-rooted evil.

145. We do not propose to make any recommendation with regard to the method of recruitment to the teaching staffs of the various Law Colleges in the Province. It was suggested to us that the Council of Legal Education should have control over the appointment of teachers of law. It is true that the success of any scheme of Legal Education would depend upon the efficiency of the personnel entrusted with the task of carrying out the scheme. It is the Council of Legal Education which according to our scheme will be ultimately responsible for Legal Education in this province. Hence it would be in the fitness of things that the Council of Legal Education should be entrusted with the task of selecting candidates to the various posts in the law colleges. We, however, are not inclined to accept this suggestion because we feel that there are very many difficulties in the way. We are of the opinion that the various Universities in the Province and the Law Colleges should have autonomy in this matter. It is these Universities and these Colleges which will be primarily responsible for making Legal Education efficient. It would create a sort of an anomaly if they are to be deprived of the power of making appointments, while efficient administration of Law Colleges will be their responsibility.

We have already indicated the various qualifications that are required for appointments of teachers of law. If the appointing authorities of the various Law Colleges give effect to our recommendations in this respect, we have no doubt that an efficient body of teachers of Law will come into existence. In the case of any unsuitable appointments,

*JSPTL (1933): "Recruitment of Public Teachers of Law", page 7.

the Council of Legal Education will have power to take action under its supervising jurisdiction. We, therefore, do not recommend any particular method of recruitment and leave the work of selection to the various appointing authorities of the various Law Colleges.

146. As to the salaries of the teachers of law, we find that they are poorly paid. Even the Government scale of Rs. 530—785 is inadequate. The Bombay University has shown no special consideration to teachers in professional colleges, especially law and medicine. The gains in the legal profession are high and if capable men have to be drawn to University teaching, adequate salaries have got to be paid. The reply often made to the complaint that university teachers are underpaid is "Yes, financially, but they are amply paid in free time" This is true, especially on the assumption that time is money, and teachers have to and do add substantially to their income by engaging in all kinds of other gainful occupations in their free time. But this is not at all a satisfactory state of affairs. If we want teachers to do their work honestly, if we want them to do research work, if we want the destinies of the younger generation to be entrusted to men who have made education their life's mission, it behoves the powers that be to see that these teachers are free from financial worries. If they are underworked, it is proper to demand and even exact work from them. But they must be provided with amenities of life, financial and otherwise, which will help them to give their best to the cause of teaching and learning. We are, therefore, of the opinion that Government and private colleges ought to provide for adequate salaries to the teachers of law.

147. The question of the training of University teachers is a puzzling one, but not without an answer. The very suggestion that University teachers should be trained in the technique of lecturing would appear to be so novel in this country and so radical that it is not likely to meet with any approval from the Universities and the University teachers themselves. But the need for and the desirability of such a training has long been felt. The University Grants Committee, England, in its report in the year 1936 recognised this need and remarked that "young university teachers might be more systematically encouraged to take serious thought as to the best manner of presenting a subject" and that "in this connection careful preparation is essential". In France, no lecturer in law is appointed without an oral examination in which a candidate has to deliver four lectures lasting thirty to thirty-five minutes each. He has 24 hours in which to prepare his lecture which he delivers, using only brief notes. As Bruce Truscot puts it, there is no answer to this question which, undergraduates, who intend to become school-teachers frequently ask, "why do we have to spend a year, after taking our degrees, in obtaining a diploma testifying that we have studied and practised the technique of teaching, whereas, if we were going to take up the equally difficult work of university lecturing and had good enough degrees to be acceptable

from the academic point of view, we could get posts without having had any training whatever". Possession of knowledge and the ability to impart it are two different things, and it must be admitted that they do not very often go hand in hand. Some lecturers have not even enough idea of speaking to make themselves heard. For a beginner, it is difficult to plan his course and time his lectures without being instructed how to do so. The method generally followed is to get through as much as you can in each hour and hope that, by the end of the term or the year, you may have covered the syllabus, omitting chunks of it as soon as you discover that you certainly will not. There is no doubt that many and various are the defects that exist in lecturing on law in our colleges and a good deal of improvement can be made by giving training in reading aloud, the delivery of lecture, the teaching of a class and in the planning both of a syllabus and of a single lecture. We do not propose to go to the length of suggesting, as has been done in England, a short vacation course for this type of instruction to new lecturers. But we do suggest that the senior and experienced professors should help the new-comers in organising their lectures. They may sometimes attend their lectures and make useful and valuable suggestions. The junior lecturers may occasionally attend the lectures of seniors to get a practical demonstration in the art of lecturing. Mutual goodwill between the seniors and the juniors will render this plan to be usefully followed. Although this may not be any ideal method of training, it would be better than no training at all.

CHAPTER XII.

SUMMARY OF COMMITTEE'S RECOMMENDATIONS.

148. Our main recommendations may be summarised as follows:—

A. *General*—

1. That Law must now be treated by the Universities as an educational and cultural subject, leaving it to the professional bodies such as the Bar Council or the Council of Legal Education to look after the practical and the professional training of a student of law.
2. That legal education must include the study of social sciences either at the pre-legal stage, or simultaneously with the study of law.

B. *Stage of Admission*—

3. That the stage of admission to the LL.B. course should be the passing of only the Intermediate Arts or the Intermediate Commerce Examination.

C. *Duration of the Course*—

4. That the course of study for the LL.B. Degree should be of three years' duration after admission to the study of law and the professional and practical course should be of one year's duration after the LL.B. Examination.

D. *Pre-Legal Education*—

5. That there should be a three years' pre-legal course after the Matriculation or the S. S. C. Examination, that the first two years' pre-legal course upto the Intermediate Arts or the Intermediate Commerce Examination should be taught in an Arts or a Commerce College, and the last one year's pre-legal course should be taught in a Law College.

E. *Law Course*—

6. That the next three years' law course should be taught in a law College and that the LL.B. Degree examination at the end of the two years' law course should be held by the Universities, and that the professional examination at the end of the third year's law course should be held by the Bar Council or the Council of Legal Education.

F. *Courses*—

7. (a) That the following shall be the subjects for the first year's course to be taught in a Law College:—

(1) English—Two Papers—

- (i) English Texts—Prose and Poetry.
- (ii) English—Essay, Precis, and Composition.

- (2) Outlines of Social, Economic and Constitutional History of India from 1773 to modern times.
- (3) History and Development of Social Institutions.
- (4) Politics.
- (5) Elements of Constitutional Law.

(b) That at the end of the first year, there should be an examination called the Law Preliminary to be held by the Universities.

8. That the subjects for the three years' law course as such should be as follows :—

(A) *First LL.B.*—

- (1) Principles of Criminal Law.
- (2) Principles of Contract.
- (3) Broom's Legal Maxims and Principles of Equity.
- (4) Principles of the Law of Agency, Sale of Goods, Bailments, Negotiable Instruments, Partnership and Surety.
- (5) Torts.

(B) *Second LL.B.*—

- (1) Hindu and Mahomedan Law (without the Intestate Succession).
- (2) Law of Succession (Testate and Intestate).
- (3) Law of Property, Easements and Transfer of Property.
- (4) Trusts and Specific Relief.
- (5) Principles of Jurisprudence and Conflict of Laws.

(C) *The Professional Examinations to be held by the Bar Council or the Council of Legal Education*—

- (1) Civil Procedure.
- (2) Criminal Procedure.
- (3) Evidence and Limitation.
- (4) Company Law and Insolvency or Land Revenue Code, Court Fees Act and Suits Valuation Act.
- (5) Drafting and Elements of Book-keeping.

9. That, in dealing with the subjects for the two LL.B. examinations, it is the broad general principles which ought to be taught and not merely the sections of Acts, and that the relevant provisions of the Roman Law in that respect should be referred to.

G. Council of Legal Education—

10. That a Council of Legal Education should be instituted for the purpose of standardising and controlling Legal Education in the Province.

