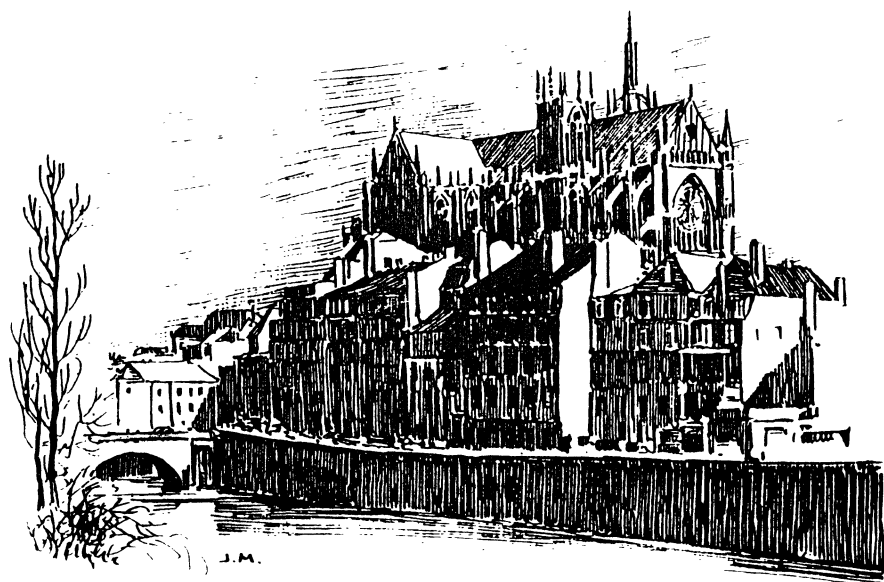


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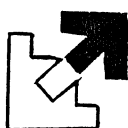


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LEGAL EDUCATION AND TRAINING IN TOMORROW'S EUROPE



IRELAND



UNIVERSITÉ DE METZ

LEGAL EDUCATION AND TRAINING
IN TOMORROW'S EUROPE

Ireland

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Ø. INTRODUCTION

In Ireland, as in some other jurisdictions, there is a two-tier system of legal education. The first tier, the "academic" stage, is provided by the universities and certain other educational institutions, while the second tier, the "professional" stage, is provided by the professional legal bodies. Today, the typical young professional lawyer will have been the recipient of legal education at both stages. This, however, is merely a general description of the structure of Irish legal education and would, indeed, be misleading unless qualified to take account of the diversity of law programmes offered by various educational institutions and the variety of avenues open to those seeking admission to the legal professions. As will become clear in the pages that follow, it remains possible to qualify as a professional lawyer without first having obtained an academic qualification in law, and many who obtain academic degrees in law choose careers outside the traditional legal professions. Furthermore, there are many law courses and programmes provided in universities and elsewhere for students who are studying for degrees and diplomas in disciplines other than law itself. This Report, however, will concentrate on the legal education provided for students who intend to enter the legal profession or who aspire to other careers in which a knowledge of law will be a substantial asset.

At the outset it must be noted that in Ireland as, for example, in England and Wales, the legal profession is divided into two distinct branches: *solicitors and barristers*. The *solicitor* provides legal services to the general public and represents clients before the lower courts. The *barrister*, on the other hand, does not deal with the public and has relatively little contact with individual clients. *Barristers* are employed ("briefed") by *solicitors* to engage in specialist legal work on behalf of clients and to represent them in the higher courts. *Solicitors* are, in fact, entitled to appear as advocates before all courts. In practice, however, *solicitors* rarely represent clients before any court other than the District Court which is the lowest in the Irish curial hierarchy. *Barristers*, therefore, have *de facto* a near monopoly on advocacy before the higher courts.

This functional division of the profession is reflected in the organisation of legal education. Each branch of the profession sets its own entry requirements and each provides its own system of professional education and training. Entry to the *solicitor's* profession is governed by the *Incorporated Law Society of Ireland* while entry to the *barrister's* profession is governed by the *Honourable Society of the King's Inns*. The law schools of the *Incorporated Law Society* and the *King's Inns* are both located in Dublin. Essentially, the educational and training requirements of both professions may be divided into three stages: the academic stage (though not absolutely essential) is provided by the universities, the professional educational stage is provided by the law schools of the professional bodies, and the training stage (in the form of an apprenticeship or pupillage) is provided by the professions themselves.

Law has been taught in Irish universities for over 150 years. During this time, the older universities had professorships and lectureships in law, though many of these were held on a part-time basis by legal practitioners. In the early 1970s, by which time there were only a few full-time professors and lecturers in the country's law schools, the need to develop academic legal education was becoming increasingly apparent. With the support and approval of the Higher Education Authority (the state body responsible for the funding of university education), the Universities began to recruit full-time professors and lecturers in law. By the early 1980s, each of the university law schools at Cork, Dublin, Galway and Limerick¹ had a solid core of full-time teaching staff. During the past fifteen years or so, all these law schools have developed considerably with the addition of further staff and other resources. Student numbers have grown enormously, an increasing number of students are opting to pursue

¹ The programmes offered in these law schools are described in Section 1 (below).

postgraduate studies, and there has been a vast increase in the quantity and quality of the academic legal research being produced and published.

