An investigation into the history and practice of teaching law as an examination subject in schools

Underwood, Geoffrey Daniel

An Investigation into the History and Practice of Teaching Law as an Examination Subject in Schools.

Abstract

Historical aspects of teaching Law as a school subject are considered in outline in the Prologue to this Thesis. Part 1 discusses the extent to which it is appropriate to teach Law as an examination subject in schools today. This is followed in Part II by an extensive examination of what kind of law may be taught as evidenced by the provision of G.C.E., G.C.S.E. and alternative syllabi. Methodology, and pupil perceptions are discussed in Part III, whilst the possibility of truly professional teaching of Law at school level is examined in Part IV. In the final Part, an attempt is made to decide whether Law in schools is - or should be - an end in itself or merely a stepping stone to further study of the subject at a higher level. Finally, the Epilogue seeks to answer to the question as to whether Law has a future as a school examination subject.

An Investigation into the History and Practice of Teaching Law as an Examination Subject in Schools.

Geoffrey Daniel Underwood

M.A. in Education

University of Durham

School of Education

1988

Table of Contents

Declaration

No material contained in this Thesis has previously been submitted for a degree in the University of Durham or any other University. No part of the Thesis is based on joint research.

Statement of Copyright

Prologue

Prologue

This Thesis seeks to investigate the teaching of Law as an examination subject in schools. The burden of the enquiry is concerned with the practice of such teaching at the present time for, unlike more traditional school subjects, Law in schools does not really possess a "history" in the sense that it has been a recognised separate ingredient of even a substantial miniority of secondary timetables over a prolonged period of years.

Law may, however, claim to have been taught in schools for many years, indeed many centuries, as a component of other timetabled subjects. Recent research[1] indicates in fact that this is still the most common method of teaching law in schools and serves to underline the common ground between subjects. Law is and has been taught under a number of different guises, the most indentifiable, perhaps, being Politics or Civics[2] and History. Surprisingly, Law is found as an element not only in Social Studies or General Studies, but also in Sociology, Religious Studies[3] and even English.[4] It is also to be found in Careers Lessons and increasingly nowadays in Business Studies courses.

It is, though, as a significant element in Civics that Law has been taught over the years. Its history in this respect is old indeed, for Plato in his 'Laws'[5] speaks of the "education in virtue from youth upwards, which makes a man eagerly pursue the ideal perfection of citizenship and teaches him how rightly to rule and how to obey". More than two thousand years later,[6] Rousseau continues the concern with citizenship, distinguishing three phases of education: natural; social or moral; and civic or political, and pointing the third in his - 'Emile'. Rousseau emphasises the civic aspect of education more strongly in his 'Considerations of the Government of Poland' virtually equating 'civics' with confessional nationalism.

Law has, however, at least at certain times in the history of English Education, apparently been accepted as a subject in its own right. In his discussion of the educational doctrines of Sir Thomas Elyot,[7] Rusk comments: "At the age of seventeen" (i.e. our 'A' level age) "the pupil is considered ripe enough to pass to the study of philosophy, which Elyot maintains should continue till twenty-one years of age.[8] He protests against the early specialisation in law, which at that time

seemed common, maintaining that the general training in philosophy would ultimately be more profitable". It is clear from these comments that Law was viewed in the Renaissance period, not merely as a subject which should be available for a pupil to study, but as an area of knowledge it was perfectly normal, indeed "common" for him to pursue. The study of Law in the early fifteenth century doubtless owed something to the ideas of Plato which the re-birth of learning was again making fashionable, but it is interesting to note that Law was taught at this period not only as part of civics or politics, but as a recognised and separate discipline.

Today Law is again taught in schools as a subject in its own right. It is taught, such being its nature, for examinations set by commercial and industrial or business orientated bodies[9] as well as for examinations set by academic authorities such as the Boards responsible for the General Certificate of Education and the new General Ceritificate of Secondary Education Examining Groups. Even these modern Law syllabi have a respectable history going back over one hundred years.[10] It is unfortunately impossible to know when these Law subjects were first taken by pupils in schools, as opposed to further education colleges and institutes, as separate records were not kept initially. Law has been available as a G.C.E. subject since the late 1950s and even if teaching was not provided in schools in the early years, it is not impossible that pupils, following a pattern customary in other subjects, attended such courses at a nearby further education college while remaining on the school register. Certainly, pupils have been taking Law as a G.C.E. subject in schools for at least twenty years, possibly upto thirty. Nor are G.C.E. Boards unwilling to take their responsibilities as validators of school examinations in Law seriously. A.E.B. for example, submitted proposals to the Schools Council in the late 1970s detailing its response to the suggested replacement of 'A' levels by 'N' and 'F' levels.[11]

Law is part of the environment of every man, woman and child in the land. The hermit, the recluse, the member of an enclosed Order,[12] may, perhaps, safely ignore this environmental element; few others may sensibly do so. It would, no doubt, come as a surprise to many citizens to learn that, probably every day and possibly several times a day, they enter into fully binding contractual agreements, for it is not possible to buy a bar of chocolate, a penny stamp, a bus or train ticket, a gallon of petrol, or indeed any other commodity, without entering into

a contract. Often, of course, such transactions will be straightforward and trouble free, but there are always those that are not and in these situations even a rudimentary knowledge of contract law could well save both inconvenience and expense. It would also prevent a would-be customer demanding that the shop or store in whose window or on whose shelves he has seen an article with an incorrectly marked price, sells him that article at the price marked.[13]

Unless, however, Law can be taught sufficiently deeply and that generally means as a separate subject discipline, rather than as part of Social or General Studies or the like, it is surely better not to teach it at all. A little knowledge is as dangerous here as in any other area and arguably more so than in some subjects. It may not be too calamitous to misinterpret a poem or a sonata: to believe that an action may be safely taken when, in fact, it is attended by criminal liability, could be rather more unfortunate.

Footnotes

1. By Dr. G. Vorhaus in Hillingdon Secondary Schools. Quoted in Part 1.

2. Also known as British Constitution or Citizenship.

3. The Ten Commandments are the most obvious but not the only example.

4. E.g. through the study The Merchant of Venice and similar texts.

5. Quoted by Robert Rusk in The Doctrines of the Great Educators 2nd Ed.

6. Plato lived from 427-347 B.C., Rousseau from 1712-1778.

7. 1490(?) - 1546. The doctrines are contained in Elyot's 'Governour' which was dedicated by him (perhaps wisely) to the most famous (or infamous) Tudor Monarch. It was, in fact, the first work on education to be written in English.

8. Presumably under a Tutor rather than at school.

9. R.S.A., L.C.C.I., B.Tec.

10. The Royal Society of Arts was established in 1762, the London Chamber of Commerce and Industry in 1888. R.S.A. Com. Law - 4/1905.

11. In its submission to the Schools Council, A.E.B. suggested two papers; Paper 1, lasting for three hours, containing essay questions, followed by Paper 2(a), applicable to 'N' candidates only, lasting for $1\frac{1}{4}$ hours and containing compulsory questions based on the study of documents available only in the examination room, and Paper2(b) containing compulsory questions based on documents, circulated two months in advance, concerned with legal cases and with recommended background reading. This paper would last for 2 hours. Report of the Social Studies Syllabus Steering Group to Joint Examinations Sub-Committee of Schools Council, April 1977.

12. He or she would be concerned with the Rules (Laws) of his/her Order of course.

13. There is a legal distinction between an offer and an invitation to make an offer - an invitation to treat. The case of Fisher v Bell (1961), decided that goods displayed in a shop window are not normally offered for sale, but rather constitute an invitation to anyone so minded to enter the shop and make an offer to buy at the price indicated, which maybe accepted or rejected by the proprietor. It is possible that the statement of an incorrect price may violate the Trade Descriptions Act (1968) and thus constitute a criminal offence.

PART 1

How Appropriate is it to teach law in Schools?

Part 1

How Appropriate is it to teach law in Schools?

The initial response of an educationalist[1] to whom the subject of this thesis was communicated was to express a fear that to teach law in schools might make pupils "too legalistic" though he did concede that they would also benefit practically from knowledge of the law. The point must be taken - the main attraction for learning law in the eyes of some pupils is, undoubtedly, that it enchances their ability to defend themselves against the world.[2]

It is not possible to answer the question which forms the title of this part unless the purpose of teaching law in schools is first made clear. The inclusion of law on a school timetable may, it is suggested, be justified on one of two grounds. Either it may be offered as a valuable component of a general studies course or it may be included as a compulsory/optional academic subject. The former usually ensures that legal study, albeit at a fairly basic level, is undertaken by a relatively broad proportion of the school population, possibly even by every pupil; the latter necessarily restricts the study of law to those wishing to pursue that study for examination purposes. It is, of course, possible that both alternatives may be offered in the same school. With 'General Studies Law' as it may be termed this study is not primarily concerned, though useful objectives are undoubtedly achieved within that framework - assuming that the calibre of pupil present allows the session to be more than a rights symposium.

In 1978 a Report[3] 'Sixth Form Education in the Schools of Wales', based on the observances of inspectors after viewing VIth form curricula noted that students specialised in the sixth "because of market demand of universities and other higher education establishments, but open VIth forms where students are not aiming at qualifications for entry to higher education will, no doubt, tend to encourage a greater degree of flexibility in the matter of subject choice".[4] Sixth forms, together with tertiary colleges, have undoubtedly become more open in the period following this Report in the sense envisaged by the Inspectors;[5] a vocational orientation may, though, have taken over to some degree from an academic one. Certainly, it is a confessed aim of the Technical and Vocational Educational Initiative[6] that "more young people achieve qualifications of direct value at work" during their

full-time education[7] and in an article in 'The Times' dated 6th August, 1987. 'The Challenge that Britain can meet', the Secretary of State for Education and Science draws attention to various initiatives designed to foster contact between education, and industry and commerce. Most of Mr. Baker's article is devoted to such contacts between post secondary education and the industrial/commercial world e.g. sponsorship of undergraduate and postgraduate places by industry, and the article as a whole emphasizes science and business as a desirable magnet to which education of a vocational nature should be drawn. The minister does, in addition to reminding readers of the appointment of Schools Industry Liaison Officers (Silos) by 7 out of 10 L.E.A.S., draw attention to the White Paper 'Better Schools' which "emphasized the necessity of preparing all young people for work as part of adult life" and "also emphasized that industry and commerce are among the schools' principal customers". The Education Act 1986 did, of course, provide for employer representation on school governing bodies, "which should make it easier for them to contribute to curriculum sessions".

"Sandwich Education" in respect of law has not really developed in schools. Indeed there is only one university degree (at Brunel) which, in a four year course, incorporates both academic education and legal experience. Perhaps the awards of the Business Education Council, which include a law element, can be taken at school and are acceptable for degree course entry, point the way.

It must, however, be acknowledged that not all educationalists and not all consumers of education such as employers, are happy with a vocationally orientated school education, nor, indeed, with an externally directed one. A report of research undertaken at Sheffield University for the Manpower Services Commission, under the title "Skills for the Future", indicates that employers are virtually unanimous in placing little value on vocational skills learned at school and prefer schools to offer a sound general education. The Sheffield report concentrates, however, on links between education and employment in the specific field of information technology and is not concerned with such aspects of school vocational education which involve pursuing courses at school with a view to gaining exemption, or part exemption, from professional examinations. The general move towards vocational education at school level was condemned by Sir Roy Harding, General Secretary of the Society of Education Officers, in his

address to the 149th annual meeting of the British Association. The case for such education, principally of the type envisaged in the Sheffield report, Sir Roy argued, was not proved, and, in any case, some countries are now moving away from such a policy. The debate, as with all education discussion, continues however and participants include both distinguished educationalists and concerned members of the public.[8]

The nature of law is such that its teaching can accommodate either an academic or a vocational bias as well as purely educational ones. Nor has law at either 'A' or 'O' level ever been generally stipulated as a law degree course entry requirement. Indeed, as will be noted, some law faculties[9] actually discourage the possession of a previous qualification in the subject and there now exists a possible alternative in such circumstances in the Cambridge Law Studies Test[10] - a specially designed aptitude test for would-be law undergraduates to take at school[11] which seeks to determine the existence or non-existence of the pupil's powers of analytical and logical reasoning and reading comprehension in order to indicate suitablity (or lack of it) for study of law at degree level.

Why teach law as a subject in schools? There are, it is submitted, five reasons.

Firstly, the interaction of law with life - the practical reason. This has already been referred to in the Prologue.

Secondly, the relevance of legal knowledge to specific careers.[12] The career - orientated law subjects of the Royal Society of Arts and the London Chamber of Commerce and Industry can be - and are - taken in schools with exemptions gained in respect of such subjects as commercial law and company law from professional examinations of many business related careers/professions.

The second reason for teaching law in schools is thus a vocational one. Legal executives for example, can obtain a significant part of their career qualification whilst at school by taking law subjects exempting them from the first part of their two-part professional examination[13] and all who learn law at school can utilize such knowledge in their respective vocations - an understanding of the tort

of negligence, for instance, being as useful to the roadsweeper as to the Harley Street surgeon.

The third reason for teaching law in schools stems from its quality as an academic discipline, certainly at 'A' level and equivalent standards, but also - though, of course, to a lesser extent - at 'O'/ G.C.S.E. level. Moreover, law possesses the distinction of being equally suitable for study by those whose primary inclination is either to the arts or to the sciences and can therefore provide valuable evidence of academic ability beyond the narrow confines of these specialist areas. Indeed, the qualities of reasoning, both analyticical and logical, and of reading comprehension which the Cambridge Test indicates are de rigueur for the study of law and the existence of which it seeks to establish as a pre-requisite for entry to a law faculty, can be manifested equally by the actual study of law.

If one stage of education is meant to prepare the pupil for the next e.g. primary for secondary, secondary for further and higher education, then it is incumbent on secondary schools to provide within their curricula for law as much as they do for other principal subjects which their pupils may wish to study at post-secondary level, be this at university or polytechnic or at a college of further or higher education. Certainly the numbers of secondary pupils going onto read law at university alone[14] would seem to justify including law on the secondary timetable, without taking into account the extensive post-secondary law provision of the further and higher education colleges.[15] It will be appreciated that this fourth reason for teaching law in schools contains elements of the first three.

There is, it is submitted a final reason for teaching law as a school subject, which though considered last is certainly not least in importance. One may read works of Shakespeare of Dickens because these are "set books" for an examination - an academic reason, or because, as a would-be writer, it is hoped to glean some insight into the art of writing - a vocational reason, but equally one may read Shakespeare or Dickens for what may be described as purely educational purposes and it is this practice which constitutes the fifth reason for teaching law in schools - because it is, in its own right, educational.[16] Indeed, the study of law is in itself an education in the sense that it charts the development of society, examines its needs, delineates its conduct and,

especially in the study of cases, reveals the faults and foibles of its citizens.

Most, possibly all, of these reasons will exist to justify the timetable provision of law in respect of each individual pupil taking advantage of that provision. Certainly the stricture advanced by a senior local education inspector[17] that when people talked about education and training, he shrewdly suspected that for some it would be education and for others it would be training, cannot, with justice, be applied to the teaching of at least those law subjects which are both vocational and - as all are - educational.

In his famous work, 'The English Constitution', Walter Bagehot argued that there is a case for a full scale monarchy and a case for no monarchy at all, but stated that no case could be advanced for a monarchy unable to maintain its prestige, and this illustration of legal philosophy can be applied to law teaching in schools - if the subject cannot be taught well then it should not be taught at all. This indeed was the theme of a recent address to the Association of Law Teachers.[18] Accordingly to the speaker, Miss Patricia Leighton,[19] schemes to involve law in main stream education have failed miserably.[20] Miss Leighton suggested that, as with French teaching in primary schools, the lack of infrastructure could be the reason for this. Significantly, at least in connection with the view that law in schools should be found on the secondary timetable as an examination subject, Miss Leighton advocates law as a subject for serious study. "Law teaching should not be on a level with a 'know your rights' course", she says.

Although it is probably more true of law than of most subjects that a little knowledge is dangerous and one should "drink deep or taste not", it would be neither realistic nor profitable to prohibit all law study other than full scale examination courses. Learned bodies such as the Law Society provide material for schools intended for use in general studies groups and matters of law arise in other lessons, most often in social studies. The chief objection to these law sessions is that they are almost always taken by teachers lacking even an elementary qualification in law.[21]

Footnotes

1. Ex University Professor and joint founding trustee of Leicester Grammar School.

2. The interest of some pupils in a General Studies Law Section once taught by the writer lay chiefly in ascertaining the maximum penalty for particular crimes!

3. H.M.S.O. 1978 P. 38.

4. Echoing, inter alia, the recommendations of the Crowther Report, though this was confined to England.

5. To the extent that qualification for entry to many VIth forms seems to be identical with that said to be required for the New Jerusalem ("And all who would might enter in and no-one was denied"). 'The Holy City'.

