

Editorial

NEW HORIZONS FOR THE LAW STUDENT

"For the rational study of the law, the black-letter man may be the man of the present, but the man of the future is the man of statistics and the master of economics."

—Oliver Wendell Holmes

At its annual convention during the past summer, the New Brunswick Barristers' Society instituted some far reaching reforms in legal education. As from 1951, no person will be admitted to the provincial bar unless he or she has attended the regular course of instruction at a recognized law school. Moreover, and perhaps more important, no student will be admitted to the U.N.B. Law School unless he or she has obtained or is about to obtain a bachelor's degree in arts or science.

These changes have been brought about by the changed role of the lawyer in society. Time was when a successful lawyer needed to be little more than a mere technician, a word merchant or a practiser of legal quackery. It is now recognized that the mere technician is not enough to meet the needs of modern society. Now, legal education is to be built upon a more solid foundation, namely, upon the broad base for living provided by a study of the arts and sciences.

Any discussion of legal education inevitably brings up another point: namely, what is the purpose of legal education? Naturally the prime purpose of our law schools is to train lawyers for the task of pleading, administering the law and so on. But this is not the only purpose. As Mr. Justice Rand has said, lawyers are part of the administrative structure of the state. The performance of this role entails a knowledge of economics, political science and philosophy. Even a nodding acquaintance with these subjects will cause a lawyer to recognize his functions in and his duties towards his society. University training is the most appropriate method of bringing home to prospective lawyers the responsibilities which they have in our modern world.

In short, then, the function of university training in arts and law is to provide purposeful education for persons who desire to pursue the study and practice of law. By long training and wide scholarship any fully matured lawyer must come to glimpse the social purpose of lawyers. The social purpose of our profession is the honourable task of making law become the handmaiden of justice. Individually and collectively, this is the high purpose to which the practice of our profession calls us.

We owe it to ourselves and to the honour of our calling to reject any aim or goal which would debase the profession. Thus, to those who believe that law is nothing more than the handmaiden of Business, we would say this:— The logical application of this philosophy would mean that lawyers would become nothing more than parasites doomed to the servile and destructive occupation of nibbling at the fringes of enterprise. If law is nothing more than the handmaiden of Business, or Government, then the rule of law becomes little more than the tool of the powerful. Surely our legal system should exist for the benefit of the many.

Our legal system, so far as legal training is concerned, should strive to give expression to these ideals. Our Law School is the means; the excellence of our profession is the end. Law students and lawyers might with credit, adopt the ancient dictum of that great philosopher-lawyer, Francis Bacon, which is the motto of the British Institute of Actuaries: "I hold every man a debtor unto his profession, from the which as men of course do seek to obtain countenance and profit, so ought they endeavour by way of amends to be a help and ornament thereto."

J. C. H.

.....

COURT MARTIAL APPEALS

It is with interest that members of the legal profession, especially those with a military background, learn of the establishment of an Appeal Board for Courts Martial. This is an overdue step in the right direction. Little has been published in connection with the matter and it is to be presumed that the Board will come under the jurisdiction of the Judge Advocate General's Branch, and will be comprised of officers with legal training.

The practice in Canada has been to have an Assistant Judge Advocate General in attendance at Courts Martial, but, this has not always been possible. Due to the exigencies of the service and operational commitments, Assistant Judge Advocates General often are not available to attend the various Courts Martial held in scattered parts of the large military commands. This results, in many cases, in Courts Martial being held with no proper legal guidance.

Before the institution of the Appeal Board, Area Commanders had the power to mitigate sentences handed down from the courts in their area. This, however, was not in the nature of an appeal. It was solely the opinion of the Area Commander on perusing the record of the Court. This practice will no doubt continue, but with the added assurance to the accused that his case will be heard by a board of officers trained in law.

It is an integral part of every officer's training to study the military law as contained in the regulations. Legal officers have the advantage of their training in distinguishing points of law and rules of evidence which arise during a hearing.