Of the many developments in Irish legal education during this period, two are worthy of particular note. First, there has been a remarkable growth in teaching and research in those areas of law which reflect Ireland's membership of the European Union (which it joined in 1973) and its adherence to international human rights treaties. All the university law schools have courses at undergraduate level in European law and some have post-graduate programmes devoted to this area as well. Most law schools also provide courses in international human rights law. Commercial law is the other area in which there have been major developments. Law schools are becoming increasingly aware of the important contribution they have to make to commercial and industrial growth at both national and European levels. All law schools now offer both general and specialist courses in commercial law, and some schools offer full interdisciplinary degree courses which involve the study of law and commercial subjects.

The purpose of this Paper is to provide a broad descriptive outline of the structure of Irish legal education. For the sake of simplicity, it will be divided into four sections dealing with (i) academic legal education (ii) professional legal education (iii) other matters such as legal research and the review of legal education and (iv) general observations. The first section is naturally the most complex on account of the number and diversity of programmes devoted predominantly or exclusively to law in third-level institutions. Even within the universities, there is an increasing variety of law programmes, some of them, as noted, of an interdisciplinary nature. Accordingly, the first section will be structured along the following lines. Part 1 provides an account of the traditional law degree programmes which are devoted entirely or almost entirely to law. Part 2 describes newer interdisciplinary programmes. Part 3 deals with programmes provided offered by non-university institutions and private colleges. Part 4 deals with postgraduate studies in law.

1. ACADEMIC LEGAL EDUCATION

There are seven university institutions in Ireland: Dublin City University, St. Patrick's College Maynooth, Trinity College Dublin, University College Cork, University College Dublin, University College Galway and University of Limerick.² Law is taught in all of these except St. Patrick's College Maynooth. Dublin City University does not have a law school nor does it provide a degree course in law, but it has a number of law teachers who provide courses to students in business studies, journalism and similar areas. Each of the other five universities has a law school offering one or more degrees in law as well as various post-graduate courses. These will now be described in more detail.

1. 1. TRADITIONAL LAW DEGREE PROGRAMMES

Four of the university law schools³ offer what may be described as a 'traditional' law degree, in the sense of a programme of study devoted to law, lasting three or four years and leading to a recognized degree in law. Even among these institutions, however, there are some organizational variations. The primary law degree offered by University College Dublin is now

² Trinity College Dublin is the sole constituent College of the University of Dublin. It was founded in 1592. University College Dublin, University College Cork and University College Galway are constituent colleges of the National University of Ireland under the Irish Universities Act of 1908. St. Patrick's College Maynooth, founded in 1795, is both a pontifical university and a recognised college of the National University of Ireland. Dublin City University and the University of Limerick were first established in the early 1970s as National Institutes of Higher Education. They were given university status under legislation passed in 1989.

³ Trinity College Dublin, University College Cork, University College Dublin, University College Galway.

known as the *LL.B.* degree and it is awarded after a course of study lasting four years. In both University College Dublin and University College Cork, the law degree course lasts three years and in each College the degree awarded is the *B.C.L. (Bachelor of Civil Law)* degree.⁴ In University College Galway, the principal degree law degree offered is the *LL.B. (Bachelor of Laws)* degree and this is awarded after a course of study lasting either three years in the case of full-time students or four years in the case of part-time students. The law degrees offered by Trinity College Dublin, University College Dublin and University College Cork are undergraduate degrees in the sense that students enter them immediately on leaving secondary school, at the age of 17 or 18 years. The *LL.B.* degree at Galway, on the other hand, is a postgraduate degree in the sense that, in order to qualify for entry, a student must already have a primary degree (such as a *Bachelor of Arts* or *Bachelor of Commerce*) in another discipline. University College Cork also offers an *LL.B.* degree programme to students who have completed the *B.C.L.* degree. This is a one-year programme in which students take four additional law subjects.

Notwithstanding these organizational differences, the various degree programmes are largely similar in content. Each covers the so-called core subjects, which are essential for admission to the various professional training schools (see below). The core subjects are (i) Constitutional law; (ii) Contract law; (iii) Tort Law; (iv) Company Law; (v) Land Law; (vi) Equity; (vii) Criminal Law; (viii) European Law.⁵ Needless to say, each law school offers many other subjects. All, for example, offer Family law, Administrative law, Labour law and jurisprudence. Nowadays, most offer a good variety of commercial law subjects as well.

The primary method of assessment for both the traditional law degree and the interdisciplinary degrees to be described in the next part of this Section is the traditional closed-book examination. Typically, a course will be examined through a three-hour formal written examination at the end of the year in which the course is taught. Students may also be required to present written work carried out in the course of the year for which some credit is given in the final examination. There is increasing recognition of the value of allowing students to do independent research as part of their degree requirements. It helps the student to acquire research and presentation skills which will be valuable to them in the future.⁶ All the universities have a system of extern examinations. This means that the normal examination in each subject is set and graded by both the lecturer responsible for teaching the subject and an extern examiner who will be a senior academic in another university and usually an expert in the relevant subject area. Many extern examiners are drawn from universities in the United Kingdom as well as in Ireland itself.⁷

1. 2. INTERDISCIPLINARY PROGRAMMES

The variety of tasks lawyers are required to perform call for skills beyond the confines of the law itself. With the growth of international trade, many lawyers must be able to conduct business in languages other than their own. Many other lawyers find themselves working within commercial, industrial or administrative organisations in which they must have at least a working knowledge of the fundamental elements of cognate disciplines such as economics, accountancy, public administration, industrial relations, information management and the like.