11. That the following should be the composition of the said Council:—

(1) The Chief Justice of Bombay to be the President of the said Council.

(2) The following should be the members:—

(a) The Universities to be represented by the Deans of their respective Faculties of Law.

(b) The Advocate General.

(c) The Government Pleader.

(d) The President of the Incorporated Law Society.

(e) One member from Teachers of Law in the Province to be nominated by the Chief Justice of Bombay.

(f) Two Judges of the High Court nominated by the Chief Justice of Bombay.

(g) Two representatives of the Bar nominated by the Chief Justice of Bombay.

(h) One representative of the Bar Council nominated by the Chief Justice of Bombay.

12. That the functions of the said Council shall be as follows:—

(a) To advise the Universities in the matter of Law Courses and text-books;

(b) To bring about co-ordination between the work of instruction and examination carried on by different professional bodies and the Universities so that overlapping may be prevented;

(c) To hold Diploma examinations and confer Diplomas in Law; and

(d) Generally to supervise legal education in the Province so that a uniformity of standard may be maintained.

H. *Diploma in Law*—

13. That Diploma courses in law should be instituted in the following subjects :—

- (a) Insurance Law.
- (b) Income Tax.
- (c) Banking Laws.
- (d) Labour Laws.
- (e) Company Law.
- (f) Mercantile Law.

14. That the number of subjects for the said Diploma Courses may be increased as further need is felt.

15. That the admission stage for the said Diploma Courses should be the Matriculation or the S. S. C. Examination, and that the duration of the course should be one year.

16. That the said Diploma Courses should be taught in a Law College or in other classes, recognised by the Council of Legal Education.

17. That the examination for the said Diploma in Law should be held by the University or the Council of Legal Education.

I. *Post-Graduate Courses*—

18. That the examination for the LL.M. Degree should be either by papers or by thesis.

19. That for the LL.M. Degree by papers, there should be five papers in any *one* of the following subjects :—

- (1) Hindu Law.
- (2) Mahomedan Law.
- (3) Mercantile Law.
- (4) International Law (including the Constitution of the U. N. O.).
- (5) Constitutional Law.
- (6) Legal History.
- (7) Jurisprudence.
- (8) Law of Property.

20. That the duration of the LL.M. course should be *two years* after the LL.B. examination.

21. That the law colleges in the Province with adequate libraries and professors able to guide students in the subjects of their choice, should alone be permitted to send up students for the said examinations.

22. That for the LL.M. degree by thesis, a student should submit his thesis in any legal topic two years after the LL.B. examination, and that there should be a *viva-voce* examination to test his knowledge of the subject.

23. That the University of Bombay should set up an institute for Advanced Studies in Law, or there should be two centres in the Province for Advanced Studies in Law and Research—one in the Poona Law College under the aegis of the Poona University, and the other in the Government Law College, Bombay, under the aegis of the Bombay University.

24. That the Government should share the financial burden of the two said Universities involved in the creation of the said two centres for legal research.

25. That the Historical Legal Research should be the concern of the Poona University and that the Comparative Legal Research should be the concern of the Bombay University.

26. That the government and/or the Universities should institute scholarships of Rs. 100 to Rs. 150 each, in order to encourage and to make it possible for capable students to do legal research.

27. That the various libraries in Poona and Bombay should be made available to research workers and that a central catalogue of all relevant books in the said libraries should be maintained.

J. *Methods of Teaching*—

28. That the method of teaching law by formal lectures should be retained, and that synopsis of lectures should be given to the students in advance.

29. That there should be seminars of 20 to 25 students for each class, where cases or legal topics should be discussed.

30. That for the professional course under the control of the Bar Council or the Council of Legal Education, there should be 12 moots and mock-trials in a year.

K. *Qualifications, etc. of Teachers of Law—*

31. That the following shall be the minimum qualifications for appointments of teachers in law in law colleges :—

(A) *For the First Year's Pre-legal Course—*

(a) A candidate must have special qualification in the subject in which he will be called upon to lecture ;

(b) He must be a first class B.A. or a second class M.A. or must have teaching experience of 5 years in the particular subject for which the appointment is to be made.

(B) *For the LL.B. Course.*—A candidate must be an LL.M. or first class LL.B. or have *active* practice for 5 years in any branch of the legal profession or a man who has shown some special distinction in a branch of law, e.g., publication of a book on a legal subject.

(C) *For the Bar Council or the Council of Legal Education (Examination) Course.*—For the course for the professional examination to be conducted by the Bar Council or the Council of Legal Education, a candidate must have at least 5 years' *active* practice in his branch of the legal profession.

32. That in selecting a candidate for the post of a teacher of law, the appointing authorities should lay greater emphasis on the candidate's ability and capacity to do research in law.

33. That a teacher of law should be appointed initially for a period of two years, and he should be confirmed if, at the end of this period, his work in research is found to be satisfactory by a Committee of the University concerned specially appointed for the purpose, and that he should submit to the said University Committee annual reports of his work in research on the satisfactory nature of which should depend his promotion and increment.

34. That for the LL.B. courses in law full-time professors should be appointed and for the professional course part-time professors should be appointed.

35. That the salaries at present offered to teachers of law are very poor, and that they should be given such adequate salaries as to attract suitable men to the teaching profession.

CHAPTER XIII.

CONCLUSION.

The terms of reference have been covered by the recommendations we have made after careful consideration of all the material before us. These are now submitted to Government for their consideration. We would like to express our appreciation and thanks to all those who sent in their replies and gave evidence before us, thus rendering very valuable assistance to us in the task before us.

In conclusion, we should like particularly to mention the very valuable assistance given to the Committee by the Secretary Mr. S. G. Chitale, Principal of the Government Law College. The deliberations of the Committee would not have been completed and the Report submitted as quickly as they have been but for the untiring zeal and industry displayed by Mr. Chitale.

(Signed) M. C. CHAGLA,
Chairman,

(Signed) N. H. C. COYAJEE,

(Signed) PURSHOTTAM TRICUMDAS,

(Signed) G. R. MADBHAVI,

*(Signed) P. V. KANE,

†(Signed) N. H. BHAGWATI,

‡(Signed) J. R. GHARPURE

30th August 1949.

* Subject to Minute of Dissent.

† Subject to Minute of Dissent.

‡ With a Note.

MINUTE OF DISSENT BY MAHAMAHOPADHYAYA

DR. P. V. KANE, M.A., LL.M., D.LITT.

The points of dissent are :—

(1) I do not agree with the recommendation of the majority that students who pass the Intermediate Arts and Intermediate Commerce Examinations should be admitted to the studies in law at the Law Colleges. The reasons are :—

(a) They do not possess the necessary mental equipment, that would enable them to grasp easily the fundamental principles of law ;

(b) They are immature in years. Most students pass their Matriculation or S. S. C. Examination at about 16 and the Intermediate Examinations at about 18, while a graduate in any Faculty would be at about 20 or 21 when he takes his degree ;

(c) The reports of the examiners at the First LL.B. and 2nd LL.B. Examinations submitted to the University from 1939 when for the first time students were admitted to the Law Colleges after passing the Intermediate Arts and Commerce Examinations amply bear this out. One or two extracts may be given here. In the second half of 1943 the examiners at the First LL.B. Examination remark " We have taken trouble to analyse the results of this examination. We have to point out that whereas the percentage of the graduate students who have passed at this examination is 54 per cent., that of the undergraduate students is only 37 per cent. We suggest that in the 2nd LL.B. there should be one paper in English or in the alternative the present system of allowing students to appear direct after the Intermediate stage should be abolished at an early date ". Similar suggestions were made by the Examiners at the 1st LL.B. in the first half of 1944 and also in later years.

(d) There should be uniformity as far as possible in all Indian Universities about the standards of examinations. Only Bombay and Andhra Universities allow students passing Intermediate Examinations to join law colleges. The experiment made in 1938 has practically failed so far as the Bombay University is concerned.