6. Launched by Mrs. Thatcher in the House of Commons, 12/11/82.

7. Vocational education is not a new idea. In his 'Laws', Plato stated, "They (the young) should learn beforehand the knowledge which they will afterwards require for their art. The teacher should endeavour to direct the children's inclinations ..... to their final aim in life". There are many later examples e.g. Richard Dawes; F.W. Sanderson-"Adult life should not be a breaking away from school, but a continuation and a development of school". This foreshadows the Hadlow Report. Schools are again encouraged to participate in active preparation of pupils for future careers. Courses concerning links between schools and industry/commerce are regularly advertised in 'The Times Educational Supplement' e.g. for a Diploma of Warwick University 11/10/85) and a Surrey University Diploma 18/10/85. Schemes also exist whereby teachers may work for short periods in e.g. banks in order to help them to prepare their pupils for the world of work.

8. As, for example, at Trevelyan College, Durham, on 1st October, 1987, when Radio 4 broadcast an 'Education Special' programme under the apt title: 'Education - the Priorities'.

9. E.g. Manchester.

10. Set and examined by Cambridge Local Examinations Syndicate: first examination, June 1987 after trials at seventeen universities. No special teaching or preparation is required for the Test, "apart from the chance to get to know and try out the different types of questions, using sample material." See Appendix.

11. After one year in the VIth.

12. A recent article in the Daily Telegraph lists more than a score of occupations in which such knowledge is required. 'The Law Degree as a level to enter other fields'. Joan Llewelyn Owen D.T. 15.12.80.

13. It is now possible to take the whole of Part 1 of the relevant examination before seeking employment in a solicitor's office,

though it is exemption - giving subjects which are likely to be taken at school, rather than the whole examination as such.

14. In recent years the proportion of Oxford Undergraduates reading Law, which is not a "normal" school subject was 9% compared with those reading Geography, a universal school subject - 3%. Undergraduate Prospectus 1983/84.

15. For a large number of diplomas and certificates required by accountants, secretaries, bankers etc. Against this background, the omission of law from Mr. Bakers' proposed national curriculum seems difficult to justify. Minority subjects, such as music, are included.

16. The need for legal knowledge such as that which an educated person ought to possess is graphically illustrated in a research report of juveniles' legal knowledge published in 1984 by Hillingdon Legal Resource Centre. It is aptly entitled, 'Ignorance of the Law'.

17. Mr. H. Cunningham, Senior Inspector, Staffordshire. The comment was part of an address to the A.M.M.A. conference in 1983. Conference Report: 'The Way Ahead for 16 year olds' P. 26.

18. London 1984.

19. Principal Lecturer in Law at the Polytechnic of North London at the time and currently Reader in Law, Essex Institute of Higher Education.

20. The replacement of 'O' level law by G.C.S.E. law may help to remedy this miserable situation in view of the 'geographical' nature of the new Boards. The fact that law is offered by the area examining board e.g. London and East Anglian Group or the Southern Group as a school examination subject alongside all the usual school examination subjects, could well encourage the acceptance of law as a "normal" school subject. Certainly, the old prejudice against teaching law at 'O'/G.C.S.E. level seems to be fading. As the Oxford Local Examinations General Report 1980 states, "There is a view that law is not suitable for 'O' level, but the evidence of the scripts is that, for many candidates, it is already providing a stimulating course".

21. Unfortunately this objection may also be levied in the area of 'O' level teaching as it is known that teachers undertake law teaching at this level (and even at 'A' level) without formal qualification. To quote the Oxford Report again, "Some centres, presumably those with specialist teachers (but not necessarily only those) are outstandingly successful." Specialist training of law teachers could ensure that more centres are outstandingly successful and this is dealt with in a later chapter.

PART 2

What can be Taught?

PART 2

What can be Taught?

PREFACE

It is proposed to answer this question descriptively and analytically rather than prescriptively, to limit consideration, that is, to the contents of existing syllabi upon which presently available courses are based. In one sense, of course, anything can be taught that can be learnt, but that would call for a definitive consideration of the world's jurisprudence.

The most commonly taught law syllabi in schools are those provided by the Examination Boards concerned with offering courses for the General Certificate of Education - or rather by some of those Boards, for of the eight Boards serving England and Wales, only half provide G.E.C. courses in law at present, though a fifth Board - London - intends to provide such courses from 1986 for candidates in this country, corresponding courses for overseas candidates having been offered by the Board from 1985. Even among the Boards offering law, there is no parallel provision, for while all five boards offer the subject at 'A' level, only three do so at 'O' level as well.

The five Boards (London will become fully operational in this field during the currency of the period of research for this thesis and will, therefore, be included in these chapters) comprise three University Boards (Oxford, London, and the Northern Universities (Manchester, Liverpool, Leeds, Sheffield, Birmingham) Joint Matriculation Board) and two non-university Boards (the Associated Examining Board[1] and the Welsh Board). All five Boards, as stated in the previous paragraph, offer syllabi (including, as will be seen, a number of optional courses) at 'A' level, but the two non-university Boards and Oxford, offer the subject at 'O' level as well. There are, it is submitted, good reasons to be advanced in defence of either practice.[2] It is interesting to note that A.E.B. and the Welsh Board introduced 'O' level syllabi after establishing their 'A' level courses, whilst Oxford introduced both 'O' and 'A' level together.[3]

Footnotes

1. A.E.B. offers two separate 'A' level law subjects.

2. The difficulty of the subject and impossibility of simplification on the one hand; the desirability of SOME introductory material on the other.

3. The courses are : A.E.B. 'A' level:1958; 'O' level, 1962 the Welsh Board 'A' level:1969 'O' level:1972 Oxford 'A' and 'O' levels:1974.

Chapter 1

Oxford 'A' Level

The University of Oxford Delegacy of Local Examinations offers four three hour papers at 'A' level, of which two, one compulsory, one optional, must be taken by 'A' level candidates. The compulsory paper is set on the English Legal System (an examination feature Oxford shares with three of the other four Boards - the fourth A.E.B., being, literally, a law unto itself). The second, optional, paper may be any one of the three offered by the Board - the law of contract, criminal law and constitutional law. Contract law and criminal law are also offered as separate, full-length papers by J.M.B. and appear as components in the normal 'A' level syllabi of all the other Boards. A.E.B. offers Constitutional Law as a second 'A' level law subject.

Unlike the remaining four Boards, Oxford does not preface its 'A' level law syllabi with a list of aims and objectives. To the extent that a subject is being offered that is both familiar in content and well established academically, it is not, perhaps, essential to define expressly either the aims of the objectives, for both would appear to be implicit in the nature of the offering.

Oxford's English Legal System Paper encompasses five important areas of the country's jurisprudential provision - sources of law; courts; judiciary; the legal profession; the penal system.

The first sub-division, sources of law, lists "legislation and interpretation, the doctrine of precedent, equity, other agencies of law reform". The coupling of legislation with interpretation emphasises that an Act of Parliament is only law, as opposed to being a source of law, on a superficial level, for a statute exists only in its interpretation by a court of law.[1] The doctrine of precedent, under which a court is bound by a decision of a higher court in a similar previous case (and may follow a decision of a co-equal or lower court here or any commonwealth or American court), is a cornerstone of the English Legal System and introduces the student to the element of certainty in the law, whilst the study of equity acquaints him with the concept of justice and its relationship with law. The final item in this section "other agencies of law reforms", apart from categorising equity as an agency of law reform, which, whilst initially true, is of doubtful accuracy today,[2] indicates, perhaps more than anything else,

the vitality of the English Legal System. This is because agencies of law reform include not only formal bodies such as the Law Commission, the various advisory committees and Royal Commissions together with the semi-formal bodies such as the British Legal Association, but also pressure groups ranging from the Howard Legal for Penal Reform to those of the "Joe Bloggs is Innocent" type and including S.T.O.P.P. (the Society of Teachers Opposed to Physical Punishment). Here is an opportunity, then, for real citizen involvement in the process of law reform and a practical reason for teaching law.

Courts of law form, of course, an integral part of any legal system and their consideration forms the second of the five sub-divisions of Oxford's Paper 1. The first instance and appellate courts, both civil and criminal, are required to be studied, but only criminal trial procedure, the theoretical study of which Oxford suggests should be augmented by court visits. If the syllabus is not to include both criminal and civil modes of trial, it is not apparent why criminal should be preferred. It might indeed be thought that, on the ground of possible personal involvement, the preference should go the other way. Recourse to European courts, whilst of more than passing interest, is not of such practical importance as a knowledge of administrative tribunals, which are listed to be dealt with in outline only.

The appointment and tenure of judges and magistrates is not likely to be matter of more than academic importance, save to those students who eventually find themselves on one or other bench, though the concept of judicial independence, the final item of the third sub-division, should be of concern to all. It is, perhaps, appropriate to observe here, that the elements of the English Legal System paper of general constitutional importance - an example is the concept of judicial independence just referred to -are to be found not only on similar law papers, but also on papers for examinations in politics, civics, public affairs/adminstration and the like. This overlapping of subject syllabi is, given the nature of the subjects, inevitable. It does serve as a reminder that legal concepts are taught in subjects other than law.

The first 'A' level optional paper offered by Oxford - Criminal Law - is also offered as a complete paper by J.M.B. (as an alternative to a contract law paper) and appears as a component in the syllabi of

the other three Boards.

Oxford's Criminal Law Paper is divided into five areas, the first, described as a "general part" deals with the characteristics of crime, principles of criminal liability (mens rea and strict liability) and defences. It is reasonable to suppose that characteristics of a crime should include definitions of a crime, but sources of crime and classification of criminal offences would appear to merit inclusion in this area.

Methods of participating in a crime through accessory or vicarious liability and the responsibilities of corporations and children in this area form the next category of the syllabus. Consideration of the liability of children for crime is of obvious relevance to teaching law in schools, though whether wide diffusion of the knowledge that some children (those below the age of 10) have no criminal liability at all, is a service either to the law or to education is, perhaps, a moot point.[3]

Incitement, conspiracy and attempt, which Oxford refers to as "preliminary crimes" are next considered. The first two of these preliminary (also known as "inchoate") offences may be oral only[4] - it would doubtless come as something of a surprise to many pupils to learn that crime does not have to be physical and it would be a valuable contribution for law teaching if this fact alone were more widely appreciated. How often have school gangs agreed to devote their attention to some unfortunate object of their hate without realising that they are thereby committing the criminal offence of conspiracy? Again, how often has a parent - or even a teacher - suggested that son or pupil should hit some nuisance or other without realising that he is committing the crime of incitement - and making himself liable as an accessory to the incited crime, if it is carried out, into the bargain!

Subsections four and five deal with offences against the person and against property respectively.

Homicide, assault and battery, wounding, and grevious bodily harm comprise the offences against the person required to be considered. There is a note stating that sexual offences are excluded. There are arguments in favour and against their exclusion, but sexual offences

are to be found on the only other full-length criminal paper offered at 'A' level - J.M.B. Option A. Knowledge of the nature of assault and battery should, it is submitted, be part of every citizen's armory not, of course, so that he may indulge in them, but so that he may not- and so that he may know when others are. Knowledge of the more serious crimes listed, whilst not of such general importance, may still possess practical relevance. What is Tommy's responsibility in law for the death of Mandy one dark Guy Fawkes night when she picks up his carelessly discarded firework and suffers fatal injuries?[5]

Oxford's offences against property, its final criminal offering, are theft, robbery, burglary, obtaining property or a pecuniary advantage by deception and blackmail. As with other crimes - as indeed with other aspects of law in general - the point of learning about them, in practical terms, is so as to be able to direct one's activities along lawful and constitional paths. [6]There will always be those whose purpose in ascertaining the law is to obey it in the letter rather than the spirit, to ensure that their dubious activities are technically within the law, however far outside they be morally, but perhaps even that may be part of the justification for teaching, in this case, criminal law. The legitimate purpose a knowledge of criminal law serves is to enable a citizen to know, for example, why it is perfectly lawful for his wife to pick wild flowers from her local park to make a table decoration for her own table, but a criminal offence if she intends to sell the table decoration to a friend for a few pence to donate to her local hospital.

Oxford's second optional paper is entitled "The General Principles of the Law of Contract", J.M.B.'s contract law paper is simply called "Law of Contract" - there is not much difference in content.

Although Oxford's contract law paper syllabus is subdivided, it would seem that the arrangement of items under each subheading is somewhat loose. The syllabus contains a list of the elements of a contract - de rigueur for any contract law syllabus from 'O' level G.C.E. upwards: offer, acceptance, consideration, intention to create legal relations, capacity. Lawfulness of object, often listed as a separate element is left to be dealt with under one of the vitiating factors - illegality; reality of consent is dealt with under another - mistake. Promissory estoppel is mentioned in the same place as consideration, thus emphazing the connection. This list of the elements normally to

be found in a contract (consideration is not required in a contract by deed), is in practice a convenient check-list to establish the existence of a contract but the list is only a guide - the courts have been known to find a contract existing in situations where they feel one ought to exist - in De la Bere v Pearson (1908), for example, whether each and every of the listed elements appears to be present or not. In view of the very great importance of this area of law in everyday life, much trouble and expense could be saved if the law of contract were more widely taught in schools.

Once a contract has been shown to exist, its terms are clearly important and these next fall to be considered in Oxford's contract paper - express and implied terms, conditions, warranties and *innominate*[7] terms, exemption clauses. From a practical point of view and thus in a teaching/learning context, it is important to be able to distinguish major terms (conditions) from minor terms (warranties), as the former will allow the victim of their violation to treat the contract as at an end, while the latter will merely permit an action for damages. The consideration of exemption clauses illustrates the practical nature of contract law as well as the desirability - almost the necessity of learning it, for an exemption clause (or exclusion or limitation clause - the names are, in practice, interchangeable and equally descriptive) can be almost as important as the contract itself. If, for example, a motorist pays to enter a car park or a traveller books into an hotel and discovers after he has parked his car or gone up to his room, a notice disclaiming liability for theft from car or hotel room, the validity of the notice i.e. the exemption clause, will be of vital significance. It is likely, at least in a major hotel, that the manager will know something about this area of law, an equally adequate knowledge will be acquired by his guest who has studied 'O' level law. The doctrine of fundamental breach (the doctrine has been re-thought in recent years) now allows an exclusion clause to exclude, in some instances, virtually the whole of one's liability under a contract. If, for example, a security firm agrees to look after premises during the time they are not in use, it may exclude liability for acts of its own employers. If, therefore, a patrolman causes a fire in the premises he is supposed to be protecting, by a carelessly discarded cigarette, which burns the factory or office block or whatever to the ground, the security firm may well escape liability under the contractual agreement made between it and the owner of the premises for the purpose of ensuring the safety of

the premises![8]

Vitiating factors (matters which may cause a contract to be void (a contradiction in terms, of course) or voidable) are to be found on any contract syllabus - mistake, misrepresentation, duress, undue influence, illegality. The areas of mistake and misrepresentation in particular are vital to the operation of the law of contract and should be within the knowledge of the citizen who has studied even 'O' level law.

Oxford's contract law syllabus concludes with "frustration and other modes of discharge" and "remedies". Frustration concerns the impossibility of carrying out the contract and a contract may be discharged simply by agreement. Remedies may be more important than defences - so often the question is asked "What can I do about it?".

Oxford's third and final option is Constitutional Law, the actual title being "The Outlines of Constitutional and Adminstration Law". Oxford is the only Board to set a paper on Constitutional Law, as such, as an option in its "normal" A level law subject, though it appears in various guises on the other Boards and A.E.B. has, as has been noted, a separate 'A' level subject syllabus in Constitutional Law. In its "normal" 'A' level syllabus, A.E.B. offers an option in Civil Liberties and two of the four options offered by the Welsh Board traverse the ground covered by Constitutional Law, Section C dealing with Civil Liberties and Section D with Public Order and Law Enforcement. London has a topic entitled, "The Citizen and the State", one of five available topics, of which three must be selected for study. Constitutional Law has, of course, much common ground with Politics/British Constitution, so much so, in fact, that the two subjects may not be counted separately for purposes of university matriculation.

The syllabus opens with consideration of the nature of the constitution. The British constitution is, of course, largely unwritten, though it is, in part, to be found in statute law and, to that extent, is obviously in written form. Constitutional Law and Constitutional Conventions are next considered. The uncertain basis on which a Convention is founded - when does a convention become a Convention? - does tend to make this a less exact branch of legal science than other areas. Central alike to Constitutional Law and legal subjects in general is the Rule of Law. Some countries (the United States of

of America, for example) have "constitutional" laws and "constitutional" courts, this country has neither, the law that applies to constitutional matters is the law that applies with equal force to all others. The next concept, Sovereignty of Parliament (including the implications of E.E.C. Membership and of devolution), is closely associated with the Rule of Law in so far as the legislature, in this country, has complete freedom to decide what the law is - it may amend or repeal a statute guaranteeing the freedom of the individual - the Habeas Corpus legislation, for example, - with the same ease as an Act dealing with game. A law passed by Parliament cannot be unconstitutional.