⁴ University College Cork also offers the *B.C.L.* degree on a part-time basis with an intake to the first year every second year.

⁵ These are the core subjects required by the Incorporated Law Society (see Section ~ below), Those specified by the King's Inns are broadly similar.

⁶ Proof of the value of this work is to be found in the *Irish Student Review* which is published by the Law Students' Debating Society of Ireland (based at the King's Inns), Many of the articles published in this journal are based on student essays written during their undergraduate or post-graduate careers.

⁷ Within the National University of Ireland, however, staff member of one constituent College may not act as extern examiner in another.

In order to respond to these needs, several law schools have, with the cooperation of other departments within their university, instituted new interdisciplinary programmes which allow students to study certain non-legal as well as legal subjects. The University of Limerick, for example, has always taught law as part of an interdisciplinary programme. It currently has two such programmes: B.A. in Law and Accounting, and B.A. in Law and European Studies. Each programme lasts four years one of which is spent in work placement, allowing the student to gain practical experience. University College Galway has a B.A. degree in Legal Science and another humanities or social science subject. Graduates of this programme may proceed to the second year of the LL.B. degree described in Part 1 above. It also offers a *Bachelor of Corporate Law Degree (B. Corp. Law)* which combines Law, Business Studies and a modern European language such as French, German or Spanish. University College Dublin has a *Bachelor of Business and Legal Studies* which is a three-year programme. Trinity College Dublin has degree programmes in Law and French and Law and German. Each lasts four years with one of those years spent in a country in which the relevant foreign language is spoken.

In addition to these full interdisciplinary programmes, law schools make a significant contribution to teaching in other university schools, faculties and departments. Most degree programmes in Commerce, nowadays, include either mandatory or optional law courses. At the University of Limerick, for example, Law is a minor option though it is so structured as to allow students on the programme to gain a substantial knowledge of law. Furthermore most law schools have introduced a teaching input of varying quantities into programmes as diverse as journalism and medicine

1. 3. POSTGRADUATE STUDIES

It is possible to study for a *Master's degree* or *Doctorate* in law at each of the schools offering traditional law degrees. In Trinity College Dublin and in the University (Colleges at Dublin, Cork and Galway, a student may be admitted to study for a *Master's Degree* or *Doctorate* by research. As a rule, a student is expected to have completed a thesis or dissertation for a *Master's Degree* within two years and for a *Doctorate* within three years. Two law schools, University College Dublin and University College Cork, have taught Master's Degrees programmes which allow students to proceed to a *Master's Degree* by taking a certain number of advanced courses. In University College Dublin, there are two "dedicated" taught Master's programmes : *LL.M.* in European law and *LL.M.* in Commercial Law. It has also offered, for many years, a *Diploma in European Law*, a programme that has played a very significant role in promoting a sound knowledge of European Law among the Irish legal community. It is planned to introduce a taught *LL.M.* programme at University College Galway within the next two years or so. The University of Limerick offers a *Master's Degree in European Integration*, with a substantial law component. Students enrolled on this programme may choose a law topic for their minor dissertation which is one of the requirements to be fulfilled.

Post-graduate study is becoming an increasingly popular option for students who have completed their first law degree. Some students opt to go abroad to a British, North American or European university. A very considerable number of Irish law teachers have studied at postgraduate level in foreign universities and some have taught at university level in other countries. Now however, with the growth of postgraduate programmes in Irish Universities, many more students are opting to do further study at home. This is a very positive development as it means that entrants to the legal profession and other occupations requiring a knowledge of law are, on the whole more highly qualified than ever. Many of them are able to produce scholarly work even though they may not be in academic careers.

1. 4. LEGAL STUDIES IN NON-UNIVERSITY INSTITUTIONS AND PRIVATE COLLEGES⁸

Outside the university sector, the main third-level educational institution is the regional technical college. These colleges were established in the early 1970s in order to provide more applied and practical education and training than would be available in universities. Typically, the regional technical college (*RTC*) will provide certificate, diploma and, occasionally, degree courses principally in scientific, engineering and business disciplines, though some humanities courses are offered as well. In Dublin city, there are several more specialised third-level colleges, broadly similar in their mission to the *RTCs* which are grouped under the aegis of the Dublin Institute of Technology (*DIT*). Almost all of the *RTCs* and several of the colleges connected to the *DIT* offer law courses, usually to students in business studies programmes. Two *RTCs*, one at Waterford and one at Letterkenny, offer diploma courses in law. Students on these diploma courses are generally being trained as legal executives; when qualified, they will be eligible for employment in solicitor's offices or the legal departments of public or private organisations.

The *Institute of Public Administration (IPA)*, the *Irish Management Institute (IMI)* and the *National College of Industrial Relations (NCIR)*, all of which are located in Dublin, offer degree and diploma courses in their respective specialisms and law is included in the syllabus of each. The *NCIR* has some full-time law staff; in the *IPA* and *IMI*, law teaching is generally carried out by practising lawyers.

There is one police training college in Ireland, located at Templemore in County Tipperary. The educational and training programme for police recruits has been greatly developed within the past few years. All police recruits are now eligible to take a *Diploma in Police Studies* which includes a substantial law component, in addition to studies in police operations, physical education and similar subjects.

Most of the formal qualifications offered by the *RTCs*, the *DIT* Colleges, the *IMI*, the *IPA*, the *NCIR* and the Police College are validated and awarded by the *National Council for Educational Awards (NCEA)* which is a statutory body charged with co-ordinating higher education outside the universities.⁹ This Council approves courses, supervises the conduct of examinations and appoints extern examiners for the designated institutions.