The criticism levelled against the above arguments that a pass course in B.Sc. or an Honours course in subjects other than History and allied subjects is not likely to afford special facilities in the way of equipping a student for the legal profession or give the student the requisite command of the English language and literature is not justified. The further two years that a graduate spends at college would go a long way towards increasing mental grasp, maturity of

understanding and sense of responsibility. It may be suggested here that any graduate (in any Faculty) may be admitted to a Law College if he seeks admission.

Too much is being made of prelegal education and there are very serious practical difficulties in providing for it, which will be noted below.

(2) *The curriculum and duration of course:—*

(a) A two years' course for studies at a Law College distributed as follows:—

First LL.B. (6 papers in all).

- (1) Principles of Criminal Law and the Indian Penal Code;
- (2) Principles of Contract, the Indian Contract Act, Law of Agency, Bailments, Sale of Goods Act, Negotiable Instruments Act, Partnership Act, Law of Suretyship (two papers);
- (3) Principles of the Law of Torts;
- (4) Broom's Legal Maxims, Principles of Equity and of Jurisprudence, Conflict of Laws (2 papers).

Second LL.B. (6 papers in all).

- (1) Hindu and Mahomedan Law (Excepting Intestate Succession);
- (2) Law of Succession;
- (3) Law of Property, Easements, Transfer of Property, Specific Relief, Trusts (2 papers);
- (4) Evidence and Limitation;
- (5) Company Law and Insolvency;

Or

Land Revenue Code, Tenancy Acts, Court Fees, Stamp Act, Suits Valuation Act.

(b) Six months' course under the control of the Bar Council or Council of Legal Education in:—

- (1) Civil Procedure,
- (2) Criminal Procedure,
- (3) Drafting and Ethics of the Profession.

The prelegal course for one year is likely to create serious financial problems for law colleges. Each College will have to appoint teachers in English, Sociology, Politics and Constitutional History. If full-time Professors are appointed for these subjects in a law college the cost will be very great and sufficient work cannot be provided for them in the law college itself. If part-time teachers are to be appointed the best men cannot be induced to be members of the staff.

Diploma courses in special subjects.

I am of opinion that the University should not go in for diploma courses. Those who require instruction in one or two special subjects alone may join private institutions, which will surely be started if there is a large demand for such instruction.

Among the 70 replies received in answer to the questionnaire 25 were in favour of graduates being allowed admission to colleges in law, 39 in favour of the Intermediate Examination being sufficient and 6 in favour of Matriculation. Among the seven witnesses examined, three were in favour of graduation being compulsory for admission to law studies, two in favour of Intermediate and two in favour of Matriculation.

(Signed) P. V. KANE,

30th August 1949.

Member,
Legal Education Committee, Bombay.

**MINUTE OF DESSENT BY THE HON'BLE
MR. JUSTICE N. H. BHAGWATI.**

I regret that I am not able to agree with the conclusions reached by the majority on questions as regards (A) the stage of admission to the studies in law colleges, (B) the duration of the courses and curriculum and (C) the stage of admission to the Diploma Courses.

(A) *Stage of Admission to the Studies in Law.*—I, no doubt, realise that the time has come to look upon law as an educational and cultural subject. I agree with the following remarks of Sir Tej Bahadur Sapru :—

“Judged, therefore, by the standards of legal culture and scholarship we are afraid that the legal education which is given is of a very narrow and limited character. For a practitioner in a court of law, no doubt, it is necessary that he must have an accurate idea of the statutory law or the case-law, but we think that if legal education has for its object the broadening of a man's mind and enabling him to contribute to the development of legal ideas or to the correlating of law to the sociological needs of the country, then the legal education which is imparted to our graduates at present falls very short of the necessary standard.”

I also agree with what Mr. K. M. Munshi has stated in his evidence as regards the fourfold role which a lawyer has to play in the new political set-up of our country, viz. (i) as a practitioner, (ii) as the only guardian of the democratic values of the rule of law, (iii) as a person indispensable in administering the law and (iv) as achieving and interpreting evolutionary social progress by advanced studies.

To adapt the classification which has been adapted by Prof. Hohfeld of the Yale University, we have to produce jurists for various purposes: (1) professional jurists, (2) jurists for legal authorship, (3) jurists for legislative references and drafting work, (4) jurists and experts for membership in and assistance to various types of administrative commissions, executive departments, etc., (5) jurists for membership in legislatures and (6) jurists for Bar and Bench. I, therefore, agree with the majority in thinking that the lawyer has got to be trained in the fundamental principles of law rather than in the laws themselves.

I, however, differ from the majority in regard to the stage at which a student ought to be admitted to the studies in law. I agree with the majority in thinking that the Matriculation standard in this Province is very low and it would not do to start a student on his studies in law after he has passed his Matriculation examination. Whatever may be said in regard to the advisability of taking up a student in law from the earliest stage so that he may have a full training in the fundamental principles of law from the commencement and for as long a period as can be legitimately provided for, the fact remains that having regard

to the standard of the Matriculation examination or the present S. S. C. examination, the student who passes either of the examinations will be absolutely raw, not capable at all of imbibing the fundamental principles of law and will be a person with absolutely immature intellect and understanding. This proposition has, therefore, got to be ruled out altogether.

As regards the conclusion which the majority of the Committee have reached, viz., that the students who pass the Intermediate Arts and the Intermediate Commerce examinations should be admitted to the studies in law, I have to regretfully observe that even those students do not attain the necessary mental equipment which is essential for imbibing the fundamental principles of law. In spite of the two years' course which they have gone through in the colleges, their general level of understanding is low; they have not attained the requisite maturity of understanding the legal concepts, they have not sufficient command of language for apt expression and they have not developed a sufficiently broad outlook of life to enable them to really follow, understand and imbibe the fundamental legal concepts. Having regard to their mental calibre, it is really impossible to make them understand and appreciate the fundamental legal concepts and the only thing which they, therefore, naturally resort to are the cheap summaries of text-books which they cram without understanding and try to reproduce in the answers to the question papers set at the examinations.

Law is a study where the essential background ought to be of a liberal education and there should be a broad cultural background. Before a student can be initiated into the studies in law the person must have acquired mature understanding, he should have a very fair knowledge of the language of the Court and the language in which the laws have been enacted, he must have developed in him sufficient breadth of outlook of life and must be properly equipped for imbibing the fundamental concepts of law. The students who pass the Intermediate Arts and the Intermediate Commerce examinations are sadly lacking in these necessary qualifications. According to the present situation, the students pass the matriculation examination or the S. S. C. examination at a very early age of about 15-years with the result that they pass the Intermediate Arts and the Intermediate Commerce examinations also at a comparatively early age of about 17 years. The students of that age, except for exceptions, are raw and immature and can hardly be capable of understanding and appreciating the fundamental concepts of law.

That this is the position is amply demonstrated by the answers which have been received to the questionnaire from 25 individuals and associations named in the schedule annexed hereto and also by the evidence of the three out of the seven witnesses who were examined, viz., Messrs. P. B. Vachha, K. M. Munshi and H. M. Seerwai. I may, in this connection, draw attention to the analysis of the position contained in the schedule, which shows that 25 out of 70 individuals and associations who have answered the questionnaire and 3 out

of 7 witnesses examined before us have been in favour of graduation as the stage of admission to the studies in law against 39 and 2 respectively who are in favour of admitting the students who have passed Intermediate Arts, Intermediate Science and Intermediate Commerce examinations to the same.