Discussion of Prerogatives of the Crown can be both interesting and protracted. The absence of the certainty provided by a written constitution is felt particularly in this area. In theory at least the prerogatives of the Crown are very wide, for many of them survive in form unimpaired from earlier centuries - Dicey in his "Law of the Constitution" refers to the royal prerogative as "arbitrary authority". Examples of this authority are the power to dismiss ministers (including the Prime Minister)[9] at will, to create peers at pleasure (and thereby alter the political composition of the Upper House of Parliament); the ability to declare war and control the Services (legally under the ultimate command of the sovereign) and to make treaties with foreign powers. In practice the exercise of the royal prerogative is tempered by Constitutional Conventions and part of it is, in practical terms, exercised by ministers. The extent to which this is the case is considered under the heading "ministerial responsibility".

The syllabus next invites consideration of the constitutional position of the police. Exactly what this is does not appear to be universally agreed. It now seems to be finally clear that a policeman or woman is not a Crown servant, but for certain purposes he or she is undoubtedly an officer of the Crown - the Official Secrets Acts certainly regard him or her as being a person holding office under the Crown. Whatever he or she is, it is more than a citizen in uniform, although technically before the advent of the Crown Prosecution Service, the police prosecuted as private citizens. Police powers, of arrest, for example, are greater than those enjoyed by ordinary citizens.

It is hardly suprising that the syllabus should make reference to "fundamental freedoms (including the implication of the European

Convention on Human Rights)". Any democratic constitution must safeguard basic rights and freedoms and this falls within the purview of "The principles of judicial review of delegated legislation and administrative action" and "the remedies of administrative law".

The double title of this area of law is a reminder of the extent both of its content and of its importance, for the subject ranges from consideration of the powers of the monarch and the sovereignty of Parliament, to the granting or with-holding of planning permission for Mr. Citizen's loft conversion. In an immediate sense, the latter may be more important to him, and a useful topic to have learnt at school.

The final topic on Oxford's Constitutional Law syllabus is, "the role of the ombudsmen". These are Scandinavian inspired "watchdogs" at central and local government level, but without the powers of their exemplars - the Parliamentary Commissioner (the national ombudsman) can act only in matters referred to him by a Member of Parliament.

Footnotes

1. Until such time as it is, it is not without effect of course, as conduct will be adjusted in relation to it. This can only be, though, on the basis of personal interpretation.

2. Equity was originally an open-ended means of remedying the harshness of the common law writ system. The application to Equity of the qualification of precedent dates from Lord Ellesmere's Chancellorship (1596-1617) and this restriction has been emphasised by subsequent Chancellors.

3. The virtue of divulging the knowledge that childern aged 10-14 are or may be less liable for crime that those above 14 may also be doubted. Both groups may, however, be aware of their privileges.

4. It is possible to conceive of the third as being.

5. Possibly he would be guilty of manslaughter through criminal negligence.

6. There is, of course, always the quest for legal knowledge for its own sake.

7. Innominate terms may be either conditions or warranties.

8. Photo Production v Securicor Transport (1980). It is always possible to sue the patrolman in the tort of negligence but probably unprofitable. If he were acting in the course of his employment, the employer could be vicariously liable. Criminal liability could exist.

9. A fairly recent example being the dismissal of the Australian Prime Minister E.G. Whitlam by the Governor General.

Chapter 2

J.M.B. 'A' Level

The 'A' level law syllabus of the Northern Universities Joint Matriculation Board includes material for the six-hour examination (arranged in two three hour papers) common to all five Boards. Unlike the other Boards, however, J.M.B. emphasises that the syllabus is concerned with English Legal institutions and legal methods. The caveat might be appropriate - though surely unnecessary - if limited to the compulsory paper (dealing with our national legal system), but to apply it to the entire syllabus which includes papers on substantive law (in J.M.B.' s case, Criminal Law and Contract Law), seems incomprehensible.

J.M.B. follows the usual practice of stating the aims and objectives of the syllabus - though in the case of A.E.B. the former are in the singular as are, in effect, J.M.B.'s, though expressed in the plural. The aim of the J.M.B. syllabus is to enable centre-devised courses designed to inculcate sufficient knowledge of the rules, concepts and operation of the English Legal System (by which is meant the entire syllabus), to enable the following to be understood:

a) the structure and workings of courts and tribunals and the operation of legal processes for administering justice and settling disputes;

b) judicial method and reasoning;

c) the nature of common law and its statutory supplementation;

d) the nature, classification and application of legal rules; and

e) the rules and principles of either Criminal Law or the Law of Contract, their history and present relevance.

The section on aims concludes with the statement that "courses should be complete in themselves and available to candidates whether or not they intend further study of the subject as an academic discipline."[1] Surely any examination course is "complete in itself", if it is adequately taught - and it seems hardly conceivable that a school would deny a pupil the opportunity to take an 'A' level subject at school because he did not intend to read it at University.

J.M.B.'s objectives seek to test five attributes of the candidate, knowledge, understanding, application, evaluation, and expression. The available marks are to be divided among the first four areas and the

allocation is precise: 30 per cent for knowledge, 20 for understanding and 25 per cent each for application and evaluation. Whilst all of these are to be expected at 'A' level and taken into account in the marking of 'A'level scripts as a matter of course, it cannot always be easy to achieve an exact percentage balance. The fifth area, expression, does not attract classified marks but is considered a pre-requisite to the attainment of the other four.

The compulsory paper, the English Legal System is divided into three broad areas: Institutions of the English Legal System; Legal concepts and methods of legal reasoning; and the operation of the legal system. The content of each area is listed in the syllabus, together with appropriate amplification.

The first institution is the Common Law System of which the general characteristics are required to be taught. As common law was in existence before statute law or case law it is an appropriate topic on which to build a pupil's knowledge of the English Legal System. The general characteristics are considered.

Much of the material contained in the next two topics - Parliament and Government, will be found also on the syllabi of such subjects as political studies (British Constitution, public affairs, citizenship etc.), but the common ground between these subjects and law has already been noted. In connection with Parliament, sovereignty; supremacy; legislative functions and processes are considered. Whilst the functions of the legislature are of considerable importance, they are rather wider than that of law-making, the only one, it might be thought, which is directly relevant to a law syllabus. The topic of Government includes delegated legislation (possibly more appropriately dealt with under Parliament); administrative justice (can justice be qualified?); government according to law; the Lord Chancellor and the law officers of the Crown.

The third topic of the "institutions" section, "The Court Structure and Appellate System" is perhaps the most interesting one to a lawyer, though, in the experience of the writer, one of the least attractive to students. The composition jurisdication and relative burden of work of the civil and criminal courts provides the detail of this title. This is an aspect of the English Legal System in which it is possible, through means of public access to court public galleries, to involve the adult

and the embryonic citizen in a practical way, for here law is taught "in situ". The final items grouped under this topic - "Relationship of the courts to the legislature and executive" and "The Judiciary and Magistracy; their constitutional position, selection and composition" fall readily to be discussed in relation to the arguments of Dicey and Montesquieu concerning the separation of powers within the state (executive, legislature, judiciary) and would therefore seem more political than legal in nature.

Statutory tribunals are next considered, their development and the present system, with appeals; review; courts' attitude to ministerial discretion (presumably in regard to appointments and kindred matters); the Council on Tribunals and 'Ombudsman', the national one - otherwise known as the Parliamentary Commissioner - is obviously intended. Although the system of tribunals is, in a sense, outside the court system (appeals are not often provided to the courts on matters of fact, the adjudication of which is the province of the tribunals, though appeals on matters of law may be heard by the High Court), the tribunal is more likely to figure in the life of many citizens than is the court. This is because tribunals deal with appeals against income tax assessment, social security payments, land valuation and other such matters of perennial concern to the citizen. In recent years tribunals have dealt with some six times more cases than the High Court and the County Court together. Knowledge of this area of the English Legal System is obviously not the least of the benefits of teaching law in Schools.[2]

The impact of the European Communities on the English Legal System is next considered. At this level of examination, perhaps the impact ought to be considered on two levels, the everyday practical effect of community law in the individual case (as demonstrated in the judgement in H.P. Bulmer v J. Bollinger S.A. (1974), for example) and the rather more philisophical level of the influence of different legal traditions on our own. There are those who regard the absence of a rigid system of judicial precedent which characterises the continental jurisprudential tradition as an improvement on our own stare decisis, but few would regard the lack of provision of a right of appeal from the rulings of the European Court at Luxembourg as anything other than a denial of an elemental legal right.

The influence of international law with particular reference to the

European Convention on Human Rights and the importance of treaties continue the interaction of different legal systems.

No consideration of the English Legal System could be complete without reference to the legal profession, its education, training and roles and the perennial arguments for and against a divided legal profession. This topic is one that is likely to have a practical interest for those who learn about the law, for one of the arguments in favour of a fused profession is that of cost - an argument that is not only readily understood, but appreciated, by possible future consumers.

The final topic in the Institutions section is "Offical Law - reform agencies". Mention has already been made of these and no purpose will be served by repetition. The restriction to offical law - reform agencies would seem to exclude a number of pressure groups which nevertheless achieve changes in the law - especially any achieved by proving Joe Bloggs to have been wrongly convicted.

The second section of J.M.B.'s English Legal System Paper - Legal concepts and methods of legal reasoning - the Board considers could be more appropriately taught in conjunction with other parts of the syllabus, it nevertheless lists it separately! The topic encompasses the distinction between law and fact, the legal significance of facts; case law - requiring the consideration of analogy, rules and precedent in applying case law, together with the procedures for following, overruling and distinguishing the ratio decidendi (the reason for deciding) in a previous judgement normally binding on a court; statutory interpretation and construction; rights/duties/liabilities with reference to various standards of conduct (agreed, intended, reckless, negligent and non-negligent), and the standard and burden of proof in civil and criminal law.

The operation of the legal system constitutes the final section of this syllabus and reference is made separately to a) criminal and b) civil aspects. In connection with the first 'criminal' topic - the police, consideration is given to powers of arrest, search and seizure; police questioning, the Judge's Rules[3] and the effect of non-compliance; patterns of law enforcement by the police, the use and legal position of the informant and agent provocateur, and the discretion to prosecute[4] as well as complaints against the control of the police.

Duty solicitors; bail; choice of venue; plea bargaining; the operation of the jury system, are the elements of the second criminal topic. The use of the word 'operation' in connection with the jury system immediately after a practice involving 'deals' could be considered unfortunate. The jury system, representing as it does the second major lay element in the English Legal System (the first being the lay magistracy), should be of considerable interest to school and college students and adults alike, for it offers the most likely opportunity for direct and major involvement they are, in the normal course of events, going to have presented to them. A Crown Court judge has extensive powers of sentencing (still including the ultimate penalty), but he is not able to exercise any of them (except following a plea of "Guilty") unless ordinary citizens in effect agree that he should. The trial of civil servant Clive Ponting bears eloquent testimony to this point.

Sentencing is, in fact, the next topic to be considered. The powers of magistrates/Crown Courts; objectives of sentencing, are listed for study, so, too is what the Board terms 'empirical research' into disparites in sentences; personality, and other characteristics of sentencers. Whilst it may well be true that the personality of the sentencer from time to time affects the type or severity of the sentence given, it seems to be demanding rather more than is possible if the Board expects an average 'A' level student to be capable of research into personality.[5] "Other characteristics of sentences" includes, presumably, inter alia, the opinions and beliefs - including religious beliefs, or lack of them, of the sentencer - Judge Christmas Humphreys being a case in point in recent years. The parole system and legal aid provision are the final criminal topics in this section - criminal legal aid having its counter-part, of course, in civil law.

Matters of civil concern in the operation of the legal system include the difficulty of establishing fact (even with the virtual abolition of the Hearsay Rule in civil proceedings); settlement (the vast majority of civil disputes are settled out of court); choice of proceedings and arbitration - the small claims procedure in the county court (currently involving claims of sums up to £500), follows the mode of arbitration rather than that of trial, with the County Court Registrar usually - although not necessarily - acting as arbitrator. Legal aid and advice, the unmet need for legal advice (presumably in a formal

sense), and the development of legal advisory services close both this section and the English Legal System syllabus. It is worth noting that J.M.B. ask that the emphasis, in considering the operation of the legal system "should be comtemporary and critical". The Board makes it clear that attention should be directed to the actual legal system rather than its framework, with examination of such aspects as access to the courts and problems of detention before the trial. This approach, as the Board states, is comparatively recent. It could, perhaps, be regarded as a departure from a strictly academic approach.

As already indicated, J.M.B. offers two substantive law papers. Criminal Law (Option A) and Law of Contract (Option B), of which one must be selected. In most cases, of course, this selection is likely to be made by the school (which in all possibility means the law teacher concerned), rather than the individual candidate.

The first criminal law topic is the fundamental one of "the function and scope of the criminal law". As the amplification makes clear, consideration of this topic will involve reference to other areas of law in addition to extra legal concepts. The allusion to "organised self-policing arrangements of various professions", includes, presumably, anything from the army military police to the bouncer at the local night club, with the store detective somewhere in between.[6]

The next topic, "morality and the criminal law", is one common to both substantive criminal law (if only because there still exists a crime of conspiracy to corrupt public morals) and jurisprudence, that is, legal philosophy. It is a topic on which discussion can be both productive and - like all philosophical discourse - endless.

The general principles of criminal responsibility are next considered: actus reus, mens rea, negligence, and strict liability - offences for which the act alone (i.e. without mental attitude) is sufficient. As such offences include the majority of motoring offences, it is obviously a concept that should be familiar to every citizen. Methods of participating in crime and the inchoate offences of attempt and conspiracy complement the principles of criminal liability and the general defences - intoxication (including influence of drugs); mistake; self-defence; duress; necessity; automatism; insanity; and the provisions of the Mental Health Act 1959 - possibly negate them. All are the staple

of any criminal law syllabus.

The next topic, homicide (i.e. murder and manslaughter, together with lawful homicide) and the particular defences to murder of provocation and diminished responsibility which reduce it - if successfully pleaded, to manslaughter, are also to be found on almost any criminal law syllabus. It might be thought, though, that such aspects of this topic as "the frequency and social setting of homicide" and "the relationship of the partial defences of provocation and diminished responsibility to knowledge in medicine and the social sciences" could more appropriately be included in a syllabus for criminology rather than in one for criminal law.

"Non-fatal physical harms to the person" is J.M.B.'s somewhat quaint - and somewhat vague-title of its next topic. What does it include? Assault and battery (at common law, two separate crimes) are doubtless intended to be covered, including the more serious statutory forms of assault such as assault occasioning actual or grevious bodily harm, and wounding; but whilst false imprisonment is probably excluded (though this does not necessarily follow either at all, or in every case)[7] what is the position in regard to attempted murder? One cannot but think that it would have been far more satisfactory had the crimes intended to be included been listed specifically or reference at least made in the amplification. From the point of view of the pupil or student it is useful to be aware that, as assault, battery, and false imprisonment are torts (civil wrongs) as well as crimes, the range of possible actions to their victims is quite wide.

"The special measures for the protection of battered spouses and child victims of non-accidental injury", whilst useful knowledge for the members of the population so affected, including of course pupils taking law courses, might be better included in a family law syllabus.

Unlike Oxford, J.M.B. includes sexual offences on its criminal law syllabus- rape, indecent assault, unlawful sexual intercourse, indecent exposure. Unfortunately, it is, likely that knowledge of at least some of thes crimes will prove to be of practical value to pupils/students in enabling them the better to deal with their occurrence and assisting in the apprehension of their perpetrators. The remaining elements in this topic - characteristics of sexual offenders, and problems in

in sentencing and treatment, again seem to have strayed from a criminology syllabus.

Offences against property are next considered - theft, handling, burglary, robbery, deception; all save handling are shared with Oxford. The remainder of the topic, which is certainly not shared with Oxford, consists of "economic developments and changes in the law since The Carrier's Case" together with, "the concept of 'White Collar Crime'. This latter, which refers to Sutherland's proposition that 'White Collar' offences are relatively under-prosecuted, once again indicates J.M.B.'s intermingling of criminal law with criminology, whilst the former is pure legal history. While few law teachers would deny that knowledge of recent antecedents in the particular area of study cannot but be beneficial in understanding current law, to expect 'A' level students of criminal law to learn "economic developments and changes in the law" over a period of five hundred years (The Carrier's Case was heard in 1473) seems somewhat excessive.

The next topic, Criminal Damage, for once, is undeniably criminal law - the amplification simply states that candidates should be familar with the aims and subject matter of the Criminal Damage Act 1971.

The remaining two topics on J.M.B.'s criminal law syllabus concern respectively the role of the criminal law in the areas of public order (meetings, marches, demonstrations) and race relations, both as to the law itself and its enforcement, and the measurement of the nature and extent of criminality both offically - with the limitations considered - and otherwise, together with the appraisal of the indices of crime; self-reported delinquency studies and victim studies.

The composition of J.M.B.'s criminal law syllabus may be calculated to be of wider appeal than that of its "rival", Oxford, but one can neither popularise nor liberalise without sacrificing purity of content.