The final recent development to be mentioned under this heading is the establishment, again in recent years, of certain private colleges offering degrees and diplomas in law as well as in other disciplines. Most of these colleges provide programmes leading to degrees awarded by universities in the United Kingdom. Portobello College, Dublin, for example, offers the *LL.B.* degree (in Irish law) awarded by Cardiff Law School of the University of Wales. The *Diploma in Law* offered by another private institution, Griffith College, has recently been approved by the *NCEA*. Many senior law teachers in the universities have expressed strong reservations about the growth of private institutions offering degree courses on the basis that such institutions often rely heavily on part-time staff and often have very limited library resources.

⁸ The most convenient source of information on the various third-level educational institutions in Ireland is the *Administration Yearbook and Diary 1994* published by the Institute of Public Administration, 57-61, Landsowne Road, Dublin 4, Ireland.

⁹ The *NCEA* was established in 1972 and placed on a statutory basis in 1979.

2. PROFESSIONAL LEGAL EDUCATION

As already stated, Ireland has a 'split' legal profession with *solicitors* and *barristers* undertaking different kinds of legal work. Each of the professions sets its own entry standards and each provides a special course of training and education which a student must undergo in order to gain entry to that profession. The educational requirements for each profession will be described presently, but first a few preliminary comments will be made. There is no one mode of entry to either profession. It is possible, for example, to become either a *solicitor* or *barrister* without having a university law degree. Indeed, it is possible to enter either profession without having any university degree. One consequence of this is that the training courses provided by the professional bodies must cater for those who have never studied law at university level as well as for those who have. Secondly, it is questionable if, in a small country like Ireland, there is a genuine need for two separate systems of professional legal education, given that the numbers seeking entry to the professions, while increasing all the time, are still relatively small by international standards. As will be mentioned later, an advisory committee on legal education has recently been established and is examining the system of legal education generally.

2. 1. ENTRY TO THE *SOLICITOR'S* PROFESSION

There are several modes of entry to the solicitor's profession. Nowadays, most entrants have an approved university degree, though not necessarily in law. There are certain provisions allowing for the entry of certain persons who do not have university degrees. For example, a person who has worked for at least seven years as a Law Clerk in a solicitor's office may apply for entry. Here, I shall concentrate on describing the entry requirements for persons who are university graduates. The entry procedures vary depending on the nature of the degree held by the applicant and the university by which it was awarded. Perhaps the clearest way of describing the present situation is to describe first the procedures applicable to a student who does not have a law degree which, under the current rules of the Incorporated Law Society, entitle the holder to exemption from certain preliminary examinations. The exemptions granted to holders of approved law degrees will then be described.

2.1.1. APPLICANTS WITHOUT AN APPROVED DEGREE

The requirements to be fulfilled by such applicants may be divided into three categories. First, the applicant must pass certain preliminary examinations; secondly, s/he must secure an apprenticeship with a qualified solicitor, the details of which will be given below, thirdly, the applicant must attend certain professional courses and pass certain examinations organised by the *Incorporated Law Society of Ireland*, the body responsible for the licensing of solicitors (see above).

2.1.1.1. Preliminary examinations

Every applicant must pass an examination in the Irish language. This examination is generally regarded as being easy and presents little difficulty to students who have received their primary and secondary education in Ireland. Some applicants will also be required to sit what is called the Preliminary Examination which is designed to test the candidate's general knowledge and her communication skills in the English language. Having got this far, the applicant must then present for what is called the Final Examination, Part 1 (FE-1). This consists of an examination

in each of the eight core subjects mentioned earlier.¹⁰ It is generally regarded as a difficult examination with a standard at least as high as that applicable at university degree level.

2.1.1.2. Professional Training : the Apprenticeship

Every applicant must secure an apprenticeship with a solicitor who holds a current practising certificate and who has been in continuous practice for at least seven years, though in certain circumstances a solicitor who has been in practice for a shorter time may be allowed to supervise an apprentice. The function of the apprenticeship is to allow the student *solicitor* to become thoroughly familiar with the practice of the law and with the way in which a solicitor's office is managed and organised. The apprenticeship lasts three years in all though, as will be evident from the next section, part of this time is spent undergoing full-time education in the law school of the Incorporated Law Society. Nowadays, securing an apprenticeship is often the most difficult task facing a person wishing to qualify as a solicitor. No *solicitor* is under an obligation to provide an apprenticeship though fortunately a large number do so. The securing of an apprenticeship is a vital part of the process for entry to the solicitor's profession. An applicant cannot proceed to the third stage, described in (3) below unless s/he has an apprenticeship which is formally recognised by the *Incorporated Law Society*.

2.1.1.3. Professional Education

Once a student has passed the preliminary examination and secured an apprenticeship, he/she must spend a minimum of three months in the office to which he/she is apprenticed. This is followed by a full-time training course lasting about four months at the *Law School* of the *Incorporated Law Society*. This is an intensive course in which the subjects covered include: Conveyancing, Taxation, Probate, Litigation, Commercial law, Landlord and tenant law, family law, and labour law. On the completion of this course and having passed the necessary examinations, the apprentice returns to his/her master's office where s/he spends 18 months working full-time. At the end of that period, s/he returns to the *Law School* of the *Incorporated Law Society* for an advanced training course which lasts about 2 months. At about this time, the applicant must take a second examination in the Irish language. Having completed all these requirements, the apprentice is eligible for entry to the Roll of Solicitors which means that s/he may be given a practising certificate authorizing him/her to practise as a *solicitor*.

