

LEGAL EDUCATION AND TRAINING IN JAMAICA

The House of Representatives will be interested to know what has transpired during the past five years regarding the subject of legal education and training in Jamaica. This Ministry Paper is therefore, presented to the House for information.

2. The most recent development in this matter is that at a Special Meeting of the Council of the University of the West Indies held on the 16th June, 1967, it was decided that -

" A Committee under the Chairmanship of Sir Hugh Wooding should be established:

- (a) to consider what proposals should be adopted for the practical, professional training of lawyers, and the constitution and functions of the Council of Legal Education proposed in the Wooding Report, and to make recommendations therefor;
- (b) to prepare drafting instructions for enabling legislation which would be submitted to the various participating Governments. "

In accordance with the decision of the Council, the Honourable Prime Minister appointed the following persons to represent the Government of Jamaica on the Committee -

- (i) Honourable V.B. Grant, Attorney General and Minister of Legal Affairs;
- (ii) Honourable Sir Herbert Duffus, President of the Court of Appeal, then Acting Chief Justice;
- (iii) Mr. Leacroft Robinson, Q.C., President of the Bar Association of Jamaica - nominated by the Bar Association with Mr. Ramon Alberga, Q.C., as his alternative;
- (iv) Honourable Clinton Hart, O.B.E. nominated by the Incorporated Law Society of Jamaica.

3. The Committee met at St. Augustine Campus of the University from 4th September to 6th September, 1967 under the chairmanship of Sir Hugh Wooding, Chief Justice of Trinidad and Tobago, and subsequently submitted the attached Report for consideration ...

- (c) the need for a body (by whatever name called) to administer and control such practical training.

4. As regards 3(a), the Committee agreed that the academic legal training should seek to give students an understanding of:

- (i) the nature of the law and its function both in the administration of justice and in the operation of the other activities of a modern state;
- (ii) the processes employed in determining what the law is and in applying its rules to new situations;
- (iii) the organisation of the legal profession and the machinery of justice;
- (iv) the general principles of the more basic legal subjects;
- (v) the relationship of law to the other social sciences and to the general framework of society; and
- (vi) the techniques of legal research.

5. As regards 3(b), the Committee agreed that the practical professional training should be provided through two Law Schools situated in the Eastern and Western Caribbean (probably in Trinidad and Jamaica) respectively. The Committee also agreed that the provision of courses of study at these professional schools should not be a function of the University whose principal role in legal education would be the provision of academic legal training and the organisation of legal research. The responsibility for providing professional legal training at the two Law Schools should, instead, be vested in a Council of Legal Education constituted and functioning as stated hereunder.

6. The practical professional training at the Law Schools should include courses of study in subjects not taught at the University or not selected by a particular student for his degree and which in the opinion of the Council are necessary for admission to practice. It should also include training in professional legal skills and know-how.

7. As regards the constitution and the functions of the Council of Legal Education, the Committee recommends that -

I - Constitution

(a) The Council be constituted as follows:

- (i) the Dean of the Faculty of Law or a Professor nominated by him;
- (ii) the Director of Legal Education (in charge of practical professional training) and his deputy or deputies;
- (iii) the Head of the Judiciary of each participating territory other than the Virgin Islands and the Cayman Islands or a judge nominated by him;
- (iv) The Attorney General of each participating territory other than the Virgin Islands and the Cayman Islands or a Law Officer nominated by him;
- (v) from each of the four participating territories in which there are now two branches of the legal profession, namely Jamaica, Barbados, Trinidad & Tobago and Guyana, a barrister and a solicitor nominated...

nominated by their appropriate professional bodies, or in the event of the two branches of the profession at any time becoming fused in any such territory two members of the fused profession nominated by their appropriate professional body; and

- (vi) from each of the other participating territories in which the two branches of the profession are now fused, namely the Bahamas, British Honduras, the Cayman Islands, the Virgin Islands, the several Associated States, Montserrat and St. Vincent, one member of the fused profession nominated by the appropriate professional body.

Note: The appointments under (v) and (vi) should be for a term of three years.