By contrast with its criminal law syllabus, J.M.B.'s contract law paper would satisfy any test of purity.[8] The syllabus starts, reasonably enough, with "The function of the law of contract". The amplification makes clear that developments in the last century are expected to be known. This is reasonable enough, for the modern law of contract was refined in the nineteenth century. Contractural freedom; statutory encroachments; contracts of employment; monopoly trading positions;

contracts concerning the supply of goods and services are all considered. In connection with the formation of contracts, only offer and acceptance; intention to create legal relations, and consideration are listed, but the remaining elements of the traditional checklist, for example, capacity, are doubtless intended to be dealt with in connection with the theme of statutory encroachments e.g. the Infants Relief Act (1874) and the Mental Health Act (1959).

The nature of the terms of a contract is next considered. The distinction between conditions (major terms) and warranties (minor terms) is not always easy to draw - even by the parties themselves. In addition there may be innominate terms which could be either!

The vitiating factors of mistake; misrepresentations; duress, undue influence and absence of good faith in contracts uberrimae fidei next claim attention. The first and second of these are, in practice, the most important and emphasise the value of including the study of the law of contract in the school curriculum for both concern possible everyday transactions in adult, if not in school life. Again, as far as contracts uberrimae fidei (of the utmost good faith, for example, insurance contracts, where one party can alter the basis of the liability of the other through non - or partial-disclosure of relevant facts), are concerned, how often has Mr. Citizen been at best 'forgetful' at worst non - co-operative in completing an insurance proposal without realising that his failure to disclose all the information requested will invalidate his contract - or at least it will if the insurance company finds out.[9]

The doctrine of privity of contract restricts the taking of action on a contract to those who are party to it. There are exceptions and these are required to be dealt with. The importance of learning this aspect of contract law lies in the understanding - and possible prevention of, inter alia, the "gift situations" in which the recipient of a gift discovers some fault in the gift but cannot take it back to the supplier because of the absence of a contractual relationship between them and finds it too embarrassing to return the gift to the giver who has contractual rights.

The ways in which a contract may be discharged- performance (the usual way, of course), agreement, breach, frustration, and the remedies for breach - damages (the traditional common law remedy and the only one, therefore, available as of right), specific performance; injunction -

Limitation, in respect of simple contract debts, are the next two topics. It has been emphasised that contract law is of considerable practical importance in every day life and for that reason alone merits inclusion on a school curriculum; possibly the most important aspects of the law of contract lie in these two areas of discharge and remedy. Certainly, it is likely that it is in these areas that most anxiety is felt by the layman with questions such as, "Does my contract with X still exist? or "What can I do about X's failure to carry out the terms of his contract?" Doubtless X and Y have even continued with a contract they subsequently regretted having made because they felt that "the law" required them to do so, not realising that they could have ended it by agreement.

The final topic in J.M.B.'s contract law syllabus is a composite one dealing with contracts to supply goods and/or services and the distinction between them. The amplification makes clear that "the emphasis will be on consumer protection" thus underlining the common ground between contract law and consumer law, the Welsh Board's paper in this area being, in fact, in consumer law.

Statutory intervention - following the failure of the Consumer Law to offer adequate protection to the consumer, is detailed - the Sale of Goods Acts 1893 and 1979, the Supply of Goods (Implied Terms) Act 1973, the Unfair Contract Terms Act 1977, the Supply of Goods Act 1982 together with the Consumer Credit Act 1974.

Standard form contracts (which the citizen will be very likely to come across when purchasing a car, for example, or the pupil learning law when buying a motor cycle - or even a car!) are next considered.

Exemption clauses (or exclusion or limitation clauses) are of vital importance to the party whose contractual rights are effected by them, but as these were discussed in connection with their inclusion on Oxford Contract Law syllabus it would merely be repetitious to comment on them again.

Every contract contains express terms - those terms (or there may be just one term) - especially agreed by the parties; terms may be implied however, in addition to those expressed, either by statute or at common law. Moreover it is not always possible to exclude such terms, even if the parties so wish - or even if the parties state in their contract that they are excluded. The Unfair Contract Terms Act 1977,

for example, negatives any attempt in a Business Contract to exclude any liability in negligence for causing death or personal injury. The Sale of Goods Act, 1979, implies terms [10] into a contract of sale concerning the right of the seller to sell, the agreement of samples and descriptions with the bulk of the goods or the goods described respectively, fitness for purpose stipulated and merchantable quality.

The final section of this topic, contracts concerning goods and services, deals with unsolicited goods and services (always declinable in contractual terms and now involving criminal liability under the Unsolicited Goods and Services Act 1971 if payment is demanded), the manufacturer's liability in terms of guarantees, negligence and faulty products, unfair terms, and individual consumer protection in relation to credit and hire agreements available under statute.

Footnotes

1. The Welsh Board has a similar, but somewhat better phrased statement of aims.

2. The area, if treated in detail, could constitute a course in itself.

3. To be replaced by Codes of Practice issued under the Police and Criminal Evidence Act, 1984.

4. Under P. & C.E.A. 1984, recommend prosecution.

5. At least in the time available. Awareness of others' research may well be sufficient, however.

6. It would also include legal, medical and other disciplinary procedures.

7. Locking a person in a room might not be productive of physical harm, but what if - unknown to the imprisoner - there is a gas leak, for example?

8. In the sense that it is consonant with a strict definition of the area of law concerned.

9. Such a contract may be rescinded even for a truthful answer if the accuracy of the statements is the basis of the contract.

10. Now repeated in the supply of Goods and Services Act 1982.

Chapter 3
A.E.B. 'A' Level

The Associated Examining Board, alone among G.C.E. Examination Boards, offers two separate, distinct 'A' level law subjects. The first is the "normal" one, which includes coverage (though in a distinct way) of the English Legal System, together, with two optional papers, Negligence and Civil Liberties, of which one must be selected. The second is an entirely substantive law subject, Constitutional Law, with the customary two three hour papers entirely devoted to this subject.

A.E.B.'s standard 'A' level law syllabus has just one aim: "To give the student an appreciation of the nature and function of law and the legal system in society through a study of certain major concepts as seen in substantive law". In spite of A.E.B.'s desire to introduce students to the nature of law and the legal system through substantive law, the Board nevertheless expands much of its syllabus content on legal theory. The syllabus (A.E.B. offers just one syllabus for its standard 'A' level law subject, with only a reading list for each of the optional papers) is divided into five sections, with Guidance Notes (corresponding to J.M.B.'s Amplification and similar provision on the London and Welsh Boards) in respect of each topic in each section. This chapter is concerned with an examination of syllabus content in order to endeavour to answer the title question - "What can be taught?" but reference will be made, as required, to the extraneous material here as it was to the Amplification provided by J.M.B.

Before turning to the syllabus, reference must also be made to the stipulated objectives which relate to the desired attaintment of the student at the end of the course. There are six objectives and each should be stated or at least summarised. A.E.B. desires that, after completion of the course, the student should:

(1) know and understand the major sources of law;
(2) know how the English Legal System operates and be able critically to evaluate the system;
(3) be able to apply the law to given situations, evaluate facts and ascertain their legal significance;
(4) be able critically to evaluate judicial reasoning;

(5) manifestly appreciate the effects of law and the legal system upon both the individual and society.

(6) be able to assess the appropriateness of the legal regulation of behaviour.

It will be noted that objectives 1, 3 and 4 are strictly "legal", 5 and 6 are more jurisprudential, whilst the second objective is something of a hybrid.

The first section of the syllabus is entitled "The Nature of Law" and contains five topics, the first of which is concerned with Law as an adjudicator of 'acceptable conduct', with problems of defining this conduct, and the relationship between law and morals. The theme of morality is continued with the second topic with the relationship between law and values and norms and rules - the moral nature of legal concepts, as the Notes explain - and the theme is concluded by the third topic entitled, "Distinction between 'fact' and 'value'". The penultimate topic in this first section, "Development of Modern Law: law in primitive society," briefly examines the need to ensure social cohesion and survival through rules, together with the absorption of "folkways and customs" into law. The first section closes with the basis of criminal law determined in relation to the "'minimum rules necessary for the existence of society'". Social reactions to conduct prohibited by law and the use of the law as social control, together with "social functions of criminal sanctions" and classical, and modern theories of punishment/sentencing are required to be considered.

Any contemplation of the nature of law is bound to be philosophical and there is, in fact, little of substantive law to be found in this first section.

The second section - "Foundations of English Law" contains just two points, "Law and Justice", and "Law and Freedom". Both topics encompass problems of definition - Law and Justice, as would be expected, also encompasses Equity, with its background and development, and considers justice as distinct from law; as the aim of a legal system and as a moral ideal, together with ways of achieving it. The relationships between law, justice, and authority are also considered. Law and Freedom are, after definition, contemplated in their area of interaction - civil liberties,-'freedom under the law'.

Again, substantive law, does not really appear here.

Substantive law is, however, well represented in the third section of the syllabus. "Liability in English Law", although the Guidance Notes make it clear that the effect, rather than the substance, of substantive law is to be studied. The section opens with 'Individual responsibility' - encompassing crime, tort and contract in so far as they affect personal i.e. moral responsibility forwrong or, in the case of conduct, individual freedom. The doctrine of 'laissez-faire' - with modern developments, is considered. The second topic 'Liability in tort and contract' continues this theme of individualism, considering vicarious liability and general defences to tortious liability. The topic closes with reference to the formation of a contract including standard form contracts (e.g. motor dealers') and exemption clauses, which have previously been illustrated, and consumer protection afforded by statute in this area. Contractual performance (the usual method of discharge) completes this topic.

The third and final topic in this section - "Liability and the provision of civil remedies - compensation - other civil remedies" has a terminologically inconsistent title, for the concept of liability belongs to the perpetrator of a wrong (tort) or breach of contract, whereas that of remedy belongs to the injured party. The inconsistency is, to some extent, explained - if not rectified - by the Guidance Notes, which detail the, "shift of emphasis from 'fault liability' to the paramount interests of the injured party." The best example of this, perhaps, is to be found in the statutory requirement of compulsory third party insurance policies in respect of motor vehicles. Consideration of compensation (damages) in tort and contract (particularly the problems of monetary awards in tort) and the other civil remedies of injunction and specific performance - though not rescission[1] - conclude this topic.

The fourth section, like the third, contains three topics. The first is labelled "Court structure and appellate system. Tribunals and arbitration. Legal personnel." The Guidance Notes make clear that the development of tribunals and aribitration is to be considered as well as the operation of these processes. This, of course, is a diversion into legal history, rather than an examination of the operation of the present legal system and nothing more, and whilst

historical background can be both interesting and, indeed, essential for complete understanding, it seems a somewhat partial approach not to treat the court structure (which includes the European Court of Justice) in the same manner. It has, however, been noted that tribunals may play a greater part in the life of a citizen than the courts. The training and discipline of barristers and solicitors claims consideration as does their "social and professional environment" - not so much of legal as of sociological concern. The perennial question of the divided legal profession makes its equally perennial appearance, together with optimistic reference to proposals for reform. The constitutional position of the judiciary is examined together with, once again, their social background and professional environment. Again, this latter would seem strictly para-legal and to be more appropriately included in a sociology of law syllabus. The topic concludes with the contribution of the layman - which is wider than the three areas (magistrates, jury, tribunals) listed.[2]

The second topic in this section, "Emergence of Law - statute and delegated legislation" considers not only the formal processes, but also the "importance of the 'power' element in law creation" - matters of political consideration, including party politics and pressure groups. The possible importance, in the area of law reform, of pressure groups, both large[3] and particularly small - e.g. the Friends of Joe Bloggs - has already been noted.

The final topic in this fourth section deals with "Judge - made Law. Precedent, Statutory and case interpretation." The formal mechanism of precedent (following and avoiding), including the fact and value judgements involved in statutory and case law interpretation, is complemented by consideration of social changes in public policy. The topic closes with the posing of the age-old question - "Do judges 'make' or 'find' law?"

It will be noted that substantive law is not conspicuously present in this section.

The fifth and final section of A.E.B.'s normal 'A' level syllabus is entitled, "Functions of English Law", and contains four topics.

The first topic is concerned with legal relationships between

persons and their recognition and definition, including the rights and duties involved. The Guidance Notes list, inter alia, the rights of unborn children, for consideration. the topic concludes with consideration of legal personality, which includes artificial, as well as human legal personality and thereby introduces the student to the world of corporate responsibility e.g. companies, town and other councils, government agencies etc.

The solution of disputes between persons (this would include artificial persons such as companies), is the the theme of the second topic, with consideration of contractual and tortious remedies,[4] arbitration and tribunals, and legal representation. This is an area of obvious practical concern for the embryonic citizen, including, as it does, consideration of the small claims procedure of the county court in connection with monetary claims upto a stipulated limit (at present £500) and the availability of legal aid.

The third topic views law as a balancer of interests, and seeks to determine the influence of facts and values and the nature of competing interests. The Guidance Notes underline the difficulty that a judge may find in balancing interests involving property, personal and economic rights and concern for public or national security. In practical terms this could mean a decision as to whether or not to allow the defence of fair comment on a matter of public interest in a libel case or whether an employer has acted unjustly in a case of unfair dismissal - value judgements obviously precede legal judgement. It is true that the criminal or litigant is really interested only in the legal judgement and not in the value judgements upon which it is based, but it is possible to argue that those value judgements might be the better for having originated in a climate that permitted the interaction of legal with religious, scientific, philosophical and humanitarian concepts at a time when all are formulated. As the judge (who may, of course, be a lay magistrate) first acquires the perception upon which to base value judgements as a result of his early education, it might well benefit him to learn legal concepts at the same time.

The fourth and final topic of this final section is entitled "The maintenance of social order through law". The extent to which law controls activities regarded as harmful to person, property or nation and particularly the role of the criminal law in this area, is

considered, with concomitant problems of social and political freedoms.

Whilst substantive law is found in this section, particularly in the second and fourth topics, its contribution is not major and it is difficult to view substantive law as a theme running through the whole syllabus, much less the framework on which it is built.

As has been noted, A.E.B. does not supply a syllabus for its two optional papers, Negligence and Civil Liberties, but the latter is offered as an option by the Welsh Board whose syllabus will be described, whilst the former is concerned with the detailed study of a number of important cases e.g. Donaghue v Stevenson, in the tort named.

In addition to its "normal" 'A' level law subject, A.E.B. offers a second, independent, law subject at 'A' level - Constitutional Law. Oxford offers Constitutional Law as one of its three optional papers, the Welsh Board offers "Public Order and Law Enforcement" as a choice for its second paper, and London offers the possibility of selecting "The Citizen and the State" as one of three areas to be studied for its second paper, but A.E.B. is the only Board either to offer Constitutional Law as a full 'A' level subject or to offer a second 'A' level law subject at all.

A.E.B.'s Constitutional Law syllabus is examined in two three hour papers, each of which carries half of the total marks. It contains seven topics, with no additional notes or other amplification.

The nature of Constitutional Law is placed first. This topic deals with the place of Constitutional Law within the legal system, its sources and features and relationship with Constitutional Conventions and requires comparison with other systems. The doctrine of the separation of powers is considered with parliamentary sovereignty (to which it is closely related), the Rule of Law and, finally, the position in Constitutional Law of Nothern Ireland, Scotland and Wales. Although A.E.B.'s Constitutional Law syllabus is, as would be expected, wider than that of Oxford which offers only one three hour paper in this subject as opposed to A.E.B.'s two, comparisons may still be validly made. This should be done on a topic basis in spite of difficulties caused by Oxford's failure to sub-divide its syllabus.

Oxford's reference to parliamentary sovereignty expressly includes mention of the implications of E.E.C. membership and of devolution, whereas A.E.B.'s does not, but this, in practical terms, is a distinction without a difference, for any adequate coverage of the item will encompass these matters. The main differences between the two syllabi with reference to this topic lie in the inclusion on A.E.B.'s syllabus of comparison with other systems and consideration of Scottish, Welsh and Northern Irish constitutional proclivities.

Under the second topic - the Legislature - is considered not only the composition of Parliament, together with its functions, powers, procedure and privileges, the functions of the Speaker (but not of the Lord Chancellor who is not mentioned directly in the syllabus at all) the process of legislation, delegated legislation and parliamentary committees, but also the control of national finance. The electoral system - a major sub topic - is also included in this section, and this area should be of major concern and interest to the law student, for it is an area of direct personal involvement either immediately after his school life or, indeed, during it - or it is such an area if he takes his citizenship seriously. In some countries (e.g. Australia) this involvement is decided for him, for voting is compulsory. This topic does not appear on Oxford Constitutional Law syllabus at all so no comparison is possible. The topic, it is true, does overlap considerably with a political/constitutional or government syllabus and cannot be justified on a single three hour paper.

The Executive, historically the first of the three state powers, is the third topic. Nowadays, not only must the Crown, the Royal Prerogative, the Privy Council and the chief officers of state be considered, but also the office of prime minister and the doctrine of ministerial responsibility, the cabinet with its committees, governmental departments, the civil service and the relationship between central government and local authorities, public corporations and other public bodies.

This topic on Oxford's syllabus contains just two items - the prerogative of the Crown and ministerial responsibility.