2.1.2. APPLICANTS WITH AN APPROVED LAW DEGREE

An applicant who holds one of the following law degrees is entitled to special concessions in terms of entry to the *solicitor's* profession *LL.B.* from Trinity College Dublin, *B.C.L.* from University College Dublin; *B.C.L.* from University College Cork; *LL.B.* from University College Galway; *B.A.* in Law and Accountancy or *B.A.* in Law and European Studies from the University of Limerick. Essentially, a student with one of these qualifications is exempt from the Preliminary Examination and from the Final Examination, Part 1, described above. As mentioned, the latter examination is generally regarded as being difficult and consequently exemption from it is a considerable advantage.

2.1.3. EMPLOYMENT OPPORTUNITIES

The number of *solicitors* has increased greatly in Ireland during the past 30 years. In 1963, there were approximately 700 on the *Roll of Solicitors*; now, there are about 5,220 of whom just over 3,900 are practising. While the work available for *solicitors* has also increased greatly

¹⁰ See above.

in this period, due mainly to the commercial and industrial development which Ireland has enjoyed during this time, many newly-qualified *solicitors* are now finding it difficult to obtain employment. Despite this, many graduates in law and other disciplines continue to find law an attractive career and are seeking to enter the *solicitor's* profession. The universities are taking every effort to keep students informed of other career options and indeed the professional bodies themselves include in their information literature an indication of the range of careers open to those who qualify as *solicitors*.

As the law now stands, a person who has been admitted as a *solicitor* may then proceed to practice either as an employed member of a legal practice managed by another *solicitor* or as a sole practitioner. In recent years, reservations have been expressed about the idea of allowing young *solicitors* to begin to practice on their own as soon as they have formally qualified. For this reason, the *Solicitor's Bill*, a piece of draft legislation currently before Parliament, proposes to require that a *solicitor* should not be allowed to practise on his/her own until s/he has worked for at least three years with another *solicitor* who has a certain amount of experience.¹¹

2.2. ENTRY TO THE *BARRISTER'S* PROFESSION

The *Honourable Society of the King's Inns* is responsible for the admission of students to the profession of *barrister* and for their professional training. As in the case of the *solicitor's* profession, it is not necessary to have university degree in law, though nowadays a large number of applicants have such degree. The possession of an approved law degree does not guarantee entry unless the student has achieved a relatively high grade in her/his final degree examination. To be assured of entry a student must have a *first-class* or an *upper second class honours* law degree. At present, the approved law degrees which (with the appropriate level of performance in the final examination) will qualify the holder for admission to the King's Inns degree course are: the *B.C.L.* degree from University College Cork or University College Dublin, the *LL.B.* degree from

Trinity College Dublin¹² or University College Galway, the *B.A. in Law and European Studies* and the *B.A. in Law and Accounting* from the University of Limerick.

A student who does not hold an approved law degree must pursue a course of study at the King's Inns lasting four years in all. The first two years lead to a Diploma and only those students who attain the required standard in this Diploma are allowed forward to the final two years leading to the *B.L. (Barrister-at-Law)* degree. The subjects offered on the Diploma course include most of the core law subjects and a few others besides.

A student who gains admission to the degree course at the King's Inns by virtue of holding an approved law degree or through having reached the required level in the Diploma examination must pursue a course of study lasting two years. Lectures are given in the late afternoons, generally between 4.30 p.m. and 6.30 p.m. All lecturers are practising *barristers*. The subjects covered are largely of a practical nature, though some, such as Administrative Law, Labour Law and Commercial and Insolvency law would seem more appropriate at the academic stage of legal education. In addition, largely for historic reasons, a student must fulfil certain dining requirements, i.e. eat dinner ten times during each academic year in the King's Inns dining hall. Students who complete this course, pass all the necessary examinations and fulfil the other requirements are awarded the *B.L.* degree

¹¹ The Fair Trade Commission indicated in its Report on Restrictive Practices in the Legal Profession (see below) that it would not have any objection in principle to such a provision.

¹² In the case of Trinity College Dublin, the *LL.B. in Law and French* or *Law and German* is also an approved degree.

The possession of the *B.L.* degree does not automatically entitle a student to practise independently as a *barrister*. She/he must first spend a year "devilling" which is equivalent to a pupillage in England. During this year the student will work with a qualified *barrister* with a certain number of years' experience, accompany her/him to Court, attend consultations with clients and become thoroughly familiar with the day-today work of a *barrister*.¹³ Once this year is over, the *barrister* is free to work independently. Unlike England and Wales, Ireland does not have a chambers system. All practising *barristers* are required to be members of the Law Library, for which there is a substantial annual membership fee, located in the Four Courts (Dublin), the building in which all the superior courts are located.¹⁴ This system has considerable advantages. All *barristers* work in the same area and, by convention, younger *barristers* are entitled to seek the guidance of any senior colleague in respect of legal problems they encounter in their work. It also means that all *barristers* have access to a very fine law library with many ancillary services.