- (b) The Council divide into two divisions, charged with direct responsibility for practical professional training - the one at the Law School in the Eastern Caribbean and the other at the Law School in the Western Caribbean. To that end the Council shall delegate to each division such of its functions as may be appropriate, but it shall nevertheless maintain overall responsibility for coordinating training throughout the area on a planned and integrated basis paying due regard to the needs of the several participating territories.

## II - Functions

- (a) The functions of the Council be as follows:
  - (i) To undertake and discharge general responsibility for the practical professional training of persons seeking to become members of the legal profession;
  - (ii) To establish, equip and maintain Law Schools within the area comprising the participating territories;
  - (iii) To make all necessary and proper provision for courses of study, the holding of examinations and the granting of diplomas or certificates of competence;
  - (iv) To evaluate courses of study provided by and to accord appropriate recognition of qualifications obtained at other institutions.
- (b) The Council shall have power to regulate its own procedure for the due discharge of its functions.

8. The Committee recognises that -

- (a) there will be need to provide practical professional training outside of the Law Schools by way of apprenticeship and is concerned about the efficiency of this means of instruction, but it considers that the provision of such training ought not to be within the functions of the Council of Legal Education and that it falls more appropriately within the competence of national bodies in each territory;
- (b) consideration must be given to the role of external degrees in the development of legal education in the area, of which notice has already been taken by the University Council, but it is of opinion that the University should not examine the provision of any such facility until the Law ...

Law Faculty has been firmly established and further that the provision of any such facility should be coupled with adequate teaching and not be merely accommodation by way of examination; and

- (c) the admission to practice in any participating territory must always be and remain the responsibility of that territory and is accordingly not a matter within the competence of the Council.

9. As regards paragraph (b) of the terms of reference, the Committee agreed that the recommendations for the establishment of a system on the lines set out above may be implemented without the enactment of legislation on the part of participating territories. Instead, the Committee felt that the aim should be to embody the essential features of the system in an Agreement to which both the University and participating territories would be parties. The Agreement should provide for the vesting of the Law Schools to be established by the Council of Legal Education. Further, it should be the aim of the Council of Legal Education to work closely with the University in discharging its responsibilities and this aim should be reflected in the Agreement. No such Agreement can be prepared, however, until after the appropriate discussions have been concluded on the financing of the Law Schools, both as to capital and recurrent costs. The Committee considered that if a start is to be made in legal education in 1969 such discussions should be held at an early date and in any event before the meeting of the Council of the University in February, 1968 and invites the University to take action accordingly.

10. The Committee desires to place on record its appreciation of the very valuable assistance given by Professors Marshall and Cowen whose long experience and wise counsel were put at our disposal at every stage of our deliberations. Thanks also are due to our Secretary, Mr. Hugh McE. Gibson, for the care and attention which he gave to facilitate our proceedings.

HG/mb

Signed: H.O.B. Wooding, Chairman  
Kendal Isaacs  
W.R. Douglas  
F.G. Smith  
Lindsay E.R. Gill  
E.L. Carmichael  
B.H. Courtenay  
L.I. Austin  
K. Alleyne  
A.M. Lewis  
Kenneth S. Stoby  
S.S. Ramphal  
H.G. Duffus  
V.B. Grant  
Leacroft Robinson  
Douglas Fletcher  
G.A. Richards  
J.B. Renwick  
Mitra Sinanan  
M.T.I. Julien  
O.R. Marshall  
L.E.S. Braithwaite  
Garnet Gordon

consideration by the Governments of the various territories, by University Committees, and by the Council of the University at its meeting in February 1968.

It should be mentioned that at the meeting, Mr. Douglas Fletcher attended as the nominee of the Incorporated Law Society of Jamaica in place of the Honourable Clinton Hart who was then not available.