The last power of the state, historically the second, is representated by the fourth topic to be considered, the Judiciary. The

topic includes the constitutional position of the judges and the courts and their jurisdiction, as well as administrative and domestic tribunals, methods of judicial control (the prerogative orders play their historical part here), the Council on Tribunals (introduced, in response to the Franks Committee Report, in 1958) and, finally, courts martial. The fact that tribunals may well play a greater role in the life of many citizens than courts of law has already been noted; much of the content of this topic, therefore, is directly relevant to preparation for life and the educative process is enriched by its study. Even knowledge of the final item will help some in their chosen careers.

The fact that Oxford's constitutional law syllabus does not deal with the Judiciary at all is neither surprising nor alarming, for this syllabus must be taken with the paper on the English Legal System which caters fully for the study of this topic.

A.E.R's fifth topic, Administrative Law, does find its counterpart on Oxford's syllabus. A.E.B. deals with the nature of administrative law, of administrative authorities and matters of judicial control of administrative powers, including Prerogative Orders and the requirements of the natural justice. The topic also encompasses statutory inquiries (following the objection to a complusory purchase order, for example); enforcement of public duties (by the Prerogative Orders); and the position of the Crown and its servants in legal proceedings, including Crown Privilege in the law of evidence. The Crown Proceedings Act (1947) represents the main modern statutory law in this area and its perusal is required. Oxford includes the principles of judicial review of administrative action and delegated legislation, the remedies of administrative law (e.g. the use of the prerogative orders) and the role of the ombudsmen (the use of the plural enables consideration of the local as well as the national variety) on its syllabus.

The ordinary citizen - and the citizen to be - is perhaps, most concerned with the penultimate topic on A.E.B.'s constitutional law syllabus - the Citizen and the State. This topic deals with the acquisition and loss of British nationality, allegiance to the Crown, the legal position of aliens and the rights and liberties of the subject. This element alone encapsulates the essence of constitutional law is far as most citizens are concerned. The work of the Parliamentary Commissioner (the national ombudsman) is considered in this topic as are

the powers of the police and the availability of the writ of Habeas Corpus. Substantive law appears in the form of the crimes of sedition and unlawful assembly and the availability to the state of the where-withal to deal with even greater lawlessness under emergency powers and martial law is duly noted, together with the powers of deportation and extradition. The final item in this topic - military law - not, of course, to be confused with martial law - complements the final item of the 'judiciary' topic - courts martial.

The corresponding items on Oxford's constitutional syllabus are, the constitutional position of the police and fundamental freedoms which include the implications of the European Convention on Human Rights. Oxford's inclusion of the role of the ombudsmen which includes the Parliamentary Commissioner, has already been noted.

Reference has been made to the inclusion on London's 'A' level law syllabus (Paper 2) to the corresponding topic, bearing, in fact an identical title - The Citizen and the State - (Section E) but it is proposed to discuss this in relation to the London syllabus.

The final topic on A.E.B.'s constitutional law paper - the Commonwealth - deals with the relationship of Commonwealth countries to the Crown and to this country, the Statute of Westminister, 1931, and appeals to the Judicial Committee of the Privy Council. There is no corresponding topic or section on any other comparable law paper. A.E.B.'s Constitutional Law Paper / syllabus has a considerable overlap with papers/syllabi on British Constitution/Government or Political Studies to which it is really an alternative. So much so, in fact, that the subjects are likely to be counted only in the alternative for admission to unviversities and bodies of similar standing specifying a minimum number of subjects for matriculation or entry.

Footnotes

1. Civil Law remedies (including those in respect of breach of contract) are referred to again in Section 5, but not specifically, as in Section 3.

2. These are certainly three important - and widespread - areas of lay involvement, but by no means the only ones. Other areas include the Restrictive Practices' Court, the European Court of Justice (a Professor of Law is eligible to be appointed as a judge), courts' martial, and coroners' courts where the coroner is medically, rather than legally qualified.

3. The largest pressure groups are, of course, the political parties themselves.

4. Already referred to in connection with Section 3.

Chapter 4
The Welsh 'A' Level

The 'A' level law subject offered by the Welsh Joint Education Committee (the Welsh Board) is the most comprehensive of all those available in that it offers, in addition to the compulsory paper on the English Legal System, a choice of no fewer than four possible areas of study for its second paper - the Consumer and the Law; the Worker and the Law; Civil Liberties; Public Order and Law Enforcement. Like J.M.B., the Welsh Board stresses that the 'A' level course in law is meant to be complete in itself and, "offered to candidates whether or not they intend further study of the subject as an academic discipline". There is obviously a concern felt by both A.E.B. and J.M.B., whose corresponding statement has already been quoted, that only those pupils who propose reading law at university or polytechnic will be accepted for 'A' level law courses. J.M.B.'s approach is difficult to reconcile with the preference of at least one of its constituent universities that its prospective law undergraduates should not have studied law before. It is possible, though, that this predilection is less pronounced than it was, though it may still exist. The fact that another J.M.B. constituent university recently offered one of the writer's students a place in law, subject to the passing of a special law examination, suggests that this attitude is not prevalent even among all universities of the J.M.B. alliance and it appears to be changing generally. It is not, though, impossible to comprehend this attitude which will be examined later.[1]

In common with all the other boards, apart from Oxford, the Welsh Board lists aims and objectives. Under the former title it is stated that the aim (there is really only one) is, "To give a basic understanding and appreciation of the nature and function of law and the legal system in contemporary society, and, by the study of a particular area of law, to develop a critical appraisal of the operation of legal rules in their social content". There are seven objectives expressed in terms of the intended achievements of candidates who should:

(i) know and understand the major sources of law and judicial method and reasoning;
(ii) understand the operation of the English Legal System and be able to evaluate it critically;
(iii) manifestly appreciate the effects of law and the legal system upon both the individual and society;

(iv) understand the concepts and principles underlying the operation of legal rules;

(v) by reference to a particular area of law, evaluate critically the content of legal rules;

(vi) demonstrate awareness of current debate and criticism and major reform proposals;

(vii) demonstrably convey information, ideas and arguments clearly and grammatically, using legal terminology where appropriate.

In addition to its syllabus (for both the complusory English Legal System Paper and the optional areas[2]), the Welsh Board follows the general rule (to which the Oxford Board and A.E.B. Constitutional Law are exceptions) of providing Notes for Guidance alongside the syllabus. As before appropriate reference will be made to this material during the review of the syllabi.

The Welsh Board's complusory paper - English Law and the Legal System - is divided into six areas.

The first of these areas covers - in outline - the development of the English Legal System, the growth of common law, the contribution of Equity and nineteenth and twentieth century reforms.

The nature of law is looked at next with distinctions drawn between law and fact and law and morality and the role of law as an instrument of social control is examined. The Notes counterpoise legal enforcement of morals and the moral force of law.

The third area deals with sources of law and legal reasoning, including the meanings of the term "source", Judicial precedent; legislation, including delegated legislation; European Community Law; are considered together with the mechanics of establishing case law (including the regard paid to similar foreign and commonwealth decisions) and the place of policy in legal reasoning.

The machinery of justice, the designation of the fourth area, is really a microcosm of the whole of the English Legal System - it is indeed the title of a classic text[3] on this subject. The court structure (civil and criminal, first instance and appellate) is examined, with emphasis placed on jurisdicition and powers; the examination extends to

the Restrictive Practices Court, Coroners' Courts, the European Courts of concern to this country (the Community Court and Court of Human Rights) as well as to the quasi courts - tribunals, whose origins, composition, status powers and relationship to courts are listed for study.

The training and function of judges, barristers and solicitors is next considered together with the work of the latter in neighbourhood law centres - a modern development.

Under the phrase "the lay element", magistrates, tribunal members and juries are listed for consideration. As has already been indicated, the lay contribution to English jurisprudence is wider than this and it is to be regretted that this topic of obvious concern to all who learn law is not represented more comprehensively. The history and present attributes of tribunals considered earlier hardly compensate for this omission. Outlines of civil and criminal proceedings (including sentencing in the latter - though not judgements in the former) and legal aid and advice, complete this fourth section.

Under the title, 'Basic Concepts', the fifth area deals with legal relations between persons (natural and legal i.e. corporations), unincorporated associations and trades union, their rights, duties and powers. As the pupil will inevitably be concerned in at least one role in this area, as a person, a member of a trade union or unincorporated association (e.g. a club) or a corporation (a director of a company or member of a town council) and in all likelihood with more than one, this area is obviously of direct and practical relevance to his adult life. Here is an example, perhaps, of vocational education.

The sixth and final area of the Welsh Board's first paper - liability in English Law - encompasses criminal and certain civil liability. Under the former is considered the principle of legality as well as the necessary elements for most crimes (mens rea and actus reus) and the general defences, together with the purposes of criminal sanctions (deterence, rehabilitation, punishment, etc.) and the implications of various sentences.

Consideration of civil liberty is restricted to that encountered in contract and tort - admittedly the areas of civil law with which the average citizen is likely to come into contact. Tort and contract are

are contrasted, the most important tort (negligence) detailed and the differing forms of liability and the general defences, considered. As would be expected, the remedies available in civil law are required to be studied, particularly monetary compensation in connection with risk and loss distribution and the concept of 'no fault' liability in tort.

It does not seem altogether appropriate that the formulation and performance of contracts - including standard form contracts and exemption clauses, together with consumer protection legislation, should be included on the syllabus of an English Legal System Paper and, even less appropriate that the inclusion should constitute a fraction of one topic (one out of nineteen), as these items alone are capable of forming the basis of a substantive law syllabus.

It is almost axiomatic that a law syllabus, at least one in the popular law subjects at G.C.E. (or equivalent) level, will be found to be directly relevant to life. The first and second of the Welsh Board's optional sections, consumer law and employment law are no exception. Indeed, the consumer law syllabus could appropriately be described as vocational education in citizenship - apoint emphasised by the reference in the syllabus to revealing, "that which is relevant and explicable to candidates' everyday experience" and to a stated desire "to introduce them to practical problems which they may encounter on every High Street excursion".

The importance of contract and tort in the field of consumer law is taken first; the freedom to make contractual agreements, the content of such agreements and the position of third parties. Control of tortious liability by contractual means is considered. Particular emphasis is placed on limitation of liability in this section.

The remedies for breach of contract are listed for consideration and these, of course, are of particular concern to a citizen affected by the failure of a person to whom he is contractually bound, to carry out his obligations under the contract.

The protection afforded to the consumer in connection with the supply of goods and services is expounded in detail. Both common law and statute contribute to this protection, though, as would be expected, the larger share is provided by statute. At common law, the liability

of the seller of goods (and services) is likely to be contractual, whilst that of the manufacturer is almost bound to be tortious - as in Donoghue v Stevenson (1932), where the consumer (literally) of the contents of a bottle of ginger ale, which included the decomposed remains of a snail, was able to sue the manufacturer (in the tort of negligence) who had not ensured the safety of his product.

The inclusion of exemption clauses (also known as exclusion or limitation clauses) as an example of the protection afforded at common law to the consumer, is not easy to understand in connection with the modern law of contract. Such clauses tend to protect the supplier or seller of goods or services rather than the consumer. In fact the judgement in Photo Production v Securicor Transport (1980) - the case has already been discussed - demonstrates that exemption clauses may be used to effect total restriction of liability under a contract.[4] It is, indeed, because exemption clauses were so effectively used against the consumer that statutory limitation of their effectiveness became necessary.

Statutory protection of the consumer is contained in a number of Acts ranging from Misrepresentation Act (1967) to the Supply of Goods and Services Act 1982 and including the Unfair Contract Terms Act (1977) and the Consumer Safety Act (1978). Statutory protection in relation to credit sale and hire purchase agreements is contained in the 1974 Consumer Credit Act and 1979 Sale of Goods Act. Knowledge of mortgages as they relate to consumer transactions is expected of the student and the provisions of the 1974 Consumer Credit Act as they affect finance companies and second mortgages in particular are required to be known.

There can be few members of the consumer society who do not wish to have a current account in a bank and no adequate consumer law syllabus could neglect this area. The nature of the banker/client relationship is examined, together with their rights and duties, especially in connection with negotiable instruments (bills of exchange and cheques) and recent developments - cheque and credit cards and National Giro.

The concept of insurance is one familiar to modern society, particularly through motor insurance (compulsory of course for all drivers or owners of vehicles) - though life and property insurance are

widely known - and this first area is considered specifically, together with the general requirements of full disclosure and good faith in insurance contracts and, once again, exclusion clauses.

Increasingly perhaps, today's consumer is - and needs to be-aware of legal aspects[5] of the next topic - travel - hotel bookings and cancellations, luggage requirements, the position re travel agents and different forms of travelling (rail, air, coach etc.) with their possible attendant legal consequences.

The Office of Fair Trading was established by the Fair Trading Act 1973 and this organisation's useful role is considered next. One aspect of this role is the publication of a booklet[6] listing many consumers' rights in High Street situations.

Finally the role of the criminal law in consumer transactions is examined - the relevance of the 1968 and 1978 Theft Acts, together with Weights and Measures Acts 1963-1979, the Trade Description Act 1968 and the Fair Trading Act 1973 already mentioned. To one citizen the thought that normal everyday activities such as shopping are attended by possible criminal consequences would be appalling, whilst to another citizen the belief that he will not in any case do anything likely to incur the wrath of the criminal law will enable him to be indifferent to those consequences. It is not only the obvious criminality of actions such as taking goods without paying (or intending to pay) for them which unfortunately or otherwise - needs to be known, for the shopper who takes a packet of biscuits which she intends to purchase, from the shelf of a supermarket and gives one to her child (or eats one herself) is just as guilty of theft in the eyes of the law as the person who deliberately takes the goods out of the store without either paying for them or intending to do so.[7]

The second of the Welsh Board's four optional sections deals with aspects of employment law and is entitled aptly enough, 'The Worker and the Law' The head note stresses a desire to develop and test an understanding of basic concepts in this field and seeks an ability to discuss and analyse their practical application and social implications.

The contract of employment is, of course, of basic importance in this field. This contract maybe "of service" or "for services" and the

distinction is important in respect of statutory provisions relating to national insurance, industrial training, redundancy payments and health and safety at work. The common law principle of vicarious liability (employer for acts of employee) is considered. The terms of the contract are taken next - the traditional common law duties of the employer to pay his employee's wages, give reasonable notice of dismissal (save for summary dismissal), provide safe working conditions - and the corresponding duties of the employee to obey reasonable orders, act in good faith, use reasonable care and skill, together with the terms incorporated by statute under the Race Relations Act 1976, the Employment Protection (Consolidation) Act, 1978 and the Sex Discrimination Act 1975. The provision of a reference by the employer is not obligatory, but, if provided, must be fair.

The Regulation of wages is to-day as in the past-affected by both custom and statute - the Truck Acts of 1831 and 1940 (though only the first is included here); the Employment Protection (Consolidation) Act 1978; the Equal Pay Act 1970, in the area of statute; collective agreement contracts, works rule books and habitual practice and custom itself; in the area of custom.

Whilst all areas of an employment law syllabus are of practical importance and of direct relevance to the worker, none is probably more so than that dealing with the termination of the contact of employment, for in no other area is action likely to be so final and in no other area therefore, does the employee need to be aware of his remedies, both at common law and under statute. Dismissal may be of three kinds - summary, after notice and constructive; any of which may be unfair. The possibility of a contract coming to an end either by agreement of by frustration (by being impossible to perform, for example) is considered.

The important considerations of safety, health and welfare at work are next looked at. Once again, both common law and statute play their part in the care of premises, of equipment and of fellow employers. There is a common law duty in each of these respects, whilst the Factories Act 1961, the Offices, Shops and Railway Premises Act 1963 and the Health and Safety at Work Act 1974 supply the statutory contribution. The sanctions and remedies available for breach of these (fines, prohibition and improvement notices, imprisonment and damages)

are considered, as are the defences available to an employer.

The penultimate area of this syllabus - Employment in the Welfare State - could equally well appear on either a History of Law syllabus or an Economic History syllabus - or both. That does not mean to say that it is out of place on an employment law syllabus, but indicates, rather the ground common to law and other syllabi in the social science field. The brief historical outline (the Board's description) begins with the Poor Law of 1601, and deals with workman's compensation legislation, the Beveridge Report 1942, unemployment benefit, sickness benefit and industrial injuries benefit.

The final topic, listed as Trade Unions, is also treated in an historical manner, the outline history of membership contracts (for long illegal) the closed shop, industrial conflict, picketing and criminal and tortious liability are considered. This topic, like the last one, could be part of other syllabi - political studies, economic history, sociology - but this only serves, yet again, to point the relevance of law to modern society, as well as the inter-relationship of knowledge, of course.

Whilst not perhaps of such direct relevance to the citizen as the first optional section (the Consumer and the Law), if only on the ground that, although almost everyone in society is, ipso facto, a consumer, not everyone, even in this age, possibly especially in this age, is an employee, much less an employer, nevertheless, this section is of obvious vocational value to the citizen - actual or embryonic.

Each of the Welsh Boards' third and fourth optional sections 'Civil Liberties' and 'Public Order and Law Enforcement' contains material that could well be found on any Constitutional Law syllabus - or any syllabus for political studies, civics, public adminstration and the like. As would be expected though, the two Welsh syllabi do not themselves materially overlap, though they deal with inter-related aspects.