2.3. EMPLOYMENT OPPORTUNITIES

A recent careers information sheet compiled for students states that "becoming established as a *barrister* is expensive, lengthy and can be a hazardous procedure"¹⁵. There are over 700 practising *barristers* in Ireland and possibly four times as many as that who have formally qualified as *barristers*. A large number of those who qualify do not intend to practise. Many will already be employed as public servants, journalists, teachers or accountants among other occupations. A considerable number of young *barristers* who enter into practice find it difficult to become established and leave to pursue other occupations. The *Barrister-at-Law* degree is still a valuable qualification for such persons to have, especially if they have some experience of practice. Certain career opportunities are available within the state sector, e.g. in the Attorney General's Office or the Office of the Parliamentary Draftsman

3. OTHER ISSUES CONNECTED WITH LEGAL EDUCATION

3.1. REVIEW OF LEGAL EDUCATION

Within the past thirty years, there have been two important reviews of Irish legal education one by the Commission on Higher Education which reported in 1967¹⁶ and the other by the *Fair Trade Commission* (since superseded by the *Competition Authority*) which reported in 1990.¹⁷ The report of the former body is now of little more than historical significance is so far as legal education is concerned. In 1965, for example, when the Commission investigated legal education, there were only 277 full-time students and 7 full-time professors and lecturers in the country's 4 law schools. Nonetheless, the Commission's Report was important in drawing attention to the primitive state of legal education at that time and in canvassing options for future development. The Commission, which was chaired by Cearbhaill O Dalaigh who was to become successively, Chief Justice of Ireland, Judge of the European Court of Justice and

¹³ Nowadays, some young *barristers* opt to "devil" for a second year by taking the opportunity to attach themselves to a *barrister* with specialism different from that of their first master.

¹⁴ Several *barristers* who work mainly in provincial areas, known as "circuit *barristers*", base themselves in cities and towns outside Dublin, though all must maintain their membership of the Law Library.

¹⁵ Published by *Careers and Appointments Office*, University College Dublin

¹⁶ *Report of the Commission on Higher Education*, Volume 1, Pr. 9389 (Dublin, 1967)

¹⁷ *Fair Trade Commission Report of Study into Restrictive Practices in the Legal Profession* (Dublin: Stationery Office, 1990)

President of Ireland, emphatically endorsed the role of the universities in legal education. It said that:

Law is founded on the philosophical and ethical principles that inform a society, and it is influenced by and in turn influences, the history of that society. The study of law, therefore, is not merely a study of conventions and procedures that regulate human activity in a particular society, but is itself part of the study of that activity. The study of law, no less than the study of language and science, must be established in the university, to be pursued in depth and to the highest level of scholarship, not merely for purposes of professional practice of law, but also because of the broad cultural value of the subject and of its value to persons who engage in politics, administration, business, industry and other callings.¹⁸

It also recommended strongly that a university degree should be an essential part of the lawyer's education. The university's proper function in the preparation of lawyers lay in the teaching of relevant fundamental subjects at the highest level.¹⁹ The Commission did not, however, recommend any major structural change in the division of legal education between the universities and the professional schools.

Because the *Fair Trade Commission's* investigation of legal education took place in the context of a study into restrictive practices within the legal profession, its brief was ostensibly narrower than that of the *Commission on Higher Education*. It was primarily concerned with the extent to which the organisation of legal education could be said to restrict entry to either branch of the legal profession. The *Commission's* final report, however, provides a reasonably detailed analysis of the structure of legal education as it existed in the late 1980s (and much of this analysis still holds true today). While it did not recommend that the legal professions should be fused, it was anxious to ensure that any unnecessary impediments to eventual fusion should be removed and therefore recommended that there should be a common vocational course for *solicitors* and *barristers* with a minimum of separate training.²⁰ Like the *Commission on Higher Education*, it recommended that the university law degree programme should remain devoted to academic legal education and should "not be primarily geared to the production of *solicitors* and *barristers*".²¹ It further recommended that the Minister for Justice should appoint an *Advisory Committee on Legal Education and Training* which would "review the education and training of lawyers at all stages, with a view to ensuring that these are relevant to the requirements of practice and to the efficient delivery of legal services".²² It wished to have a majority of non-lawyers on the Advisory Committee and suggested a fourteen-member Committee with eight lay persons (non-lawyers), two practising *barristers*, two *solicitors* and two academic lawyers. The *Committee* would function under the chairmanship of an eminent person, possibly a Judge.

After the publication of this report, and partly in response to it, a series of meetings took place between representatives of the law schools, the *Incorporated Law Society of Ireland* and the *General Council of the Bar of Ireland* (the body responsible for regulating entry to the *barrister's* profession). After some preparatory meetings, it was decided that this body, with a revised membership to include six academic lawyers,²³ three representatives of the *Incorporated Law Society* and three representatives of the *General Council of the Bar* would constitute themselves into an *Advisory Committee on legal Education and Training*. Mr Justice Ronan Keane, a senior Judge of the *High Court* who is also a former President of the *Law Reform Commission* and the author of several distinguished textbooks, agreed to act as Chairperson.

¹⁸ *Op. cit.* (note 16 above) para 11.26 (p. 308).

¹⁹ *Ibid.* paras 11.28 - 11.31 (p. 309).

²⁰ *Op. cit.* (note 17 above), para 7.134 (p. 115).

²¹ *Ibid.* para. 7.134 (p. 118).

²² *Ibid.* para 7.142 (p. 117).

²³ Five of the six academic representatives are drawn from the university law schools and, of these, four are the heads of their respective schools.