4. Briefly, the findings of the Committee are as follows:-

- (1) There was general agreement that the development of legal education in the West Indies should proceed on the Committee's endorsement of the following:-
  - (a) the need for the establishment of a Law Faculty providing a three-year academic course leading to a law degree;
  - (b) the need for a period of practical professional training to qualify students for the practice of their profession and that a two-year period is reasonable for this purpose; and
  - (c) the need for a body (by whatever name called) to administer and control such practical training.
- (2) As regards (1)(b) and (c), the Committee, agreed, inter alia, that the practical professional training should be provided through two Law Schools situated in the Eastern and Western Caribbean (probably in Trinidad and Jamaica) respectively. The Committee also agreed that the provision of courses of study at these professional schools should not be a function of the University whose principal role in legal education would be the provision of academic legal training and the organisation of legal research. The responsibility of providing professional legal training at the two Law Schools should, instead, be vested in a Council of Legal Education constituted and functioning as set out in paragraph 7 of the attached Report.

(3) ...

"Be it resolved that this Honourable House set up a Committee to examine and report upon all matters relating to -

- (i) the subject of legal education and training in Jamaica and the methods by means of which such legal education and training may best be organised, bearing in mind the implications arising from the present status of Jamaica as a sovereign independent nation;
- (ii) the establishment of appropriate machinery for the qualifying locally of persons as legal practitioners;
- (iii) the question of fusion of the Barristers' and Solicitors' branches of the legal profession;

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And be it further resolved that the Committee should consist of the following members:-

- The Honourable Roy A. McNeill - Chairman
- The Honourable Sir Alexander Bustamante
- The Honourable Donald B. Sangster
- The Honourable D.C. Tavares
- Mr. N.W. Manley
- Mr. F.A. Glasspole
- Mr. W.M. Seivright. "

On the 26th July, 1963 a resolution in similar terms was passed by the Senate on the motion of Honourable V.B. Grant, Q.C., Attorney General, The personnel of the Senate Committee was -

- The Honourable V.B. Grant
- The Honourable Wilton Hill
- Senator Sydney Phillips
- Senator Dudley Thompson
- Senator Douglas Fletcher.

7. These two Committees met jointly at various times during 1963/64, 1964/65 and 1965/66; finally in January 1966, the Committee of the House of Representatives submitted an Interim Report, which expressed the conclusions reached in the form of three resolutions as follows -

1st Resolution

That there be established in Jamaica facilities for the teaching of law up to Law Degree standard, and that

Government ...

Government should pursue this objective preferably with the aid of and in conjunction with the University of the West Indies.

2nd Resolution

That the requirements or qualifications for persons to be admitted to the practice of Law in Jamaica should in future be a University Degree in Law, to be followed by a period of practical training in Jamaica.

3rd Resolution

That there should be fusion of both branches of the legal profession into a single profession, and that the necessary provisions for effecting this should be worked out by Government.

8. On the 16th February, 1966, the House of Representatives agreed to a resolution that the Interim Report of the Committee (of the House of Representatives) which was laid on the Table of the House on the 1st February, 1966 be adopted.

Previous action by U.W.I.

9. At its meeting on 26th June, 1963, the Council of the University of the West Indies appointed a Committee on Legal Education under the chairmanship of Sir Hugh Wooding, Chief Justice of Trinidad and Tobago, with the following terms of reference:-

- (i) to consider and make recommendations to Council on the assistance which the U.W.I., as part of its service to the West India Community and in the light of its responsibility for satisfying the intellectual and professional needs of the West Indies should provide for the training in the West Indies of Legal practitioners with a view to ensuring their admission to practise and the right of audience before the courts of the West Indies;
- (ii) therein to consider all cognate matters relating to the qualifications of practitioners including whether there should continue to be any distinction between barristers and solicitors or whether the two branches of the profession should merge as obtains in most parts of the Commonwealth.

10. The Committee reported in 1964, and its recommendations may be summed up as follows:-

- (i) Barristers and solicitors should all receive the same basic training in the theory and the practice of the Law, and it should make no difference in which branch they intend to be active or otherwise to specialise.

(ii)...