When the change from a part-time to a full-time law college was instituted in the year 1939, the stage of admission to the studies in law was changed from the graduation to the passing of the Intermediate Arts, the Intermediate Science and the Intermediate Commerce examinations. No doubt, the standard of studies, so far as graduates were concerned, prior to this change being effected, was low for the simple reason that the course of studies was a part-time course and law was not taught in full-time institutions. But when the students who had passed the Intermediate Arts, the Intermediate Science and the Intermediate Commerce examinations were admitted to the studies in law in full-time institutions, the contrast between the mental equipment and the capacity of imbibing the fundamental principles of law which obtained between the students who had passed the Intermediate Arts, the Intermediate Science and Intermediate Commerce examinations and the graduates was so apparent that even the examiners at the First LL.B. and the Second LL.B. examinations were constrained to observe in their reports made to the University that the graduate students did acquit themselves much more satisfactorily than the raw and immature students who had passed the Intermediate Arts, the Intermediate Science and the Intermediate Commerce examinations.

I can do no better than quote from some of the reports of the examiners of the First and the Second LL.B. examinations which were submitted to the University.

Upto the second half of 1938, there was nothing particular to note. The First LL.B. examination under the new regime took place in the first half of 1939 and the examiners at that examination reported as under :—

“In papers 1 to 4 we find that a large number of students prefer to reproduce what they have crammed to applying their minds to answer the questions put to them. Their spelling is poor.” “In paper 5 (English) we find that a large number of students have relied on a particular cram-book (Sattigiri's Book) to their own disadvantage. A fair number of answers to question 1 were needlessly lengthy. The spelling of students was poor.”

The report of the examiners at that examination for the second half of 1939 was no better. They observed :—

“As regards papers 1 to 4 we find that a large number of students prefer to reproduce what they have memorized to applying their minds to answer the questions put to them. The spelling of most students is very poor.

“ As regards paper 4 (Torts, Crimes and Criminal Procedure) we find that a large number of students are not acquainted with recent decisions, that is to say, decisions reported within 1 or 2 years before the examination. We also find that in solving the problems set to them a large number of students merely state the name of the crime or the wrong which, according to them, is committed, but they do not show how the facts stated in the problems disclose the constituent elements of the crime or the wrong.

“ As regards paper 5 (English) we find that the spelling of most students is very poor. We said in our last report that a large number of students relied on a particular cram-book greatly to their own disadvantage, and we repeat that observation here. But, further, we desire to call attention to the fact that the students who discarded cram-books and expressed their thoughts in their own simple language, did much greater justice to themselves and scored a very much higher number of marks than the students who chose merely to reproduce what they had memorized from cram-books.

“ In all the papers several students had numbered their answers wrongly.”

The position did not improve in the subsequent years and in the second half of 1943 the examiners at the First as well as the Second LL.B. examinations, which latter had by then quite a number of students under the new regime appearing for some time, had the following observations to make :--

“ First LL.B. Examination—October, 1943.

“ As on the previous occasions, we have again to comment upon the very poor English of the students appearing at the examination. If the examiners were to take serious notice of the mistakes in grammar, construction and spelling, in subjects other than English hardly 20 per cent. of the students would pass the examination. The power of expression is very limited and it is more than apparent that a large number of students have not grasped their subjects at all. In our opinion, this is due to students' lack of knowledge of the language, as they appear for the LL.B. Examination direct after the Intermediate.

“ In spite of the fact that a variety of subjects were given for the essay, comparatively a few students have written good essays. In precis, although more than usual latitude was allowed as regards the number of words, a large number of students have written a very lengthy precis, in some cases more than half or even two-third of the original passage. We wonder whether the students understand the meaning of precis at all.

“ We have taken trouble to analyse the results of this examination. We have to point out that whereas the percentage of the graduate students who have passed at this examination is 54 per cent. that of the undergraduate students is only 37 per cent. Even out of these

37 per cent. 57 per cent. of the students get less than 50 marks in English, that is to say, they have passed at the examination by making up the requisite total from other subjects, where their poor English has not been seriously taken into account. Further the number of students who get more than 50 per cent. marks in English is only 17 per cent. and over 40 per cent. of the students get only 40 marks or even less. These figures conclusively prove what we have said above. We are constrained to observe that so far no notice has been taken by the University to remedy this defect.

“ In our opinion the standard of English needs very considerable improvement, particularly as the language of the Court is English. We suggest that in the Second LL.B. there should be one paper in English, or in the alternative, the present system of allowing students to appear direct after the Intermediate should be abolished at an early date.

“ We hope this report will receive serious consideration by the University authorities.”

“ Second LL.B. Examination—October 1943.

“ The calibre of the candidates is very poor, and looking to the undergraduates who appear at the law examinations, the curricula of the first and second year ought to be reconsidered. The subjects at the Second LL.B. examination are too hard for the candidates to study within a year.

“ The candidates are incapable of understanding the questions put to them, and they are unable to express themselves. They are ignorant of even the fundamental principles of law.

“ A very few candidates have cited the authorities. Boys were totally ignorant of even the Full Bench decisions of the Bombay High Court on which some of the problems were based. The study of law reports, especially of the Bombay High Court, ought to be encouraged.

“ Candidates write very poor English, and if marks were deducted for bad English and wrong spelling, even ten per cent. of the candidates would not be successful.

“ A good deal of time is wasted by candidates in copying questions over again, instead of answering them straight away.”

The things did not improve in the years 1944, 1945 and 1946 and the following reports of the examiners go to show that they recommended going back to the old system of admission of graduates only to the studies in law instead of what was being done under the new regime.

The examiners at the First LL.B. examination in the first half of 1944 stated as under :—

“ The examiners once again regret to bring to the notice of the Syndicate that the student’s knowledge of the English language as a whole, has been found to be exceedingly bad.

“ A majority of the graduates have passed the examination with consummate ease, but otherwise, the students have failed or done badly either in constitutional law or in English, in fact many of them have not obtained the requisite total, mainly due to these two subjects. The best results are from the Karachi Centre, the results of the other outside centres being very moderate. Although the Bombay results are almost 50 per cent. most of the students have fared hopelessly in the two subjects mentioned above.

“ We suggest that the University must do something for the improvement of English, either by prescribing a three years’ course for this examination or by reverting to the old practice of allowing graduates only to go in for this degree.”

The report of the examiners at the First LL.B. and the Second LL.B. examinations in the second half of 1944 reiterated the same point and pointed out the very same defects suggesting the same remedy :—

First LL.B. Examination.

“ In the opinion of the undersigned a very large majority of the candidates showed a very poor knowledge of English, with the result that they seemed to be unable to understand or interpret the principles of law.

“ We therefore strongly recommend that the present system of allowing candidates to go in for legal studies after the Intermediate Arts examination should be abolished and the old system should be revived. In the alternative, the present system may be continued and the LL.B. course should be extended to three years, with English as a compulsory subject for all the three years.”

Second LL.B. Examination.

“ As regards the answers, we have to reiterate the same criticism, viz., that the candidates have not done so satisfactorily as they should. The usual complaint of poor grasp of the subject and want of proper expression must again be repeated this time. We need not suggest the reason why it is so and leave it and its remedy to the University.”

The examiners at the First LL.B. examination in the first half of 1945 analysed the standard of English in the various centres at the

examination and as regards the second LL.B. examination the examiners opined that taking into consideration the full-time education then imparted, the results were unsatisfactory. They observed :—

First LL.B. Examination.

“The result is about 39 per cent. This is mainly due to the fact that only 10 per cent. of the students who appeared in English get 50 per cent. marks or more. The following analysis of the marks-sheet of the English paper will indicate the standard of English in various centres :—

	Number of students appeared.	Students getting 50 per cent. marks or more.	Highest.
Bombay	171	30	70
Poona	134	11	61
Kolhapur	46	6	69
Belgaum	66	5	58
Surat	23	1	55
Ahmedabad	113	4	60
Karachi	105	9	68
	<hr/> 658	<hr/> 66	

Second LL.B. Examination.

