

REPORT OF THE 1957 MEETING OF CANADIAN LAW TEACHERS*

The seventh annual meeting of the Association of Canadian Law Teachers was held at the University of Ottawa on June 10th, 11th and 12th. Twelve Canadian law schools were represented by thirty-five members comprising about half of the full-time teachers in Canada. The president, Dean Horace E. Read of Dalhousie Law School, was the presiding officer.

The Association has come a long way since the first informal meeting of law teachers at The Canadian Bar Association meetings ten years ago. Committees work throughout the year on important matters and reports are carefully prepared in advance of the meeting. All sessions at this meeting were plenary and although the agenda was a heavy one, the discussions were lively throughout.

For the past several years the Association has been studying law school objectives and has started an examination of curriculum, teaching methods and law school standards. These subjects raise questions to which there is no one answer, even temporarily, but it is a healthy thing to re-examine them, even though unanimity is never reached, and even though the Association, being composed of individuals, cannot speak for the law schools as such or bind them. The law schools are in a period of transition and growth. Enrolment has almost tripled since the end of the war, and will continue to increase; the number of full-time teachers has grown from 22 to 70 and new faculties of law are being organized in Ontario universities. Moreover, the nature of the practice of law is changing, so the law teachers must try to foresee, and make the changes in education needed to prepare lawyers to meet the problems of the future.

One report that stirred a great difference of opinion was a statement on objectives of law schools. In the lengthy discussion there emerged doubt as to the possibility or desirability of a detailed statement. On the other hand there seemed to be general

* The following report was kindly prepared for the Review by Wilbur F. Bowker, Q.C., Dean and Professor of Law, Faculty of Law, University of Alberta.

agreement on a number of important points. The law student must learn to think of law in terms of several aspects: first, democratic ideals and justice; second, in terms of resolving practical disputes between people and groups; third, in terms of rules and doctrine. He must learn to use the law as an instrument for solving problems, and at the same time must be prepared to be critical. He must be taught a great amount of detail but since there is not time in law school to teach him everything he will encounter in practice, it is essential to teach him how to analyse problems, to reason by analogy and to form a defensible opinion. On the old subject of theoretical as against practical training (which has been a main concern of the Legal Education Section of the Canadian Bar Association in recent years) there does not seem to be a firm opinion, though there was some leaning toward leaving the latter for the period of articles, while remembering that an understanding of the theoretical can be best gained with some knowledge of the practical.

There was agreement that the student should be taught the concept of professional responsibility. This includes high ethical standards and the obligation to do one's work promptly and well, an interest in the welfare of the profession and a concern for the improvement of the law in the interests of society. There was also agreement on the proposition that law schools should be centres of legal research and writing, with special emphasis on Canadian problems.

The meeting also received reports on curriculum presented by Bora Laskin of the University of Toronto and Rodrigue Bedard of the University of Ottawa. The course of studies in the civil-law schools is prescribed by the bar regulations, so there tends to be a static curriculum. The common-law schools have made piecemeal changes in the thirty-seven years since most schools adopted the curriculum recommended by the Canadian Bar Association. No final recommendation was made, but the study will continue with a view to ensuring that curricula develop in accordance with the needs of present day practice. Obvious developments in the past forty years have been the increase in statute law and in the importance of public law subjects such as taxation, labor law and administrative law.

On the subject of methods, Alan Leal of Osgoode Hall gave the report for the common-law schools and Gerald LeDain of McGill for the civil-law schools. In the former, the case-law method is fundamental though it should not be exclusive of others. Much

of value can be gained from the giving of problems, instruction in research and writing, and from time spent individually with students, though the problem of finding the extensive time required by such methods is always present.

In the civil-law schools, where the Civil Code is the basis of a large portion of the law, the Code is in theory all embracing. "The civilian begins with a collected body of principles, his Civil Code. He does not have to collect this body of principles by a process of mining the cases. He already has a body of ore to work on, but he must still do a lot of refining. He must discover the true meaning and spirit of the principles whose statement is not always free from ambiguity and other difficulties. For this he must turn to the comments of the codifiers, to the sources which they consulted, to the great body of subsequent commentary by learned authors and finally to judicial interpretation". It appears that lectures supplemented by discussion replaces the intense concentration on reading of cases that one finds in the common-law schools.