- (ii) The theoretical training should be done in a three-year Honours Degree course through the University in a Faculty of Law established for this purpose.
- (iii) The University course should include liberal subjects such as social sciences in addition to strictly legal subjects.
- (iv) A Council of Legal Education should be established to have the oversight of legal education and the qualifications for legal practice in the West Indies - the Council to consist of representatives from the Judiciary and the practising professions in the various territories, the Dean of the Faculty of Law and other University Faculty representatives.
- (v) After gaining the Law Degree, a student should spend his fourth year as an interne in a Lawyer's office (preferably a Solicitor's). The student would be an apprentice interviewing clients, keeping accounts, drafting writs, Pleadings and other legal documents and instruments, attending on counsel or seniors together with his principal, participating in conferences whenever practicable and visiting the courts especially when interesting litigation is engaging attention.
- (vi) The student should spend the fifth year, i.e. second year of practical training at the University. The fifth year course would supplement the experience acquired during the fourth year. The curriculum should include Law of Evidence, Civil and Criminal Procedure, Legal Drafting, Probate practice, Solicitors' accounts, Conveyancing and Professional Etiquette, etc. At the end of the year, the student would be examined and awarded a practising certificate, if successful.
- (vii) All territories of the West Indies should enact legislation to make it possible for persons obtaining the U.W.I. Law Degree and Practising Certificate to practise in the area.
- (viii) Persons without U.W.I. Law Degrees, but with other Law Degrees, should do the two-year practical course and thus qualify for the University's Practising Certificate.
- (ix) Fusion should be a decision for each country.
- (x) There should be only one Faculty for the region because of cost and the short supply of academically qualified and competent persons, to teach in the Faculty.
- (xi) The Faculty should be sited either in Jamaica or Trinidad, the decision to be based on the following criteria:-
  - (a) there should be other well established Faculties which will contribute to the general education of the Law student;
  - (b) the campus must rank high in terms of affording a liberal education;
  - (c) ...

- (c) the Faculty should be in a place where there will be available the best resources in terms of practical, highly skilled lawyers, and where there will be the greatest volume and variety of interesting legal business;
- (d) the site must be one which will attract full-time teachers of highest quality.

11. In 1964, the University's Senate recommended that on academic grounds the Faculty of Law should be sited at Mona at an estimated capital cost of £250,000 and recurrent costs amounting to £58,230 a year for the first three (3) years.

12. At the University's Council meeting in 1965, Jamaica's representative indicated this Government's willingness to assist in financing the Faculty. The Barbados representative made a strong plea for the Faculty to be sited in Barbados, and the Council agreed to refer the Wooding Report to all Governments for study.

13. At the Council meeting in 1966, in view of the unanimous proposals of Jamaica's Parliamentary Committees (paragraphs 7 and 8 above) Jamaica's representative indicated that this Government would be proposing a Faculty at Mona financed if necessary from funds other than University Grants Committee funds. The Council deferred consideration of this offer and decided to re-circulate the Wooding Report and to ask the Barbados Government for its proposal.

14. In May 1967, Sir Hugh Wooding and Professor O.R. Marshall, Dean of the Faculty of Law of Sheffield University, England, (who had participated in the work of the 1963 Committee on Legal Education) were invited by the University to take a second look at the Wooding Report in the light of the reaction to the Report by the various Governments and Law Associations concerned. After several meetings, these two gentlemen proposed the following variations in the original recommendations of the Report -

(i)...

- (i) that the two-year period of practical professional training need not be undertaken in the same place as the Law Degree course.
- (ii) that the question of who should have responsibility for the practical professional training is a matter for detailed discussion between the University on the one hand and the Governments and professional legal associations on the other as to whether the Council of Legal Education should operate under the umbrella of the University or be an autonomous organisation.
- (iii) Although there should be a single Faculty of Law, teaching for the Degree course could be conducted in the first year at all three campuses and in the second and third year at the campus where the Faculty is sited.

### Conclusion

15. It is against the background of all the information set out in paragraphs 6 to 14 that the Committee mentioned in paragraph 2 above considered the matters referred to it and came to the conclusions set out in the attached Report. The House should note particularly that the Committee's terms of reference did not include (i) whether a Faculty of Law should be established or (ii) where it would be sited. The former has already been agreed by the Council of the University, subject to the availability of funds; and the latter is to be determined by the Council of the University at its next meeting. These matters were therefore not considered by the Committee.