The Civil Liberties' Head Note details the intention to develop and test an ability to analyse and discuss basic legal concepts, their practical importance and the mechanisms by which the law provides for

and protects individual liberties.

The function of the law in regulating civil liberties, the extent to which this is possible and the place of civil and criminal law in this function form the first topic in this section.

Under the generic title 'Law relating to Civil Liberties', the syllabus considers four freedoms - of personal property; of expression; from discrimination; and of movement:-

(1) Freedom of personal property, including personal freedom, e.g. the rights of the individual in connection with arrest, detention, and search, as well as the protection of property and the possible distinction between the employment of property rights and public control of land.
(2) Freedom of expression or speech - the right to hold meetings, and demonstrations and to demonstrate publicly, seen against the background of defamation, obscenity, offical secrets, censorship and control of the media.
(3) Freedom from discrimination - of race or of sex.
(4) Freedom of movement - of citizens (presumably Irish, as well as British), patrials, E.E.C. citizens, aliens; and the corresponding rights of the state - immigration control, extradition and deportation.

Franklin Roosevelt's "four essential freedoms" included only one from the above list - the second[8] - and doubtless other lists of 'freedoms' would contain other freedoms. It is, of course, inevitable, that, almost by definition, the exercise of any freedom involves a corresponding infringement of another freedom - my freedom to drive my car through any peaceful hamlet in the kingdom is hardly compatible with the freedom of the inhabitants of that hamlet to live their lives undisturbed by traffic, and the freedom of X, Y or Z political party to hold a demonstration in the town square is hardly consistent with my freedom to walk through the square unmolested. If this syllabus helps to develop an appreciation in pupils of the inherent difficulties of balancing conflicting liberties, it will have made a major contribution to their education.

The mechanisms provided by law for the protection of civil liberties are dealt with next. The role of Parliament e.g. Statutory

Commissions (Racial Equality, Equal Opportunities), and the role of the courts e.g. the provision of the writ of Habeas Corpus and other judicial remedies, are considered.

Civil liberties are of international as well as national concern and the part played by the European Commission and European Court of Human Rights under the European Convention on Human Rights and the relationship of British Law to the Convention, including the right of individual petition to the European Court, are required to be studied.

The prospects of the codification[9] of civil liberties and actual proposals for a United Kingdom Bill of Rights are considered, finally, together with the problems the latter would encounter in definition and enforcement, the need to relate it to other Acts of Parliament and the consequent inability to guarantee its permanence. In those countries in which a law may be declared unconstitutional, it is, of course, possible to enshrine a bill of rights of this nature. In this country however, it is a feature of parliamentary sovereignty that parliament cannot bind its successors and that a law effecting major constitutional reform may be repealed with as much ease - at least as far as the legislative process is concerned - as any other.

The fourth and final of the Welsh Board's optional sections, 'Public Order and Law Enforcement' is designed, according to its Head Note, to develop and test an understanding of the machinery of law enforcement and an ability to analyse and discuss the nature and operation of law relating to public order. An awareness of the fact that law enforcement agencies are themselves subject to law, is expected, together with the ways in which the law attempts to achieve a balance between the preservation of order and individual freedom of action.

The role of law in the control of public order is considered first. The Guidance Notes indicate study of The Rule of Law as a starting point for perusal of this topic. This concept occupied Dicey to a considerable extent and was, in fact, the theme of his 'Introduction to the Study of Law of the Constitution', first published in 1885 and influential for two generations. The more modern constitutional writer, S.A. de Smith[10], however, in his sole work on Constitutional Law[11], states that it would not "be justifiable to examine the general concept of the rule of law in this book" apparently on the ground that the

concept, "lends itself to an extremely wide range of interpretations". Whilst accepting Professor de Smith's implied contention that the Rule of Law is most appropriately considered on a jurisprudential (i.e. legal philosophy) paper, it seems sensible that those who prepare for this paper (Public Order and Law Enforcement) should at least be aware of the concept and its multifarious nature. The topic further includes consideration of the role of the courts (almost entirely criminal), the relationship between public order and political dissent, together with problems of control and accountibility bearing in mind the need for impartiality in the judiciary and the police and, finally, the actual need for legalised force.

As law enforcement constitutes the main burden of this section, it is hardly surprising that, of the seven topics which comprise the section, three deal exclusively with the police whilst two of the remaining four involve the police.

The first 'police' topic concerns the structure and organisation of the police forces and their relationship with government, both central and local. The legal status of police officers is considered, together with the functions of police authorities, the roles of the Home Secretary and Chief Constables and the application of the Police Act, 1964.

The accountability of the police and complaints against the police are considered next. Although parliamentary and judicial control is listed in the Guidance Notes, legal control is not, though the functions of police authorities are considered above. The recent miners' strike has underlined the possible extent of local control with at least one chief constable being called to account and local councillors questioning the money available to the police and seeking to withdraw police horses - considered many police officers as essential for crowd control, especially if the crowd is hostile. The Police Act 1976, together with the Police Complaints Board conclude the second topic dealing with the police.

Law relating to police "powers" is both the title and an exhaustive description of the final topic dealing exclusively with the police. The usual powers of arrest, detention, questioning and search before arrest, search of person and property after arrest, interrogation under

the Police and Criminal Evidence Act 1984, which has replaced the Judges' Rules, and the granting of bail as far as this relates to the police are listed for study as are powers over the control of public gatherings, demonstrations, protests, sporting occasions and picketing. Many police powers in this country are discretionary and this element of their nature is considered. It will be appreciated that the topic shares common ground with the first two "freedoms" which appear in the Civil Liberties syllabus, though the emphasis is different - as it is in respect of these two sections as a whole. Given their titles 'Civil Liberties' and 'Public Order and Law Enforcement' it could hardly be other wise.

Emergency powers are the concern of the next topic. By definition they are not a subject of daily concern but there can be few citizens who would not wish them to exist. They are contained, in this country, in the Emergency Powers Acts 1920-1964. These, together with the use of the military in law enforcement, with reference to, "the Northern Ireland experience," and the prevention of terrorism, are required to be studied. Reference has been made on a number of occasions in this thesis to the element of overlap between 'A' level law syllabi and the provisions usually made in such subjects as politics, economic history (and social history) and sociology; the inclusion of "the Northern Ireland experience" would seem to underline that reference in view of the fact the legal connotations of "the Northern Ireland Experience" cannot really be separated from the social, economic, historical, religious and political.

The penultimate topic in the section 'Law relating to public order' encompasses common law and statutory offences connected with public disorder and breach of the peace and the list comprises affray, unlawful assembly, riot, rout, conspiracy, obstruction and assault on police officers, offences under the Public Order Acts (the Law Commission has recently completed a major review of this area),[12] vagrancy, "terrorist" offences and offences involving offensive weapons and violence generally in offences in the field of public disorder. A number of these offences - conspiracy, obstruction, assault, - are not save in the widest sense, exclusively public order offences, but are, as it were, of general criminality. Indeed two of them (conspiracy and assault) are also torts (civil wrongs). There is a school of thought which prefers action against criminals to be brought - as far as

possible - under the general criminal law. This is indeed the position historically: it is an indication of the progress of society that it is no longer so.

The final topic in this final section deals with the role of the courts (already referred to in the first topic) and the prosecution and criminal trial process. The topic - which is usually found on an English Legal System syllabus, includes the use of police cautions, the decision to prosecute (or the discretion not to) the role of the Director of Public Prosecution, the need for a public prosecution service (to be introduced)[13] bail and remands as well as the trial process (including juvenile trials), sentences available and the principles of sentencing and the effectiveness of sentences in the context of punishment of public order offences.

The section is the most specialised of the four offered by the Welsh Board, but grows in relevance to the embryonic citizens as his wish to participate in marches and demonstrations increases.

Footnotes

1. Part 5.

2. The choice lies among different sections of the same paper rather than among different papers.

3. The Machinery of Justice in England - R.M. Jackson (C.U.P.) It is a recommended 'A' level English Legal System text.

4. They may not be used to limit or deny liability for negligence in a business context (with certain exceptions) resulting in death or personal injury and must otherwise in a consumer context be reasonable. U.C.T.A. (1977).

5. These aspects, though, are, in many cases, relatively unchanged from days when few travelled - the innkeeper's obligation to provide accommodation, if available, or the liability of the common carrier e.g. a ferryman.

6. Fair Deal - a shopper's guide - Office of Fair Trading. H.M.S.O.

7. The decisions in the cases of R v Feeley and R v Ghosh notwithstanding. (R v Feeley (1973); R v Ghosh (1982)).

8. Mentioned in a speech on 6th January 1941. The other three were, freedom of worship, freedom from want and freedom from fear.

9. The bringing together of all law on the subjects, statutory, common and case in one statute.

10. Late Downing Professor of Laws of England in the University of Cambridge.

11. Constitutional and Administrative Law (Penguin) 2nd. Ed. p. 38.

12. Resulting in the Public Order Act 1986.

13. Now in existence under P. & C.E.A. 1984.

Chapter 5

London 'A' Level

As has already been noted, the University of London has only recently decided to include law among the subjects it offers at 'A' level (but not at 'O' level) in its school examinations - an indication of the growing popularity of the subject at this level. The first examination for candidates in this country ('A' level law was introduced for overseas' students in 1985) is in 1986, with London's customary repeat in Janaury, 1987.

London's aims and objectives are rather more numerous than those of other Boards and whilst it is of course, greatly to be desired that teachers and pupils alike have a clear idea of what they wish to achieve and how they wish to achieve it, too long a list of aims and objectives - London's combined total runs to fifteen items - runs the risk of being recalled only intermittingly or even not pursued at all.

London lists its aims[1] as follows:-

(1) To provide a sound understanding of the nature of law.
(2) To give an appreciation of the role of law in society.
(3) To demonstrate the importance of legal institutions and their relationship to other institutions in society.
(4) To provide understanding of the various branches of law in order to give a fuller picture of the role of law.
(5) To provide a knowledge of the sources of law, particularly statutes and cases and their application to disputes.
(6) To develop an analytical and critical approach to the application of legal principles.
(7) To consider the appropriateness of dealing with certain aspects of behaviour within the law.

The objectives[2] are expressed in terms of candidates' hoped - for attainments upon completion of the course. They should then:-

(1) be aware of the role and function of law in soceity.
(2) know and understand legal rules and authorities and apply them in answering questions;
(3) demonstrate the importance of legal institutions and their relationship with other institutions.

(4) appraise and criticise the way in which legal principles are applied;
(5) distinguish between civil and criminal liability;
(6) show a broad understanding of various branches of law.
(7) show how disputes may be resolved by legal principles and by other means.
(8) be aware of current legal controversy and proposals for law reform.

Whilst these aims and objectives are desirable enough, some of them would seem very broad. The fourth aim and the sixth objective, which are, of course, inter-related, are virtually impossible to attain within the scope of an 'A' level syllabus in view of the variety of the various branches of law whose number is reckoned in scores - London includes only six - whilst the reference in the seventh objective to resolving disputes by other means appears, on the face of it, to negate the whole purpose of law. It would seem sensible to assume that this is not the intention and that 'legal' must be construed in a technical sense as appertaining to the courts, leaving the "other means" to apply to tribunals and enquiries and arbitration in general. However, these alternatives to the, courts, whilst dispensing with legal rules, operate on legal principles. The wording is, at best, unfortunate.

London's examination format follows the usual pattern of two three hour papers, the first without an element of choice, involving elements of the English Legal System; the second offering a degree of choice, involving elements of substantive law.

In Paper 1, knowledge and understanding of law and legal institutions and their function in English Society, is called for. The syllabus for this first paper contains five topics, the first four of which are listed in the form of questions.

(1) What is law? - the nature of law, the origins of laws,[3] the legal or non-legal quality of rules and the function/role of law in society.

(2) How is law brought about? - the sources of law, who makes laws, the roles of the Government, of parliament, of political parties and pressure groups (is there a total distinction?) of public opinion, the machinery for law reform especially the part played by the Law Commission, the doctrine of binding precedent, statutory interpretation, subordinate legislation (including town by-laws,

for example - of more immediate concern to many citizens who may of course have played a part of their formulation, the roles of legislature and the judges in the creation of law.

(3) How is law enforced? - formal and informal ways of settling disputes through various legal institutions - courts, tribunals, arbitration and conciliation procedures, public enquiries; the appointment, training and accountability of judges, the organisation and training of the legal profession; the role of the laity, the magistracy (which is both professional and lay), juries and tribunals; legal aid - statutory and voluntary, the role of the police in law-enforcement, pre-trial procedure (criminal and civil), methods of trial in civil and criminal cases, the differences between them.

(4) How does the law affect us? - the existence, inter-action and enforcement of rights, duties, liabilities and privileges; the legal personality; the basis of liability in civil and criminal law, remedies in respect of the former and sanctions for the breach of the latter and the theories of punishment.

(5) The fifth topic is presented as a statement - Ourselves and the Common Market - the nature and role of the European Economic Community; its institutions and its legal institutions.

London is the only Board to present its topics (or most of them) in the form of questions in its compulsory paper. This represents, perhaps, rather more of a thematic approach than that pursued by the other Boards, it is also, with the exception of the final topic, which is not posed in inquisitorial form, rather more open-ended. This is especially true of the first topic and to a lesser extent, of the fourth. It is, possible, though, to over-emphasize the extent to which London differs from other Boards in respect of its 'A' level syllabus for its compulsory English Legal System Paper- comparative examination of topic content confirms the similarity of material to be assimilated.

London's Paper 2 consists of five topics, from which a candidate (or , more probably, his teacher) must select three for study. This compares favourably, from a point of view of breath, with the specialised offerings of the other Boards. The counter argument that too broad an approach runs the risk of producing jacks of all trades and masters of none, has considerable validity and this is, after all, Advanced Level.[4]

The first topic (or section) is simply called "The Market" and

explained (every topic is explained or defined) as "The transfer of goods or the rendering of services for cash or on credit terms." The accompanying indication of items to be considered is couched in the form of a question as is that relating to each of the five topics - a continuation of London's unqiue (unique, that is, in relation to 'A' level G.C.E. syllabi) method of presentation of its material. In order to meet the need for simplification, this matter will be interpreted in synoptical form.

"The Market" brings to mind the striking of bargains (usually in this country on the terms, as regards price, stipulated by the trader, but occasionally after preliminary negotiations between the trader and prospective customer) and the making of bargains involves the law of contract and in this first section, the rights, duties and liabilities involved in a contract are required to be studied as are those arising in tort and at criminal law, together with remedies available and the protection available to the consumer at common law or under statute.

Section B "The Workplace - The legal relationship between employers and employees", deals with the legal rights, duties and liabilities of employers and employees and the protection of those rights in connection with discrimination, dismissal, redundancy, health and safety, upon which subjects the law (statute and common) is expected to be known. The compensation available to employees who are injured at work, together with welfare provisions supplied by the state and the services provided by the trade unions complete this useful topic. Like the fourth section of the Welsh Board's optional provision, this section is really part of the future citizen's education for life.

The third section - "The family, The family relationship, arising from marriage or co-habitation" is a broad topic[5] dealing with elements of the law of succession as well as the provisions of family law. The legal basis of marriage and the rights arising from this, the rights of co-habitees, the ownership of family property, the legal framework of buying or renting a home are all listed for consideration, as are the legal protection of children, parental and governmental responsibilities in relation to family welfare, the legal ramifications of family dissolution and, finally, the transference and inheritance of family property.

Whilst it is true that, from a practical point of view, knowledge

of law will not generally be required except when there is a breakdown of order or a dispute, any such breakdown or dispute in the purview of family law could well be attended by more emotional distress than infractions of, say, tortious or contractual liability, and, because of its more human and social connotation, family law is of as much concern to the social scientist as it is to the lawyer. It is, indeed, tempting to regard law as a common denominator for all subjects - reference has been made previously to the common ground law shares with history, politics, public administration, commerce and civics. The list is not exhaustive - when the issue of morality and law is considered, Religious Knowledge/Education obviously ploughs the same field, even, perhaps, the same furrow.

Section D is entitled "Crime and society - The essential nature of criminal liability". As the definition in the title implies, this topic is not so much concerned with Criminal Law as with criminality, making the topic more suited for general jurisprudential consideration; of more immediate concern here is that, as the remaining four topics deal largely with substantive law, this section appears a little incongruous in the overall framework of this paper. The types of activity regarded as criminal, and the reasons why they are so regarded, are contemplated, the basis of criminal liability is examined and the inclusion of some criminally defined behaviour[6] within the framework of the criminal law, questioned. Substantive criminal law makes a brief contribution in considering the way in which the criminal law attempts to protect persons and property and, perhaps, in dealing with the ways in which an accused person may be absolved from criminal liability (e.g. through successful pleading of general or particular defences). The tenor of any criminology paper, the objectives in the treatment of offenders and the possible ways in which these may be achieved through sentences, complete this section.