A valuable part of the programme was a paper by Paul Crepeau of the University of Montreal on "The Influence of the Common Law and French Civil Law on the Evolution of the Validity of Clauses of Exoneration". Since one third of the Canadian law schools teach the civil law, it is healthy to have the benefit of such comparative studies.

Members of the faculties of law at Dalhousie and the University of New Brunswick acting as a regional committee, have for the past two years undertaken a study of law school standards. Lorne Clark of Dalhousie and William F. Ryan, Dean of the University of New Brunswick, on behalf of the committee, presented a useful report setting out a list of books representing the minimum a law library should have, and further books it is "desirable" to have. The report also recommended faculty control of the law library, and pointed out the need for more case books. Not the least of their values is in the reduction of wear and tear on the library.

The same committee also made important recommendations as to faculty standards, which, as approved by the meeting are as follows:

- "1. The minimum number of full-time teachers in a law faculty should be five.
2. In no case should there be less than one full-time teacher for every twenty-five students.

3. The maximum teaching load for each full-time teacher should be six classroom hours per week or equivalent.
4. Each law faculty should have a qualified librarian whose principal activity should be development and maintenance of the law library."

In connection with the student-teacher ratio it was recognized that a school with a very large student enrolment might have difficulty in maintaining a faculty sufficiently large. As for the teaching load, the large number of courses most teachers carry is more of a problem than the number of hours. Six or seven lecture hours a week made up of perhaps two courses would permit intensive preparation, more time to spend conferring with students, more opportunity to assign problems and correct them and at the same time more time for research and writing.

The president observed that the recommendations of the Association made last year to the Committee on Educational Standards of the Conference of Governing Bodies on the minimum educational standards for admission to the study of law had been substantially adopted. These standards were adopted by the Conference in September 1956.

A subject that crops up almost every year was the theme of a discussion led by Edward McWhinney of Toronto and Maxwell Cohen of McGill: "Legal Scholarship—The Struggle Between Doctrine and Sociology". One specific observation of Professor Cohen's was that a weakness of most legal textbooks is that they are confined to an exposition of rules of law without discussion of the law in relation to what goes on in society, and that they contain little criticism.

The meeting considered three other important topics: (1) Is law a social science so as to make law schools eligible for assistance from the Canada Council? A committee of three—Frank Scott of McGill, George Curtis of British Columbia and Louis Beaulieu of Laval was designated to place the matter before the Council. (2) Maxwell Cohen reported that the Ford Foundation has shown interest in improving the program of international legal studies in Canada by providing bursaries for young teachers. Needless to say, the meeting welcomed this information. (3) The meeting discussed the possibility of a change in form and number of issues of the Canadian Bar Review, which has received publicity in recent months. There was unanimity of opinion that the size and quality should be maintained, and that the Review should remain the sole responsibility of an editor with no other editorial or other duties.

A pleasant feature of each meeting is the attendance of the president of the Association of American Law Schools. This year's president, Philip Mechem of the University of Pennsylvania, spoke to the meeting on current problems facing the American law schools. Desegregation is one thorny problem; another is that of the night schools; a third is in the tendency of programs sponsored by the foundations to distort the regular teaching functions of law teachers; and a fourth is that of providing adequate education for the many good students who cannot gain admission to the few national schools which have many more applicants than they can accept.

The social functions were most pleasant. The Honourable Gerald Fauteux of the Supreme Court of Canada and Dean of the Faculty of Law at the University of Ottawa and Mrs. Fauteux were hosts at a reception, and a luncheon was tendered by the University. At the annual dinner the speaker was the Honourable Mr. Justice Rand who gave a most timely address on the subject "What the Court Expects from Counsel". Mr. Justice Fauteux and Mr. Justice Abbott were also in attendance.

The final act of the meeting signified the truly national character of the Association. It was unanimously resolved that the Association should have an official name in French as well as in English. The French name is now Association Canadienne des Professeurs de Droit.

The executive for the coming year consists of: President, J. B. Milner of the University of Toronto; Vice-President, Jean Beetz of the University of Montreal; Secretary-Treasurer, H. Allan Leal of Osgoode Hall. Executive: Horace E. Read (immediate past president) of Dalhousie, William F. Ryan of the University of New Brunswick, Maxwell Cohen of McGill and Otto Lang of the University of Saskatchewan.