“Generally the expression is poor, and in good many cases, the language is also ungrammatical. In a few cases there were spelling mistakes which, we believe, were not accidental but arose out of ignorance. Answers in many cases leave an impression on the mind that the candidates have not understood the subject properly but have mugged up a few catchy phrases from the text-books. We are of opinion that these students, who are qualifying for the profession of lawyers should have proper training in logical thinking in correct, accurate and rich expressions of thought and in thorough understanding of their subjects. Taking into consideration the full-time education now, the results are unsatisfactory.”

The last report which I need refer to in this behalf is the report of the examiners in the Second LL.B. examination in the first half of 1946. They stated :—

“The answer-books reveal in a majority of cases, lack of even minimum competence for the profession for which they want to qualify. The language is generally very poor and in good many

cases even ungrammatical. There are many spelling mistakes. Even ordinary and common words are not correctly spelt. We believe these mistakes often arise not out of negligence or stress and hurry of the moment, but out of ignorance. Facile expression and close reasoned thinking which should be strong points in a lawyer's equipment are sadly lacking."

and maintained that the present standard of admission to the law courses was inadequate and that it should be raised.

I have quoted the reports of the examiners at the First LL.B. and the Second LL.B. examinations of the University for these several years *in extenso* in order to point out that in spite of the legal instruction in the presidency being imparted in full-time institutions, the fact that the stage of admission was the passing of the Intermediate Arts, the Intermediate Science and the Intermediate Commerce examinations has been conducive to the unsatisfactory results which were achieved. I am confident and I agree with the examiners when they state that if the graduation was the stage of admission to the studies in law the results would have been much better and the instruction which is imparted in the full-time institutions would have borne greater fruit and the complaints as regards the turning out by the University of half-baked and ill-equipped lawyers would never have come into existence.

It is no use quoting the example of England where a Matriculate is considered capable of studying law subjects such as jurisprudence or of Canada where in some Universities two years' Arts course is considered as sufficient to entitle a student to join the law course. The conditions obtaining there are quite different from those obtaining here. The students are taught from the very commencement subjects in their own mother-tongue by means of text-books which are written in their own mother tongue. They moreover under-go training all throughout under the hands of competent teachers in Public Schools where the standard of teaching and the whole atmosphere is quite of a superior order and equips the students for imbibing various subjects much better than what obtains with us here under the present system of education however well directed the same may be. We might have to wait for several years before we attain that standard of excellence and efficiency. It has moreover to be remembered that in England a classical education in the higher forms involves some knowledge of Greek and Roman thinkers, with the result that powers of abstract thought as well as powers of expression are well developed.

As regards the argument that all Indian Universities, including the Bombay University, allow an Inter student to take to the study of Philosophy and Economics, one has only got to observe that at all times a pass degree in philosophy was very easy to obtain, for apart from psychology the other subjects such as ethics and the essay are subjects on which ordinary students have a fair amount of knowledge

gathered by experience and social contact. The study of economics also does not present any particular difficulty as it is a subject which can be imbibed by an Inter student with a modicum of intelligence, leaving of course the intricate parts thereof like currency, exchange and public finance for studies in the last year of graduation. The best answer to the arguments advanced by the majority of the Committee is to be found in the admission contained in the very Report of theirs, viz.,

“ It appears to us that the real question is not whether a graduate has a more mature mind than the Inter student, for that is a proposition which one may not like to controvert.”

If the aim of legal education is to produce jurists of the type mentioned in the beginning of this Minute, it is much better that Graduates who have a more mature mind than Inter students should be the only persons admitted to studies in law.

I agree with the observations of A. E. W. Hazel quoted in the majority report :—

“ Any honours degree will do, and even a pass degree is better than nothing. Our lawyer certainly ought to know something besides law. A famous educationist has recently said: “ One of the most dangerous persons we can produce in the world is the uneducated specialist.”

I also agree with the arguments which have been advanced in the report of the special Committee appointed for opening a Law Faculty in the Andhra University, under the chairmanship of Sir Alladi Krishnaswamy, viz.,

“(1) As English is the language of the Courts and as lucid exposition of the client's case is a most important part of the lawyer's work, he must have a better knowledge of English than is attained by a student completing the Intermediate course.

(2) Persons entering the legal profession must have a mature understanding of the problems of life and a wider culture than is attained by students passing the Intermediate examination.”

I however do not agree with the criticism which has been levelled against these arguments that “ a Pass course in B.Sc. or an Honours course in subjects other than History and allied subjects is not likely to afford special facilities in the way of equipping a student for the legal profession, or give the student the requisite command of English language and literature”. I believe that the general culture which a graduate would derive from attending a college for two more years after passing the Intermediate Arts, the Intermediate Science and the Intermediate Commerce examinations, the cultural background

which he would acquire thereby together with the further knowledge of English which he would derive from the compulsory papers which are prescribed as a part of the curriculum thereunder would, in addition to the maturity of intellect and grasp and the development of the faculty of analysis, etc. go a great way towards making a graduate fit to understand and appreciate the fundamental concepts of law.

As a matter of fact I would go to the length of suggesting and recommending that all graduates whatever, irrespective of the fact whether they are graduates in Arts, Science, Commerce, Medicine, Agriculture or Engineering, would be admitted to the studies in law. I am of the opinion that the maturity of intellect and understanding, and the broadening of the outlook and the cultural background which all these graduates would of necessity acquire by further studies in the colleges of the University would equip them much better than the ordinary students who have passed the Intermediate Arts, the Intermediate Science and Intermediate Commerce examinations and who are admitted to the studies in law, even with a super-imposition on them of what is called the pre-legal education.

The argument, which has been advanced against graduates only being admitted to the studies in law is that many of the graduation courses hardly satisfy the pre-legal requirements. The pre-legal education is unnecessarily trotted out as an essential requirement in the equipment of a lawyer. Any amount of inculcation of the principles of sociology or politics in the raw minds of students who have passed the Intermediate Arts, the Intermediate Science and the Intermediate Commerce examinations is not going to equip them better for being lawyers than graduates. Even Mr. A. A. A. Fyzee who has been quoted in the majority report as supporting the admission of students passing the Intermediate Arts, the Intermediate Science and the Intermediate Commerce examinations, said in his evidence before us that the expression pre-legal has not been properly understood. "Pre-legal education is what comes before and I think the two years in the University is quite enough pre-legal education". The position would be much better still if graduates only were admitted to the studies in law. Even he had to admit in the evidence before us that "a graduate who is willing to learn is better than an undergraduate who is also willing to learn. I think, that if you take a graduate then you have merely to finish legal training in two years". Apart from this being the opinion of Mr. A. A. A. Fyzee, this is also the opinion advanced by Mr. M. B. Honavar, Principal Judge, Bombay City Civil Court and Sessions Judge, Greater Bombay :—

"There should be no objection to any class of graduates attending the law course. An advocate has got to attain a certain amount of versatility. What is really wanted is the capacity of mature thought

and felicity of expression. Arts graduates in this respect have no particular advantage over other classes of graduates. Graduation should be the minimum pre-legal education necessary for admission to the Law courses."

Another objection which has been urged against graduates only being admitted to the studies in law is that a law class of graduates would present heterogeneous elements. I do not agree with that point of view. According to what I have stated before, graduates of the University who join the studies in law would have a maturity of intellect and understanding, felicity of expression, and a capacity of imbibing the fundamental concepts of law which would enable them to obtain the fullest advantage of the lectures delivered by competent professors in full time institutions imparting instruction in law.

It is also urged that students who have passed the Intermediate Arts, the Intermediate Science or the Intermediate Commerce examinations are more receptive and more amenable to being moulded than graduates who are finished products. I do not subscribe to that view. Under the system of imparting legal education with full-time institutions employing competent professors who devote themselves to the study of law and with the intensive study which is expected to be made of the fundamental concepts of law and all legal problems, it would not be too much to expect that those who would join the studies in law after graduation would be better able to supply our present needs of producing jurists of all types than the students who would have merely passed the Intermediate Arts, the Intermediate Science and the Intermediate Commerce examinations even with the super-imposition of the pre-legal education of the type contemplated in the majority report.