16. It must be pointed out also that, although it is not so specifically stated in the Report, the Committee agreed with the recommendation of Sir Hugh Wooding and Professor Marshall that teaching in the Faculty for the Law Degree course should be conducted in the first year at the three University campuses and in the second and third years where the Faculty is sited.

17. The Council of the University at its annual meeting in February 1968 agreed -

- (i) to accept in principle the attached Report on Legal Training;

(ii) ...

- (ii) to defer a decision on the establishment of a Faculty of Law until a meeting later in the year when more precise details would be available in respect of proposals for the establishment of other University programmes.

V.B. GRANT  
Minister of Legal Affairs  
and Attorney General

9th July, 1968

M.P. No. H 7620

CONFIDENTIAL

REPORT OF MEETING OF COMMITTEE UNDER THE  
CHAIRMANSHIP OF THE RT. HON. SIR HUGH  
WOODING TO CONSIDER PROPOSALS FOR THE  
PRACTICAL PROFESSIONAL TRAINING OF LAWYERS  
AND MATTERS CONNECTED THEREWITH

The Committee met at St. Augustine, Trinidad, on September 4 - 6, 1967 under the chairmanship of the Rt. Hon. Sir Hugh Wooding, Chief Justice of Trinidad and Tobago. Others who attended the meeting were as follows:

Senator the Hon. Kendal Isaacs, President, Bar Association, Bahamas  
 Hon. Randolph Douglas, Chief Justice, Barbados  
 Senator the Hon. F.G. Smith, Q.C., Attorney General, Barbados  
 Mr. L.E.R. Gill, President, Law Society, Barbados  
 Mr. E.L. Carmichael, Bar Association, Barbados  
 Senator the Hon. V.H. Courtenay, Barrister at Law, British Honduras  
 Hon. L.I. Austin, Attorney General, Dominica  
 Mr. K. Alleyne, Q.C., President, Bar Association, Dominica  
 Hon. A.M. Lewis, Chief Justice, West Indies Associated States  
 Hon. Sir Kenneth Stoby, Chancellor and Head of the Judiciary, Guyana  
 Hon. S.S. Ramphal, Q.C., Attorney General, Guyana  
 Hon. Sir Herbert Duffus, Acting Chief Justice, Jamaica  
 Hon. Victor Grant, Q.C., Minister of Legal Affairs and Attorney General, Jamaica  
 Mr. Leacroft Robinson, Q.C., President, Bar Association, Jamaica  
 Mr. Douglas Fletcher, Law Society, Jamaica  
 Hon. B. Renwick, Attorney General, St. Lucia  
 Hon. Sir Garnet Gordon, Q.C., President, Bar Association, St. Lucia  
 Senator the Hon. G.A. Richards, Q.C., Attorney General and Minister for Legal Affairs, Trinidad & Tobago  
 Mr. Mitra Sinanan, Q.C., President, Bar Association, Trinidad & Tobago  
 Senator Inskip Julien, Law Society, Trinidad & Tobago  
 Professor Roy Marshall, Dean, Faculty of Law, Sheffield University, representative of U.W.I.  
 Professor L.E.S. Braithwaite, Department of Sociology, representative of U.W.I.  
 Professor Zelman Cowen, Vice-Chancellor, University of New England, Australia, Observer  
 Mr. Hugh Gibson, Secretary, U.W.I., St. Augustine - Secretary

2. The Committee's terms of reference were as follows:

- (a) to consider what proposals should be adopted for the practical professional training of lawyers, and the constitution and functions of the Council of Legal Education, proposed in the Wooding reports, and to make recommendations therefor;
- (b) to prepare drafting instructions for enabling legislation which would be submitted to the various participating governments.

3. There was general agreement that the development of legal education in the West Indies should proceed on the Committee's endorsement of the following:

- (a) the need for the establishment of a Law Faculty providing a three-year academic course leading to a law degree;
- (b) the need for a period of practical professional training to qualify students for the practice of their profession and that a two-year period is reasonable for this purpose; and

(c)...