The final section of London's Paper 2 is entitled "The Citizen and the State and defined as "The role and function of the institutions of state and their relationship with its citizens". Whilst this topic lies chiefly in the area of constitutional law, there is some overlap with both the other branch of public law (i.e. criminal law) and private law (tort) and the almost inevitable sharing of common ground with politics, public administration, civics etc. The institutions of state are considered first, followed by the freedoms and constitutional rights of citizens - items found on English Legal System papers. The

next two items, the extent that the law protects the privacy of citizens and the ways in which the person, property and reputation are protected from interference by others, both constitute elements of tortious liability, or rather several elements - privacy being a matter of trespass and/or nuisance, while protection of person, property and reputation are catered for by the torts of trespass (person and property) and defamation (reputation) and the crimes of assault, battery, theft, robbery, burglary and - though rarely - criminal libel. The accountability of government institutions to the ordinary citizens, the role of the ombudsman and the remedies in respect of wrongful conduct by government institutions, complete this section.

With London's contribution the review of the G.C.E. Boards 'A' level law syllabi is complete. The provisions have much in common, both with each other and, particularly in respect of coverage of the English Legal System, with other subjects, but there are also many differences, whether of material or emphasis. There is little point in all the Boards offering idential syllabi in view of their accessibility to candidates throughout the country, and an element of choice in selection of courses is of obvious benefit to schools.[7] Within this choice there have been in recent years two interesting developments in the available provision. In 1981, the Associated Examining Board introduced a narrower 'A' level provision for its optional paper- particularly so in respect of the alternative "Negligence", which covers just one tort, albeit an important one, whilst in 1985 (for overseas candidates) and in 1986 for candidates in this country, the University of London has commenced its 'A' level law provision with a broad optional paper, covering five different areas from which a candidate must select three. It remains to be seen whether either of these developments is a signpost for the future.

Footnotes

1 & 2. Abridged where possible.

3. The use of the plural is instructive.

4. Though for some students, 'A' level study will represent an introduction to the subject.

5. Some may consider that the definition of the topic is too broad.

6. Illustrations are not provided, but the most usual example is that of the motoring offence. All such offences (including parking) are criminal.

7. It also prevents direct comparison of results in the event of a double entry (i.e. the taking of the same examination on different Boards) - a practice officially frowned on by the Boards. The offering of contrasting syllabi by the Boards also underlines the fact that they are in competition, both educationally and commercially. One of them (A.E.B.) is, in fact, a limited company whose raison d'etre is the provision of G.C.E. examinations.

Chapter 6

'O' Level/G.C.S.E.

Mention has already been made of the fact that only three of the five Boards offering law as a subject in the General Certificate of Education do so at the ordinary level. Furthermore, two of the three, resisted for some time the temptation to do so.[1] Such reluctance can be explained by the difficulty of simplifying the subject in such a way as not to make it meaningless. The definition of a statutory offence, for example, is the same at whatever level it is discussed. The elements of theft or burglary or blackmail enacted in the Theft Act (1968) are no different for the 'O' level G.C.E. pupil than they are for the undergraduate or, indeed, the post-graduate, student.

Oxford's 'O' level syllabus[2] contains four sections examinable in one two and a half hour paper. The Welsh Board likewise confines its examination requirements to a two and a half hour paper. The A.E.B., however requires two papers to be sat: one of two hours' duration and the other of one and a half hours. The differing lengths of papers make direct comparisons in quality difficult; the standard of all three Boards' subject is, of course, meant to be the same.

Oxford's Section 1 deals with The Legal System (the other three Sections are concerned with Substantive Law) and encompasses the courts (including the European Court of Justice in Luxembourg and the European Court of Human Rights in Strasbourg); legal personnel; sources and principal classification of law.

The second section, Torts, is concerned with three heads of tortious liability and vicarious liability. The torts required to be dealt with are negligence (possibly the most important tort); trespass (in all its forms) and defamation.

Section three, Contract; covers the formation of a contract, the control of exclusion clauses and the remedies available for breach of contract.

The fourth and final section is entitled "Family Law and Succession" and encompasses the formation of marriage and ground[3] for divorce with the outlines of testate and inestate succession.

Oxford's 'O' level syllabus, like those of A.E.B. and the Welsh Board and like the corresponding syllabus of the Royal College of Arts, General Principles of English Law, Stage 11 - is of a general nature, covering elements of the English Legal System, together with aspects of several areas of substantive law. In Oxford's case these areas cover four different divisions of law (Section IV includes two such areas) though the coverage is to some extent at least, rather shallow ("Outlines of testate and intestate successions") and Pope's advice here seems particularly apposite.[4] The remaining elements of substantive law are just as complex at 'O' level as they are at any higher level and any attempt at superficial coverage can only result in inadequate understanding.

A.E.B.'s 'O' level syllabus, entitled "General Principles of English Law", compared with the Welsh Board's "Principles of English Law" and Oxford's yet simpler "Law", has three aims and three objectives. The aims are:

1) To stimulate a study of law as a body of rules;

2) To further general education by creating a critical interest in legal matters;

3) To encourage an understanding of the law and the legal system as it relates to everyday life.

By the end of their course students are expected to have:-

a) acquired a knowledge of law;

b) developed powers of application and analysis as these relate to law and legal problems;

c) acquired the ability to evaluate and comment constructively on the law in its context.

Both papers are set across the syllabus. The two hour paper containing essay type questions and carrying 60% of the marks, the ninety minute paper posing problem questions and accounting for the remaining 40% of the allotted marks. The syllabus itself is divided into five sections, two dealing with legal theory, three with substantive law. As before, appropriate reference will be made to the accompanying Guidance Notes.

Section 1 is entitled "Nature, Sources and Administration of Law", and contains seven topics.

"Definition of Law", the first of these topics, includes public, as well as private, law and explores the distinction between law and morality and law and social norms. It is important that pupils should understand these distinctions, for in the last resort, law can exist in a 'pure' state, separate from - and even antagonistic towards both morality and social custom, valid simply because it is law. It is also important to appreciate the role of law as an enforcer of morality and social norms.

The second topic comprises a brief historical outline of the growth of common law and equity.

How and by whom law is made constitutes the third topic. The major sources of law - statute, delegated legislation, E.E.C., case law; and the minor sources - textbooks, and custom, are propounded. It may seem strange to some to regard statute as a source of law, their argument being that statute is law. In a formal sense this is true, of course, but the legal effect of a statute (or of delegated legislation) is declared by a court, thus in practical terms, a statute is not finally law until interpreted by the courts and statutory interpretation and the doctrine of binding (or judicial) precedent are necessary complements of the sources of law.

The fourth topic in this section is concerned with where law is administrated - the jurisdiction of first instance and appellate courts; the work of tribunals and the differences between tribunals and courts, of law and Arbitration. It has already been stressed that tribunals are likely to figure more predominantly in the lives of ordinary citizens than are courts of law and knowledge of their role may well prove to be of ultimate benefit to the embryonic citizen. They are also included in the next topic.

Personnel of the law, the fifth topic, rather unusually, includes, inter alia, members of juries in the classification. This represents the category at its very broadest - members of juries are not, after all members of juries for at the most, more than a week or two - it could be as little as an hour or two - of their lives. The inclusion of jurors

as personnel of the law does, however, underline the importance of the ordinary citizen in English justice. It underlines, also, the case for teaching law at school level. Other lay personnel listed are magistrates (i.e. Justice of the Peace) lay assessors, arbitrators and members of tribunals. The judiciary constitutes the main professional element of this topic (particularly the Lord Chancellor, the Lord Chief Justice and the Master of the Rolls) complementing the role of barristers, solicitors and the more lowly (but important) legal executives.

The penulitimate topic in this first section is a two-fold one dealing with the procedure for bringing a case in a) civil courts b) criminal courts. The actual trial in both instances (summary and on indictment in connection with criminal action) and avenues of appeal are included, but action preparation only in the former. This is understandable in view of the fact that citizens normally bring actions in civil courts but very rarely commence a prosecution in a criminal court.

An outline consideration of the main provision for legal aid and assistance concludes this first section. Such provisions constitute, of course, an important topic and one of obvious practical concern to the citizen who is without the personal means to pay for the services of a solicitor.

The triple title of the second - "Legal Personality and Capacity and Civil Liberties", reflects its composite nature. The meaning of status and capacity is expected to be known and comparisons drawn between the terms. The effect of a particular status/capacity in areas of law across the syllabus is also required to be known.

Legal personality is likely to make itself known to the citizen in a number of ways. He will readily appreciate that, as a human being, as a citizen of a state, he has a legal personality or, putting it simply, he is a legal person. As a member of a company or of a trade union (or of both), he will appreciate , too, that each of these concerns is a legal entity and has, therefore, a legal personality - is a legal person, though, of course, an artificial one. Furthermore, he may well belong to a club or society and may, indeed, be an official of such organisation, and know that it can neither sue nor be sued in its own name as it does not, as such, exist in law and therefore has no legal personality.5

Clubs and societies of this type, ranging from a large and prestigous sports club to a tiny interest society consisting of a handful of members, are known to law as unincorporated associations. The differences which exist between these and corporations, together with the type and method of establishment of the latter, and the legal personality of artifical persons in general, including trade unions, are required to be known.

Section 2 closes with consideration of the civil liberties component - freedom of speech, association and movement; their meaning and extent, their protection and limitation by law. It will be appreciated that, even at G.C.E. ordinary level, it is felt appropriate to refer the pupil to legal philosophy, a subject with which many sixteen year old candidates - the course actually begins at fourteen - may be expected to experience some difficulty. The justification lies in the immutability of law vis a vis the level of examination - a characteristic indicated in the opening paragraph.

The two major areas of civil law - tort and contract - jointly constitute the content of the third section.

General principles of tort and the nature of tortious liability, precede consideration of major torts (negligence; trespass; nuisance; defamation; occupiers' liability); the general defences;[6] remoteness of damage, the remedies of damages (there are different kinds) and, finally, vicarious liability.

It is not possible to discuss contract law without knowing the elements of a contract, vitiating factors, how a contract may be discharged and the remedies available in the event of breach, and a pupil should expect to understand them. Four specific types of contract are included in this syllabus - that relating to land and the three 'consumer' contracts: sale of goods; hire purchase and credit sale, together with their particular remedies and the protection afforded the consumer by statute as well as the courts. Both contract and tort are common to all three 'O' level syllabi.

Criminal law, the concern of the fourth, penulitmate, section, is now restricted to A.E.B. and the Welsh Board. Oxford having discontinued this element of substantive law from 1983/4. A.E.B.'s coverage includes

the elements of criminal liability (mens rea and actua reus) as well as the more important crimes - theft; burglary; robbery; assault and battery (at common law, separate crimes); manslaughter; murder; criminal damage and the offence of applying a false trade description under the 1968 Trade Description Act. "Defences to crime" presumably includes both general and specific defences. This topic is completed by the powers of arrest of private citizens and the police, together with the provisions and operation of the 1976 Bail Act.

A.E.B.'s fifth and final section - Family and Welfare Law, shares common ground with Oxford's "Family Law and Succession" but has no counterpart on the Welsh Board's syllabus, for alone of the three 'O' level Board's, Wales does not offer a family law component. As every pupil is a member of a family this section of A.E.B.'s syllabus (and the corresponding section on Oxford's) should be of immediate interest to him*, indeed, certain aspects of it may possibly be within his* experience e.g. the marriage of an older brother or sister, the provision of a family will or, less fortunately, the divorce or separation of his* parents. There are five topics within this "Family and Welfare" area of law. The first-'Family', encompasses valid, void and voidable marriages, divorce and separations, together with the role of the courts involved in these areas. The legal duties and responsibilities of spouses towards each other and their children, close this topic.

Under 'Succession', the second topic, may be found, as would be expected, the rules for formulation and termination of a will and the part played by the Inheritance (Provision for Family and Dependants) Act, 1975, the rules (in outline) governing intestacy and the roles of executors (under a will) and personal representatives (on intestacy).

The 'Welfare' part of this final topic deals in turn with employment, welfare and housing.

The rights, duties and liabilities of employers and employees under statute and at common law are required to be studied, including those relating to sex, race and equal pay.

The Welfare component consists of an outline of the legal provisions for claiming state benefits, social security payments; supplementary benefits and unemployment benefits.

*or her

Under 'Housing', the relationship between landlords and tenants (in both private and public sectors) is considered, together with aspects such as security of tenure and the concept of harassment. Finally the two types of ownership (freehold and leasehold) and the concept of the mortgage are required to be known.

The Associated Examining Board's 'O' level syllabus contains some twenty topics spread among five sections which are really divisions of convenience rather than of homogeneity, as their titles indicate.[7] The breadth and divergence of material are greater than on either Oxford's or the Welsh Board's syllabus - it has been noted that the required examination time is almost one third longer than that of Oxford or Wales - and this will appeal to some pupils as there is less chance of failure to grasp an unappealing topic damaging examination results. A reason why it is lesslikely to appeal to teachers of 'O' level law - and therefore, diminish its utility - lies in the increased legal knowledge they would be expected to acquire.

The introductory note to the Welsh Board's 'O' level law syllabus reads as follows: "Candidates should have a basic understanding and appreciation of the subject. The treatment of the syllabus is intended to be descriptive rather than analytical and to provide a suitable introduction to the study of Law". It should, perhaps, be emphasised that the last word is the title of the 'A' level subejct (and printed in bold type), but a literal interpretation would make sense.

The syllabus is divided into two sections and a minimum of two of the five questions required to be answered, must be taken from each section, dealing respectively, with the English Legal System and three areas of substantive law - contract, tort[8] and criminal law. This compares with Oxford's two sections dealing respectively with the English Legal System and four areas of substantive law - torts;[9] contract; family law and succession, the last two in the same section, though they are separate (but, of course, related) subjects. In Oxford's case only one of the five questions needs to be taken from the English Legal System section, the maximum being the four offered on this part of the paper. As has already been noted A.E.B.'s seven questions, divided into four essay type (on the two hour paper) and three problem type (on the ninety minute paper) are set across the syllabus, though the problem questions are drawn, in practice, from the areas of substantive law within the syllabus.

Section A of the Welsh syllabus contains three topics connected with the English Legal System, though the first and third are of a composite nature.

The first topic - 'The Nature and Sources of English Law' includes the distinction between legal and other rules relating to human behaviour; the justification for law; the development and contemporary relevance of common law and equity; statute and case law; delegated legislation; and European contributions to English municipal law.

'How Justice is administered', is the title of the second topic which encompasses the distinction between civil and criminal law; the powers of civil and criminal courts and their procedures (in outline); appeals; tribunals, their work and differences from courts; the personnel of the law - judges, magistrates, juries, barristers and solicitors; legal aid; and neighbourhood law centres.

The final topic in this first section - 'Legal Personality and Capacity' contains reference to status and nationality with particular emphasis on minors and married persons; the concept of legal personality as illustrated by corporations (including state corporations); unincorporated associations; partnerships and trade unions.

Most of the contents of Section A are to be found on any English Legal System syllabus and have already been discussed in connection with those reviewed in this thesis. Neighbourhood law centres are peculiar to the Welsh Board's 'O' level syllabus and operate in areas of social/economic deprivation. Some are established by the Law Society and operate within the agreed legal aid and advice system others are the responsibility of various charitable bodies and provide their services entirely without charge. As might be expected many of these law centres operate in the Greater London area, though as their number increases their distribution is likely to be geographically more equitable, though still in urban rather than rural areas for obvious reasons. Hence whether or not a pupil is likely to benefit in the future from this area of his course will depend on geographical as well as economic considerations.

The three areas of substantive law are grouped as two topics in Section B, with Contract and Tort constituting the first and Criminal Law the second.

The differences between agreements and contracts, methods of concluding a contract , contractual terms, are all listed for consideration, as are specific types of contract relating to sales of goods (especially credit sales), hire-purchase, land and employment.

Tortious liability is considered with special reference to negligence (previously characterised as the most important tort or at least the one most commonly litigated) and the general defences available to the defendant.

This topic closes with contractual and tortious remedies.

Criminal Law brings both Section B and the Welsh 'O' level syllabus as a whole to a close. The topic begins with the nature of a crime (the mental[10] and physical elements), offences against the person and against property and the specific offence of criminal damage under the 1971 Act. Criminal trials are not included in this syllabus, but arrest, pre-trial procedure, sentences and sentencing are.

"To provide a suitable introduction to the study of Law". These words from the introduction to the Welsh Board's 'O' level syllabus, in which the Board seeks to explain the function of that syllabus, could equally well be used to describe the purpose of any 'O' level syllabus - or equivalent - in this area. Certainly it is the writer's experience that 'A' level law candidates who have not taken an 'O' level course are at a disadvantage. It is, however, possible to justify teaching 'O' level law as an end in itself, though that end must, ipso facto, be the very limited one of portraying the nature of the subject, indicating its relevance to society and providing the future citizen with the knowledge of how to go about solving his legal problems. In those areas where the syllabus is sufficiently detailed, then the law student at 'O' level may risk relying on his new found knowledge to provide answers to legal problems outside the examination room, for it has already been stressed that legal knowledge is the same at any level and the only test is one of comprehension, but "outline" areas of the syllabus must be regarded as providing only "a suitable introduction to the study of law".