It has been further urged that if graduation is accepted as the stage of admission for studies in law the whole course after Matriculation would extend to seven years, four years being required for graduation, two years more for the theoretical education in law and one more for the practical education under the Bar Council or the Council of Legal Education as the case may be. Even though the course may extend to seven years after Matriculation in this manner there is nothing to particularly worry about. The profession of a lawyer is a technical and a scientific one and it can profitably be compared with the profession of a doctor. For acquiring the degree of M.B., B.S. of the University a person has to study for 7½ years after Matriculation and that is not considered a very long period having regard to the number of subjects which have to be taught and the efficiency which has got to be attained. If this is the position in regard to the Medical profession, I fail to understand why there should be any particular objections of this type to a seven years' course after Matriculation being considered necessary to produce a full-fledged lawyer, capable of

acquitting himself creditably in the profession. As a matter of fact, in the duration of the course and the distribution of the subjects which I am contemplating it would only be necessary to have a two years' course after graduation for the theoretical studies in law and only six months' course under the ægis of the Bar Council or the Council of Legal Education as the case may be for the practical studies in law, which would reduce the whole course to a period of 6½ years in place of seven years contemplated by the majority report. The saving of six months contemplated by the majority report before a person completes his studies in law would be more than counter balanced by the advantages to be derived as I have herein-before set out from admitting graduates only to the studies in Law.

The argument as regards the uniformity of the stage of admission in all the Universities in India is also one which should not be lightly brushed aside. Except in the case of the Bombay University and the Andhra University all the other Universities in India have adopted and maintained graduation only as the stage of admission to the studies in law. I no doubt feel the force of the argument that uniformity is not such an ideal that a system which is inherently better and more conducive to the achievement of the purpose of imparting perfect and ideal legal education should be sacrificed at its altar. If the majority of the Universities are not progressive enough to adopt a better system, provided it is inherently better in its scope and execution, that is no argument why progressive universities like the Bombay University and the Andhra University should not adopt such a system of imparting legal education. I am, however, of opinion that it has got to be first of all established that the scheme which is put forward in the majority report is inherently better than or one by which the purpose of legal education would be served in a better way than by the scheme which I am suggesting. This is, however, a minor point which the Universities Commission appointed by the Government of India will solve in its own way and need not detain us any more. I may only point out that in so far as there are bound to be several Universities in the whole of the Dominion of India imparting instruction in law and having their own curricula for studies in law, it would be really advisable to have a uniform standard and stage of admission to the studies in law.

On all the above grounds hereinbefore set out I am definitely of opinion, that students passing the Intermediate Arts, the Intermediate Science, and the Intermediate Commerce examinations should not be admitted to the studies in law, but graduates only, whatever be the subject in which they have graduated, should be admitted to the studies in law.

(B) *Duration of the course and the curriculum.*—As regards the duration of the course and the curriculum, consistently with the opinion which I have expressed above that graduates only should be admitted to the

studies in law, I would prescribe a two years' course for theoretical studies in law consisting of the First LL.B. and the Second LL.B. courses with subjects as under :—

First LL.B.

- (1) Principles of Criminal Law and the Indian Penal Code.
- (2) Principles of Contract, the Indian Contract Act, the Law of Agency, Bailments, Sale of Goods Act, Negotiable Instruments Act, Partnership Act and Law of Surety.
- (3) Principles of Torts.
- (4) Broom's Legal Maxims, Principles of Equity, Principles of Jurisprudence and Conflict of Laws.

The items two and four could each of them be divided into two papers with the result that the whole course would consist of six papers evenly distributed.

Second LL.B.

- (1) Hindu and Mahomedan Law without Intestate Succession.
- (2) Law of Succession.
- (3) Law of Property, Easements and Transfer of Property, Specific Relief and Trusts.
- (4) Evidence and Limitation.
- (5) Company Law and Insolvency.

or

Land Revenue Code, Court Fees, Suits Valuation, etc.

The item No. 3 could also be divided into two papers with an equitable distribution of the subjects.

This would be a two years' course of instruction to be imparted to the graduates who are admitted to the studies in law. They would then be imparted instruction in subjects which would be distributed amongst six papers in the respective examinations and thus there would not be any particular burden on the well developed and fully matured minds of the students who would form the members of the classes in full-time institutions. The very fact that the legal instruction would be imparted in full-time institutions, would require the graduates admitted to the studies of law to attend these studies whole-heartedly without having their minds deflected in any manner whatever by employment elsewhere or by other pursuits. The competent professors who would be employed by these full-time institutions and who would also devote themselves to the advancement

of the studies in law having specialized in the various subjects which they are to teach, would be better able to impart the legal education to the graduates and the combination of the teachers and the taught in this manner would be more productive of efficient and fruitful instruction in the fundamental principles of law than what would be obtained even under the new scheme advocated in the majority report.

Practical education in law which would be imparted by the Bar Council or the Council of Legal Education as the case may be would be only of six months' duration and it would comprise of the following subjects :—

- (1) Civil Procedure,
- (2) Criminal Procedure,
- (3) Elements of Book-keeping, Drafting and Ethics of the profession.

I am of opinion that to the graduates who have received instruction in law for two years in full-time institutions and have passed the Second LL.B. examination, instruction in the subjects, which I have mentioned above, would be capable of being imparted within a period of six months without any impairing of efficiency. As the subjects would be taught again in full-time institutions under part-time professors well versed in those various subjects, there would not be the slightest difficulty in covering the whole course within the period of six months prescribed in this behalf. I am not very much in favour of imparting instruction in the Elements of Book-keeping, because I believe that ordinarily Book-keeping can better be learnt by a lawyer in his practice or under a capable senior in whose chamber he would be expected to read and work before he ever goes on his own into the profession. I have, however, kept that as a subject in the practical training of the lawyer to be imparted under the ægis of the Bar Council or the Council of Legal Education as the case may be out of deference to the wishes of the majority, but I would not hesitate to delete that from the curriculum if it was ever thought that the inclusion of the same in the curriculum would bring about a situation whereby it would be impossible to cover the whole course within the six months' period prescribed by me.

(C) *Stage of admission to the Diploma Courses.*—In regard to the diploma courses I am of opinion that the stage of admission even there should be graduation and not matriculation as it has been suggested in the majority report or even the passing of the Intermediate Arts, the Intermediate Science or the Intermediate Commerce examinations. The diploma courses are devised with a view that those who want to specialise only in particular branches of law instead of going through the whole course of legal studies should have an opportunity of doing so and qualifying themselves for employment in offices or concerns which

would appreciate their obtaining of the diplomas in those particular branches of law and would be able to utilise their services better than they can do at present. That does not, however, mean that when a particular branch of the law has got to be studied, the maturity of intellect or the mental equipment of the student could in any manner whatever be lower than that of a student who wants to join a full-time institution for receiving full instruction in law. I am, therefore, of opinion that graduates only should be admitted to the diploma courses which may be of the duration of one year and in the subject as suggested in the majority report.

If, however, this standard is considered too high I would certainly in any event not go below the standard of the passing of the Intermediate Arts, the Intermediate Science and the Intermediate Commerce Examinations for admitting students to the diploma courses. That should be the irreducible minimum of the standard required for admission to the diploma courses.

I am further of opinion that these diploma courses should not be entertained by the University but that, if the diploma courses are to be started, they should be started under the ægis of the Bar Council or the Council of Legal Education as the case may be. The University should only concern itself with the degree courses in law and should not dabble into the granting of diploma certificates in any particular branch of law as suggested in the majority report.

(Signed) N. H. BHAGWATI,

30th August 1949.

Member,
Legal Education Committee, Bombay.

SCHEDULE I—TO THE MINUTE OF DISSENT BY THE HON'BLE
MR. JUSTICE N. H. BRAGWATI.