Representatives of other interest groups have rights of attendance (though not the right to vote) at the *Committee's* meetings. These include representatives of the *Departments of Justice and Education*, a member of the *Competition Authority*, the *Director of Consumer Affairs*, student representatives and others. This *Committee* is now beginning to meet systematically and is currently considering the harmonisation of syllabi for core law courses. How far it will go towards implementing all the recommendations of the *Fair Trade Commission* remains to be seen.

3.2. IRISH ASSOCIATION OF LAW TEACHERS (LALT)

Membership of the *Irish Association of Law Teachers*, which was founded in the late 1970s, is open to all full-time law teachers and others substantially engaged in the teaching of law in universities and certain other third-level institutions in both the Republic of Ireland and Northern Ireland. It provides a forum at which law teachers can meet to exchange ideas and collaborate on projects relating to law teaching and research. Its value is greatly enhanced by the presence of law teachers from both Irish jurisdictions, thereby allowing those from one jurisdiction the opportunity to acquaint themselves with the law and legal educational system of the other. It holds an annual conference each year at the beginning of December and has produced a number of valuable publications. The *Association* provides an ideal forum for the establishment of professional relationships with academic bodies in other European countries. Indeed, members of the *Association* would greatly welcome such a development.²⁴

3.3. LEGAL RESEARCH

The growth of academic legal education over the past fifteen years or so has been accompanied by a welcome growth in the volume and quality of the legal research being conducted and published. As late as 1980, there were only a few textbooks on Irish law. Law students and practitioners had to rely on English textbooks and attempt to find the Irish law, which by then was rapidly diverging in many respects from English law, in the original sources. This has now changed dramatically. Standard texts are available on most areas of Irish Law and there are several general and specialist law journals. In more recent years, legal scholarship has moved on to a new phase. With most branches of law covered by standard texts, scholars are now moving to produce high quality texts on more specialised areas of law and some are beginning to probe the philosophical underpinnings of the law. Some are also beginning to collaborate with scholars in other European jurisdictions on areas of common interest. The production of scholarly work; is not the sole prerogative of academic lawyers. Many fine works have also been produced by legal practitioners, either alone or in conjunction with academic lawyers.

3.4. CONTINUING LEGAL EDUCATION

The governing bodies of the legal profession are becoming increasingly aware of the importance of continuing legal education. The impact of European Union law on the domestic legal system has added particular urgency to need to a system to ensure that practising lawyers have the opportunity to update their knowledge of law. The Incorporated Law Society of Ireland has a dynamic programme of continuing legal education and the *Council* has appointed a continuing legal education officer to provide similar services for practising members of the Bar. This is perhaps one area in which there could be closer collaboration between the universities and the legal professions, and there hopefully will be in the future.

²⁴ The President of the Association for 1994 is Mr J. Paul McCutcheon, Senior Lecturer in Law at the University of Limerick (address: National Technological Park, Limerick, Ireland).

4. CONCLUDING OBSERVATIONS

As will be evident from this Report, academic legal education in Ireland is only now reaching maturity. In the years ahead, many important policy questions will have to be addressed by the universities and the professional legal bodies alike. There will also have to be some further fine-tuning of the relationship between the three stages of entry to the legal profession (i.e. the academic stage, the professional stage and the training stage.) At present, the reality is that since the professional bodies have the sole power to license lawyers to practice as *solicitors* or *barristers*, they are in a position to determine the criteria that law graduates and others must fulfil before gaining admission to the professional stage. This, in turn, means that in planning their academic programmes, the university law schools must ensure that their graduates will continue to enjoy exemption from the various preliminary examinations of the professional bodies. The law schools must, therefore, strive to achieve a balance between the maintenance of their own academic integrity and the fulfillment of the requirements stipulated by the professional bodies. There need not necessarily be any major conflict between the elements of this dual mission. At present, for example, through the medium of the *Advisory Committee on Legal Education and Training*, a common syllabus is being agreed for each of the eight "core" subjects which graduates with recognised law degrees must have passed in order to gain admission to the professional studies course of the *Incorporated Law Society*. It is to be hoped that these syllabi will leave individual university law teachers with some flexibility and discretion in terms of the emphasis to be placed on different aspects of a syllabus and in the inclusion of additional materials.

The next step in the development of Irish legal education must be the adoption of a clear statement of mission. Those charged with the formulation of policy must strive to agree upon and articulate a common vision of what legal education is intended to achieve. So far, much of the debate has been dominated by more immediate practical issues connected with admission to the professional stages. There can be little doubt that the professional and training stages, especially for barristers, are in need of further review. There is, for example, a strong case to be made for the incorporation of the training stage into the professional stage for barristers as for solicitors. Leaving aside these more strategic and organisational matters, however, the most urgent need is for the development of an educational philosophy, especially at the academic stage. More attention must be given to the potential of the law to provide a humane education. Rather than being viewed solely as a vocational discipline, it must be viewed (though critically) both as means of intellectual challenge and development as well as an instrument for the attainment of justice. The university law graduate should be equipped with the intellectual and communicative skills which will allow her to adopt both a critical and constructive approach not only towards law itself but to the social structures from which it derives and which it is expected to support.