*Names of individuals and associations who have recommended
Graduation as the stage of admission to the Studies in Law.*

Serial No.	Name.	Designation.
1	Mr. M. B. Honavar, B.A., B.Sc., LL.B.	Principal Judge, Bombay City Civil Court and Sessions Judge, Greater Bombay.
2	Mr. M. S. Noronha, B.A., LL.B., J.P., Advocate (O. S.).	Chief Judge, Court of Small Causes, Bombay.
3	Mr. M. S. Patil, B.A., LL.B. ...	District Judge, Ahmedabad.
4	Mr. R. S. Vazo, LL.B. ...	District Judge, Ahmednagar.
5	Mr. P. C. Bhat ...	District Judge, Nadiad.
6	Mr. G. N. Katre ...	District Judge, Dhulia (West Khandesh).
7	Mr. P. K. Kharkar ...	District Magistrate, Kaira.
8	Mr. R. C. Joshi, I.C.S. ...	District Magistrate, Ahmed- nagar.
9	Mr. V. Kumar ...	District Magistrate, Broach.
10	Bar Association ...	Ahmednagar.
11	Do. ...	Jalgaon (East Khandesh).
12	Do. ...	Sangli.
13	Do. ...	Dharwar.
14	Do. ...	Bijapur.
15	Do. ...	Karwar.
16	Mr. D. G. Karve ...	Principal, Brihan Maharashtra College of Commerce, Poona.
17	Mr. B. B. Gujral, M.A., LL.B., Advocate (O. S.).	Principal, School for Training of Labour Welfare Workers, Bombay.
18	Mr. A. S. Davar ...	Advocate, Bombay.
19	Mr. K. M. Jhaveri ...	Bombay.
20	Mr. H. D. Banaji ...	Bombay.
21	Mr. R. G. Patanjpe ...	Registrar, High Court, Kolhapur.
22	Mr. R. B. Phadake ...	Professor of Law, Poona.
23	Secretary, The Bombay Presi- dency University Students' Association.	Bombay.
24	Dr. P. N. Daruwalla, Barrister- at Law, LL.D. (London).	High Court Library, Bom- bay.
25	Mr. M. K. Jadhav ...	Collector, Belgaum.

SCHEDULE II—TO THE MINUTE OF DISSENT BY THE HON'BLE
MR. JUSTICE N. H. BHAGWATI.

Analysis.

The Committee in all received 70 replies to the questionnaire. The analysis is as follows :—

(i) For Graduation	...	25
(ii) For Intermediate	...	39 (Thirty-nine).
(iii) For Matriculation	...	6
		70

The Committee examined seven witnesses. The analysis is as follows :—

(1) Mr. K. M. Muashi	}	... Graduation.
(2) Mr. H. M. Seerwai		
(3) Mr. P. B. Vachha		
(4) Mr. S. R. Dongerkery	}	... Intermediate.
(5) Mr. A. A. A. Fyzee		
(6) Mr. C. K. Daphtary	}	... Matriculation.
(7) Mr. B. N. Gokhale		

NOTE BY PRINCIPAL J. R. GHARPURE, B.A., LL.B.

I agree with the Committee's recommendation regarding the Post Graduate course in Law. It is a distinct improvement on the Post Graduate course in Law as it exists today. Since the introduction of the LL.M. Examination in Bombay which was a copied form from the Madras Course I had been feeling that the course suffered from the absence of the most important subjects which a Master of Laws should know, and to a fairly decent extent. I had, therefore, been suggesting in the past the following course for the LL.M. :—

Three (A) Compulsory Papers—

1. Ancient Law with special reference to Hindu, Mahomedan and Roman Law.
2. Jurisprudence and Constitutional Law.
3. International Law (Public and Private).

Three (B)—

In this branch, the candidates may be given an option of specialising in any of the following subjects, for each of which, there should be three papers. These subjects should be the following, among others :—

1. Hindu Law,
2. Mahomedan Law,
3. Roman Law and Jurisprudence,
4. Constitutional Law and History, and International Law,
5. Property Law,
6. Laws of Equity, Trusts, Mortgages, Specific Relief, etc.,
7. Laws of Contract, Mercantile and Marine Laws, and
8. Laws of Torts and Crimes.

2. As to Roman Law, I agree that it should not be included as a necessary subject in the LL.B. course. The knowledge of the subject that is at present expected of the students and the way in which it is generally taught hardly serve the purpose of the cultural development of a student of law. But I do feel that if cultural development of a student of law is the aim of University education, the study of the ancient laws comprising the Hindu and the Roman ought to form part of a preliminary Legal Education. For this purpose, I would suggest the study up to the first five titles of Book IV of the Institutes of Justinian. This portion presents a fair idea of the cultural evolution of the Romans. Unfortunately, there are not many text books presenting the Hindu Law in such succinct form as the Institutes. Hence, in the case of ancient Hindu Law, I would suggest the study of "Vyavhara Mayukha". This book presents the ancient Hindu Law in a short compass.

(Signed) J. R. GHARPURE,

Member,

30th August 1949.

Legal Education Committee, Bombay.

APPENDIX "A".

LEGAL EDUCATION COMMITTEE, GOVERNMENT OF BOMBAY.

QUESTIONNAIRE.

A. *INTRODUCTORY* :

1. Is the scheme of Legal Education introduced in 1938 satisfactory in your opinion? If not, in what respects?

B. *PRE-LEGAL EDUCATION* :

2. What should be the stage of admission to the law course—Intermediate Examination of the University, as at present, or Graduation?
3. If the former, do you think that a student who has passed any Intermediate Examination of the University should be admitted to the law course, e.g., Inter-Science, Inter-Commerce, etc.? If not, what modifications would you suggest?
4. If Graduation, do you think any graduate should be admitted to the law course, e.g., B.A. with Languages, B.Sc., B.Ag., etc.? If not, what modifications would you suggest?
5. Is in your opinion any minimum pre-legal education necessary for admission to the law courses? If so, what?
6. Do the Intermediate Examinations of the University, or Graduation satisfy this minimum?
7. If the answer to the above question is in the negative, what subjects ought, in your opinion, to be included in such a pre-legal course? What should be its duration? What should be the stage of admission to the said course?
8. Do you think it desirable that this pre-legal course should be taught in a Law College?

C. *LL.B. COURSES* :

9. Do you approve of the subjects included at present in the two LL.B. examination courses of the Bombay University? If not, what alterations would you suggest? Do you think that a student should have a certain amount of choice of subjects? If yes, what options would you suggest?

10. What should be the duration of the LL.B. courses? Do you suggest any minimum age being prescribed for admission to the LL.B. courses?
11. Are you in favour of a student getting his LL.B. degree after passing two examinations, as at present, or would you have the number of examinations increased?
12. Do you think that the University law course should be confined to the cultural aspect of law and not the professional? If the latter, what other agency, such as the Bar Council, etc., should be entrusted with the practical and professional training of a law student?
13. What should be the duration of such a professional and practical training? What course, ways and methods would you suggest for such training? Should a student be entitled in your opinion to appear for the professional examination as an external student without keeping any terms in a recognized Law College?

D. POST-GRADUATE COURSE :

14. Are you satisfied with the present Post-Graduate, i.e., the LL.M., courses in law? If not, what modifications and alterations would you suggest? What should be the duration of the course?
15. Do you think that there should be greater specialization in law at the Post-Graduate stage, e.g., Criminology, Land Law, Constitutional Law, International Law, Labour Legislation, etc.?
16. Do you think it desirable that at the Post-Graduate stage, a law subject should be combined with the study of an appropriate social science, e.g., Constitutional Law with Political Theory, Criminology with Psychology, etc.?
17. Do you think that a separate Degree should be instituted for research in law, such as Ph.D., or LL.D.? If yes, what should be the minimum qualification for admission to such a course? What should be its duration?
18. What ways and means would you suggest for encouraging research in law among students of law?