The construction of a new vision of legal education will require the cooperation of all those involved in the education and training of lawyers. The educational philosophy followed at one stage in the overall process clearly has implications for the other stages. Not only, therefore, must there be a clear articulation of the policies underpinning each stage, there must be harmony and co-ordination between those policies. All the institutions involved in the education, training and licensing of lawyers must be able to rely upon one another to fulfil their stated mission. Thus, the universities must be confident that law students intending to enter the professions will be taught and trained in certain aspects of the law and legal practice at the professional and training stages. Likewise, the professional bodies must be confident that university law graduates have mastered certain areas of knowledge and acquired certain intellectual skills.

The foregoing remarks are based on the assumption that the essentials of the present structure of legal education and training will be retained for the foreseeable future. One could, of course, advocate a more radical restructuring in which, for example, the universities would assume responsibility for both the academic and professional stages of legal education. Even if this were to happen, it would still be necessary to have a clear vision of the educational objectives to be achieved at each stage and, as already argued, the articulation of such objectives

must now be our foremost priority. For the moment, the future of Irish legal education, in so far as entry to the legal professions is concerned, is in the hands of the Advisory Committee on Legal Education, a body of which we have high hopes.

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Note pratique

Remarques générales

Conformément aux instructions données par le comité d'organisation et le comité scientifique, les rapports nationaux ont été soumis en anglais ou en français, à la seule exception du rapport allemand (présenté en allemand).

Certains rapports ont nécessité un travail plus ou moins conséquent de remise en forme ou même de réécriture, en particulier (mais pas seulement) lorsque la langue maternelle du rapporteur n'était pas l'une ou l'autre de ces langues. Dans tous les cas, les propositions de modifications ont été soumises aux auteurs qui ont donc pu valider les changements suggérés.

Toutes les versions traduites ont également été soumises aux rapporteurs pour validation avant impression.

Options retenues pour la traduction

L'équipe des traducteurs a pris les options suivantes dans son travail et les a appliquées de façon systématique à tous les rapports nationaux (textes originaux et traduits), dans un souci de cohérence et de bonne compréhension

- le premier terme des expressions désignant une discipline porte une capitale lorsqu'un s'agit de renvoyer au nom d'un enseignement (cours, modul, unité de valeur, etc.)
- les termes donnés dans la langue originale du rapporteur sont écrits en italiques; il s'agit essentiellement de désignations de diplômes, titres, ou encore d'institutions et d'organismes propres au pays. Les italiques sont également employés pour les mots pleins ou en abrégé repris du latin.

En conséquence, un terme ou une expression pourra apparaître en italique même s'il s'agit, par exemple d'un mot français dans le rapport français ou belge.

Practical Note

General

Following the guidelines provided by the organising committee and the scientific committee, all national reports were submitted in English or French, with the sole exception of the German report (drafted in German).

Some reports required more or less extensive editorial work or even re-writing, especially – but not exclusively – when the rapporteur's mother tongue was neither of these two languages. In all cases, proposals for amendments were submitted to the corresponding authors who were thus given the opportunity to validate the suggestions for changes.

All translated versions were also submitted to rapporteurs for validation before printing.

Decisions made for the translation

The translation team made the following decisions for their work and then systematically applied them throughout the national reports (original and translated texts) for the sake of greater consistency and readability

- the first term of phrases referring to a specific discipline is capitalised whenever they identify a part of a curriculum (course, module, study unit, etc.)
- terms provided in the rapporteur's original language have been italicized. This holds true in particular for references to degrees and diplomas, or for the names of institutions and organisations proper to the country concerned. Full words or abbreviations in Latin have also been italicized.

Consequently, a term of expression can be italicised even if, for instance, it is an English word found in the English or Irish report.

Dans certains cas, les traducteurs proposent – entre parenthèses – une traduction du terme original. Cette traduction est mise entre guillemets simples lorsqu'il s'agit d'une approximation plus ou moins grossière.

- certains éléments de la terminologie employée dans les traductions peut paraître artificiel. Il ne pouvait pas en être autrement. On citera comme exemple l'emploi systématique du mot *advocate* pour traduire *avocat*, alors que ce terme n'est pas le plus courant dans la pratique anglaise ou irlandaise.
- la table des matières est en principe identique pour tous les rapports. Il peut se faire que certaines rubriques, jugées sans objet par les rapporteurs, n'ont pas donné lieu à un quelconque texte. La numérotation peut alors présenter des lacunes. Certains rapporteurs ont ajouté des explications et des rubriques, généralement en introduction. Ces paragraphes ont été numérotés logiquement, en respectant la structure de base et en usant du Ø... lorsque cela était nécessaire. D'autres rapporteurs se sont éloignés du plan-type qui leur avait été proposé. L'équipe de traduction a pris la liberté de chercher à rapprocher les plans proposés du plan type en question.

In certain cases, the translators suggested – in parentheses – a translation of the original term. This suggestion is in single quotation marks when it is only a tentative approximation.

- some elements of the terminology used in translated texts may appear as artificial. But it could hardly be otherwise. A typical example is using the word *advocate* to translate the French *avocat*, even though this term is not so common in English or Irish practice.
- the table of contents is supposed to be identical for all reports. But it can happen that some items were deemed not applicable by rapporteurs and that there is no corresponding text. Consequently, there can be some gaps in the numbering sequence.

Certain rapporteurs provided some additional information and inserted new items, in most cases in the introduction. These paragraphs have been numbered in logical order, following the basic structure and using Ø... when necessary. Some other rapporteurs departed from the suggested outline, in which case the translation team took the liberty of making the proposed structures conform to this reference structure as closely as possible.