19. What ways and means would you suggest for the improvement of the teaching of Post-Graduate courses?
20. Do you think that the facilities afforded by the Law Colleges in the Province for the study of Post-Graduate courses in law are adequate? If not, would you favour the establishment of a separate Institute for Advanced Studies in Law, either by Government or by the Universities?

E. CONTROL OF LEGAL EDUCATION :

21. Do you approve of the present system of Legal Education being controlled by different bodies, such as the University, the Bar Council and the High Court?
22. With the establishment of many Universities in the Province, do you think it desirable in the interest of Legal Education to set up a single Body such as a Council of Legal Education to control Legal Education in the Province? If yes, what should be its composition and powers?

F. DIPLOMA COURSES IN LAW :

23. A full course in law may not be necessary in many walks of life, e.g., for labour officers, social workers, jobs in banking or commercial firms, or co-operative societies, etc. But knowledge of a particular branch of law may be an essential qualification. Do you think it desirable to institute Diploma courses in Law to satisfy such demands? If yes, what Diploma courses would you suggest? What should be its duration? What should be the admission stage for such courses? What authority should control them? Please give your opinion on all aspects of the question.

G. TEACHING OF LAW :

24. What methods would you suggest for the improvement of the teaching of law? Do you think that the present methods of teaching law need any improvement? If so, in what respects?

25. Do you approve of the minimum qualification and training required by the Bombay University for appointments to the teaching staff of the Law Colleges in the Province? If not, what modifications and alterations would you suggest?
26. What method of recruitment to the teaching staff of the Law Colleges would you suggest?

H. *GENERAL :*

27. Do you think that the standard of a Degree in Law should be raised? If so, in what respects?
28. Do you approve of the existing method followed by the University of examining students in law? If not, what alterations would you suggest? Do you think it desirable that a certain percentage of marks at a law examination should be reserved for the work done by a student in the Law College?
29. What, in your opinion, should be the maximum strength of a class in a law college from the point of view of efficiency?
30. And generally.

APPENDIX "B".

List of individuals, institutions and associations who have sent in their replies to the questionnaire of the Legal Education Committee, Bombay.

Serial No.	Name.	Designation.
1	Abhyankar, Mr. S. Y.	... Advocate, Bombay.
2	Albal, Mr. V. V.	... District Judge, Satara.
3	Ankalgi, Mr. A. Y.	... Judge, Small Causes Court, Poona.
4	Badkaka, Mr. D. K.	... Deputy Secretary, Department of Labour, Saurashtra.
5	Banaji, Mr. H. D.	... Advocate, High Court, Bombay.
6	Bhat, Mr. P. C.	... District Judge, Nadiad.
7	Bhat, Mr. V. R.	... Principal, Law College, Belgaum.
8	Bhopatkar, Mr. L. B.	... Professor of Law, Law College, Poona.
9	Chavan, Mr. D. R.	... Indore.
10	Dabholkar, Mr. S. G.	... Principal, Shahaji Law College, Kolhapur.
11	Darowalla, Dr. P. N.	... Advocate, High Court, Bombay.
12	Datar, Mr. B. N.	... Pleader, Belgaum.
13	Davar, Mr. A. S.	... Advocate, Bombay.
14	Dingara, Mr. B. S.	... Judge, Labour Court, Jalgaon.
15	Dongerker, Mr. S. B.	... Registrar, University of Bombay.
16	Fyze, Mr. A. A. A.	... Member, Public Service Commission, Bombay.
17	Gujral, Mr. B. B.	Principal, School for Training of Labour Welfare Workers, Bombay.
18	Honavar, Mr. M. B.	... Principal Judge, Bombay City Civil Court.
19	Jadhav, Mr. M. K.	... Collector, Belgaum.
20	Jhaveri, Mr. K. M.	... Bombay.
21	Joshi, Mr. R. C.	... District Magistrate, Ahmednagar.
22	Kalelkar, Mr. B. S.	... Judge, Court of Small Causes, Bombay.
23	Karnik, Mr. R. R.	... District Judge, Ratnagiri.
24	Karve, Mr. D. G.	... Principal, Brihan Maharashtra College of Commerce, Poona.

Serial No.	Name.	Designation.
25	Katre, Mr. G. N.	... District Judge, Dhulia (West Khandesh).
26	Khambata, Mr. K. J.	... Offg. Chief Presidency Magistrate, Bombay.
27	Kharkar, Mr. P. K.	... District Judge, Kaira.
28	Kumar, Mr. V.	... District Magistrate, Broach.
29	Muranjan, Mr. S. K.	... Principal, Sydenham College of Commerce, Bombay.
30	Naik, Mr. V. A.	... Assistant Judge, Satara.
31	Noronba, Mr. M. S.	... Chief Judge, Court of Small Causes, Bombay.
32	Pandia, Mr. N. H.	... Solicitor, Bombay.
33	Pandit, Mr. G. V.	... Professor, Law College, Poona.
34	Paranjpe, Mr. A. G.	... Registrar, High Court, Kolhapur.
35	Parkha, Mr. H. G.	... Pleader, Ahmednagar.
36	Patel, Mr. M. P.	... Broach.
37	Patil, Mr. B. L.	... Pleader, Dhulia (West Khandesh).
38	Patil, Mr. M. S.	... District Judge, Ahmedabad.
39	Phadke, Mr. B. B.	... Professor of Law, Poona.
40	Phadke, Mr. S. G.	... Pleader, Poona.
41	Phadke, Mr. V. R.	... Joint District and Sessions Judge, Sangli.
42	Phadnis, Mr. N. H.	... Pleader, Sangli.
43	Pusalkar, Mr. R. N.	... Kolhapur.
44	Sathe, Mr. V. K.	... Consulate for India, Goa.
45	Shah, Mr. H. V.	... Professor of Law, Government Law College, Bombay.
46	Shinde, Mr. R. D.	... District Judge, Dharwar.
47	Shrikhande, Mr. N. S.	... District Judge, Kanara, Karwar.
48	Thakore, Mr. M. M.	... Principal, Sir L. S. Law College, Ahmedabad.
49	Tope, Mr. T. K.	... Professor of Law, Government Law College, Bombay.
50	Vakeel, Mr. F. H.	... Solicitor, Bombay.
51	Vakil, Mr. F. A.	... Bombay.
52	Vaze, Mr. R. S.	... District Judge, Ahmednagar.
53	Vidwans, Mr. M. D.	... Advocate, Poona.
54	Bar Association	... Ahmednagar.

Serial No.	Name.	Designation.
55	Eag Association	... Belgaum.
56	Do.	... Bijapur.
57	Do.	... Dharwar.
58	Do.	... Dhulia (West Khandesh).
59	Do.	... Karwar.
60	Do.	... Jalgaon (East Khandesh).
61	Do.	... Poona.
62	Do.	... Sangli.
63	Do.	... Sholapur.
64	Do.	... Surat.
65	Do.	... Thana.
66	Bombay Advocates' Association...	Presidency Small Causes Court, Bombay.
67	Bombay Police Courts' Bar Association.	Esplanade Police Court, Bombay.
68	Bombay Presidency University Students' Association.	Bombay.
69	Bombay Press-owners' Association.	Do.
70	Educational Films of India	... Do.

APPENDIX "C".

List of persons who gave oral evidence before the Committee.

Serial No.	Names of persons who gave evidence.
1	Daphtary, Mr. C. K.
2	Dongerkery, Mr. S. R.
3	Fyzee, Mr. A. A. A.
4	Gokhale, Mr. B. N.
5	Munshi, Mr. K. M.
6	Seerwaj, Mr. H. M.
7	Vachha, Mr. P. B.

APPENDIX "D".

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- Abbreviations—(1) JSPTL ... Journal of the Society of Public Teachers of Law.
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 (3) H.L.R. ... Harvard Law Review.
 (4) L.Q.R. ... Law Quarterly Review.
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