The General Certificate of Secondary Education will replace the General Certificate of Education (and the Certificate of Secondary Education) from 1988.[11] Four Examining Groups have been established, on

a geographical basis, to be responsible for the provision of this examination for England;[12] Northern, Midland, Southern, and London and East Anglian. Two of these four Groups, Southern, and London and East Anglian will offer at least a "normal" course in Law. The Northern Group will offer a mature course from 1988 and the Midland Group will do so from 1989.

As would be expected, there are differences between the new examination and its G.C.E. precursor, but these are differences of approach, and sometimes of application, rather than of content. Indeed, it is hardly possible, given that an examination at the level of school leaving certificate will seek to examine those areas of law relevant to everyday life, for it to be otherwise. The rules concerning the formation and content of contracts, the definition of negligence or defamation, the structure and jurisdication of courts of law, will be the same on a G.C.S.E. syllabis they were on a G.C.E. 'O' level one.[13] Contrasts of style may validly be drawn however, as may the distinction between an examination meant for the upper 20 per cent of pupils and one intended to cater for all examinees. As far as G.C.S.E. Law is concerned, it is likely that the number of examination candidates drawn from the "extra" area covered by the new examination will not be large, the academic demands of the subject militating against such extension.

As much of the material which will be examined on the G.C.S.E. syllabi is similar to or, in many cases, identical with, that offered at 'O' level, which has already been the subject of comment, the aims, objectives and style of G.C.S.E. Law will be treated here.

All four English Examining Groups, together with the Welsh Examining Authority, provide Law G.C.S.E. syllabi: The Aims and Assessment Objectives of the two English Groups offering "normal" as opposed to "mature" courses - Southern, and London and East Anglian - are given below.

Southern (S.E.G.) offers four aims which a course based on its syllabus should achieve:

1) Understanding of law as a changing body of rules;
2) A development of general education by stimulating a critical interest in legal matters;
3) An understanding of law and the legal system as they relate to everyday life;
4) The provision of a sound basis for further study.

The aims of L.E.A.G. are to:

1) develop a sound knowledge and understanding of the nature of law, the legal process and the relevance of legal rules in society;

2) establish a firm knowledge of the role and function of law in society, and its use as a tool for dispute resolutions, in particular, through the study of selected branches of law;

3) develop a critical awareness and evaluation of the legal process in society;

4) stimulate an examination of current legal issues, and create an awareness of social, economic, political and other factors affecting the development of the law;

5) engender an ability to argue and to solve problems by the application of legal rules.

S.E.G.'s aims could be summarised as, "the appreciation of an understanding of law and its application to life and, through such appreciation, to develop and extend the pupil's general education".

L.E.A.G.'s aims appear to be both complex and, to some extent, duplicative. What, it may be asked, is the difference between "a knowledge of the legal process" and knowledge of the use of law "as a tool for dispute resolution"? Again, the difference between, "a knowledge of the legal process" and "an awareness.... of the legal process" is not immediately obvious. L.E.A.G.'s aims can be summarized as, "the engendering of a sound legal knowledge, both substantive and adjective, with particular reference to the role of law as a mechanism for solving disputes and stimulating thought, together with an appreciation of factors affecting the development of law in society". It is interesting to note that both sets of aims betray their origins in the philosophy of the Examining Groups' parent bodies. The S.E.G. was created by the coming together of, inter alia, the Associated and Oxford G.C.E. Boards and the aims of S.E.G.'s G.C.S.E. law syllabus are almost identical to those of A.E.B.'s G.C.E. law syllabus - Oxford, it will be recalled, did not express an aim. L.E.A.G.'s aims are not a re-issue of those of London, the only "Law" Board in L.E.A.G., to a comparable extent. As London's G.C.E. Law contribution is at 'A' level only, this is not surprising, although there is a fair amount of common ground. More noticeably common is the full and detailed expression of the aims,

suggesting a single progenitor. S.E.B.'s emphasis on the role of law in general education is to welcomed, underlining, as it does, an important reason for teaching law in schools.

S.E.G.'s assessment objectives are, like its aims, succinctly expressed. In the examination at the end of the course, a candidate should be able to:

1) recall relevant knowledge of the law;
2) apply knowledge of the law to legal problems;
3) select and use legal material in a systematic and reasoned manner;
4) comment critically on legal matters.

L.E.A.G.'s assessment objectives, to be tested by its examinations, are:

1) knowledge and understanding of the functions of law, of legal institutions, and of relevant substantive law in four selected areas;
2) ability to identify the appropriate legal process in response to stimulus material;
3) ability to examine critically and evaluate current legal issues;
4) ability to undertake simple investigation to discriminate between the value of different resource materials, and to present conclusions appropriately;
5) ability to assess problems involving the law, and to apply legal rules to such problems in order to reach reasoned conclusions.

As is the case with the aims, there is a recognisable correlation between the assessment objectives of S.E.G. and the objectives of A.E.B. 'O' level. An overlap is to be expected and they are sufficiently distinct to reflect the different nature of the two examinations. No real identity exists, of course, between L.E.A.G's assessment objectives and those of London 'A' level, but as with the aims, both seem to be unnecessarily complex. The first, second and fourth objectives are unexceptional, the third objective which is virtually the same as S.E.G.'s fourth, possibly so. The fifth could be daunting to some 14-16 year olds.

Perhaps the greatest change that will be noticed with the advent of the G.C.S.E. will be teacher assessed course work as part of the overall subject grade. Teacher assessment was possible with both precursors of the G.C.S.E. (G.C.E. and C.S.E.), though, save in C.S.E. Mode III schemes, not extensive. It is, in fact, possible to take a G.C.S.E. course without undertaking any course work, but only on an external basis and even then not with every Group. It is possible with S.E.G. for example. Correspondence Colleges e.g. Wolsey Hall, offer appropriate distance instruction. In such cases an extra paper is taken in place of the course work.

Although course work which, following the usual pattern, will be internally marked and externally moderated, constitutes an essential element of all G.C.S.E. Law courses, with the exception already noted, the size of that element is not consistent. S.E.G. stipulates that the mark for its course work shall be valued at 20% of the total assessment. L.E.A.G.'s and N.E.A.'s allowance doubles to 40%; whilst the Welsh Board's stipulation is again 20%. In view of the national identity of criteria which it is intended shall be the hallmark of this new examination, it seems surprising that such an important matter as the value to be placed on course work and therefore, the control of the assessment, should not be constant, or that any variations should be so great. Indeed it could be argued that wide discrepancies in this area call into question the acceptance of a general standard in the G.C.S.E.

The importance accorded to course work in the G.C.S.E. framework stresses the value which many educationalists believe should attach to this element. This value will not, though, in practice, be constant, increasing or diminishing according to the approach taken to the course work by the individual pupil. It will be determined too, by the ability of the pupil to profit from the opportunity provided for this type of assessment. In spite of attempts by teachers to encourage genuine research, not all pupils are capable of an appropriate response and plagiarism is an ever present danger. It is, of course, the bane of all such exercises. Yet if the course work is chosen so as to provide an opportunity for personal involvement in the law, possibly on a practical level, such as a court visit or series of visits, or discussions with legal personnel, the resulting written work is more likely to be original and of real value. Certainly there may be difficulties with several aspects of course work - the very novelty itself, different methods of

teaching and learning, even counter productive elements such as the loss of teaching time through extensive 'outings' in connection with course work. On balance, however, gains should outweigh lossess. One such gain may well lie in the broader appeal of G.C.S.E.[14] law arising directly from the possibility of practically based course work. Moreover it is possible that this type of assessment may become a feature of preparation for 'A' level - or equivalent - examinations in the future.[15] The fate of 'A' level examinations is at present under review by the Higginson Committee which may recommend that the present 'A' level structure should be replaced by a "Higher G.C.S.E." type examination. This would, of course, establish a natural progression from the 'O' level replacement, but there is a danger that a new post G.C.S.E. examination which continued the features of that qualification would lack the intellectual vigour of the present 'A' level as a higher education entry qualification and lead to demands, inter alia, for a four year degree course.[16]

Footnotes

1. A.E.B. and W.J.E.C. (the Welsh Board). A.E.B. introduced 'O' Level Papers in 1962, four years after its first 'A' Level Examination. The respective dates for W.J.E.C. were 1972 and 1969. Oxford introduced 'O' and 'A' Level Law Examinations together in 1974.

2. As with 'A' level, there are no aims or objectives given, but are they necessary?

3. There is only one, irretrievable breakdown, though there are five different procedures available.

4. "A little learning is a dangerous thing. Drink deep, or taste not the Pierian spring". Alexander Pope: An Essay on Criticism.

5. Respresentative actions may be taken.

6. Though not, specifically, the particular ones - those peculiar to a named tort. These would, however be included in a comprehsive treatment of the appropriate torts.

7. Classification of topics within entirely homogeneous sections would more than double their number.

8.9. The use of the singular on the Welsh syllabus, as on A.E.B.'s, compares with Oxford's plural. The distinction is more than academic.

10. Save in crimes of strict liability.

11. Provision is to be made for external candidates to continue to be able to sit 'O' level examination, including, where applicable, those in Law, until 1989.

12. A separate Examining Authority has been established for Wales.

13. The same textbooks previously prescribed for 'O' level courses, were initially recommended for G.C.S.E. work. G.C.S.E. texts, differing in emphasis from their predecessors, are now available.

14. As compared with 'O' Level Law which confines its appeal to the more academic pupil. Upto 40% of the final assessment may be earned through course work which may be based on practical involvement.

15. In February, 1988, Oxford Local Examinations Board sent out a questionnaire to centres preparing candidates for the Board's 'A' Level Law examinations, enquiring whether teachers would favour the introduction of a course work component at 'A' Level. The accompanying letter states that the introduction of the G.C.S.E., together with the appointment of the Higginson Committee, necessitates the revision of the Board's 'A' Level Law course.

16. If student grants are replaced, wholly or partly, by student loans, such a proposal would be even less popular - and possibly less viable - than would otherwise be the case.

Chapter 7

G.C.S.E./G.C.E. Alternatives

Schools wishing to offer examination courses in law usually opt, naturally enough in view of their general utility, for those set by the G.C.E. Boards at 'A' and 'O' level and by the new Examining Groups for the G.C.S.E. 'A' level and G.C.S.E. courses, which have been considered in previous chapters, will doubtless continue to constitute the 'normal' school examination fare in law for the forseeable future. There are, however, other examinations in law, which are of comparable standard and which are set by examining bodies whose existence sometimes predates that of customary school examining authorities. These examinations, set by the Royal Society of Arts (founded in 1754), the London Chamber of Commerce and Industry, which will celebrate its centenary in 1988, and other bodies of more recent origin,[1] are usually taken by students in further education colleges. They may be, and sometimes are, taken by pupils in schools and, in this connection, a representative sample will be considered here.[2]

Two points should be made at the outset. These examinations are intended for entry to the world of commerce and industry and are often vocational in orientation, and, possibly for this reason, may or may not be acceptable as entry qualifications for higher education courses. The vocational nature however can be overstated: law is law on whatever course it is examined,[3] a truth already apparent in an earlier comparison of 'O' level and G.C.S.E. courses.

The London Chamber of Commerce, through its Commercial Education Committee, sets examinations at three levels, the third being the highest. The second and third level examinations are comparable in standard with 'O' level/G.C.S.E. and 'A' level respectively, though the syllabi on which the Chamber's examinations are based are more restrictive than are those of their G.C.E./G.C.S.E. counterparts. There is, nevertheless, sufficient correlation to permit of pupils/students preparing for both examinations by means of the same course.

Law subjects are set by the Chamber only at the third level, the 'A' level equivalent. Three such subjects are offered: Commercial Law, Law of Business Association, and Legal Institutions and Principles. In addition, provision is made for local centres to devise their own syllabi for examinations at the third level.

The aim of the Chamber's examination in Commercial Law, " is to test the candidate's grasp of the basic principles of the law of Contract, including special contracts and the ability to make a logical application of the principles and case law". It is interesting to compare this aim with that of the Royal Society of Arts in respect of the same subject.[4] The R.S.A.'s aim is to set the subject firmly in "the economic and social environment" in which its principles are applied.[5] The syllabus is examined by one three hour paper[6] and is divided into two sections. Section 'A' is concerned with the nature and formation of a contract, that is, with its elements, possible vitiating factors such as mistake, methods of discharge and remedies for breach. This treatment of contract law seems, not unnaturally, to be fairly universal as far as school level examinations are concerned, whether they be 'academic' or 'vocational' in bias. The concerns of section B are more traditionally commercial: sale of goods, consumer credit, negotiable instruments, letters of credit, and carriage and insurance of goods. The questions emphasise section B as three have to be answered (out of five) in this section compared with only two (out of four) in the first section.

The aim of the second of the Chamber's legal subjects, 'Law of Business Association', is to test the candidate's knowledge and understanding of the legal framework within which agencies, partnerships and companies operate. Section A deals with the nature, creation and termination of agency, with the rights and duties of principal, agent and third parties, together with the formation and dissolution of partnership, relations between partners and dealings with third parties. Section B of this syllabus is solely concerned with company law, though this appellation is not used. Principles which govern the formation, management and dissolution of companies and the conduct of the directors are considered. The usual 2:3 ratio of questions from section A and B respectively squarely places the emphasis in this syllabus on company law. Moreover, the stipulated equal division of agency and partnership questions in the first section, will, in effect, permit one of these topics to be ignored as there is no requirement that the two questions must be taken from different areas.

'Legal Institutions and Principles' is the comprehensive title of L.C.C.I.'s final legal subject. The aim of the examination, is to test the candidate's knowledge and understanding of the basic principles of English Law and to determine whether the candidate can apply legal principles to two specialist areas. Section A deals, at least in part, with the English Legal system and encompasses sources of law, types of law (civil and criminal), settlement of disputes (in courts or tribunals), the legal profession, and legal personality and capacity.

Section B of this subject is sub-divided. Two of the sub-divisions must be studied, though the requirement that three questions are to be taken from section B as a whole necessarily implies unequal treatment, at least in the examination, of the two sub-divisions. Tort is dealt with first, the more important torts, negligence, trespass, occupier's liability, nuisance, defamation, breach of statutory duty are considered, together with strict liability, vicarious liability and, finally, remedies. The second sub-section deals with the area of property and succession including the classification and nature of property, the transfer and mortgaging of property, and its devolution by will or on intestacy, including the administration of estates. The final sub-section offers criminal law, encompassing general principles of criminal liability (mens rea and actus reus): general defences; offences against property, especially theft, and offences against the person, including both homicide and non-fatal offences.

The similarity in standard between the London Chamber's Third Level Examinations and G.C.E. 'A' level enables schools to "double enter" their pupils if they so wish and some do adopt this practice. The final L.C.C.I. legal subject considered above lends itself to a useful combination with several 'A' level syllabi and, of course, a mode III Chamber syllabus could be an exact replica[8] of any 'A' level syllabus taken, but this would rob the certificates, or at least one of them, of some value. The acceptance of the Chamber's examination by professional bodies in lieu of their own constitutes one reason for a 'double entry' and confers upon the school the role of 'professional trainer' - a role not entirely to the liking of all teachers.

Like the London Chamber of Commerce and Industry, the Royal Society of Arts sets its examinations in three stages: Stage I (Elementary), Stage II (Intermediate), and Stage III (Advanced). Unlike the L.C.C.I., however, the R.S.A. sets some law subjects at Intermediate as well as at Advanced level, corresponding to the 'O' and 'A' levels of the G.C.E. The law subjects set by the R.S.A. are Commercial Law (stages 1 and 2); Company Law (stage 3); General Principals of English Law (stages 2 and 3); and Legal Aspects of Business (stage 2). A three hour paper is set in the stage 3 subjects, one lasting two and a half hours in the stage 2 subjects.

Commericial Law is set by the R.S.A. at both Intermediate and Advanced levels and for each the aim is the same "to develop an appreciation of the legal aspects of business and to enhance the student's understanding of the basic principals of commercial law and of their relationship to the ecomomic and social environment in which they are applied."

At each level the student must know the essentials of the law of Contract and, in particular, of a Contract of Agency and of a Contract for the Sale of Goods. Details of the first and second of these have already been given in this thesis,[9] the knowledge required in respect of the third relates to sale and agreement to sell; transfer in and of title to goods, rights of buyer and seller; conditions and warranties and, in outline only at the Intermediate Stage, hire-purchase. In addition, at the Advanced Stage, knowledge of Consumer Credit - the contract of Hire-Purchase, considered in detail, credit sales and conditional sales, is called for, together with an understanding of Negotiable Instruments, with particular reference to cheques.

The R.S.A. sets Company Law at Advanced level only, corresponding to the L.C.C. and I.'s provision [10]in this area and the syllabus as would be expected, is essentially the same as that of the London Chamber. The R.S.A.'s course/examination is more specific than that of the L.C.C. and I's "...to give a sound knowledge of the Companies' Acts, together with any relevant E.E.C. provisions and of the appropriate case law", though the difference is more apparent than real. Company law is, of course, the most specialised subject offered by the L.C.C. & I. and the R.S.A. and, for that reason alone, is taken in

colleges of further education rather than in schools. It is not offered by the G.C.E. boards.

Legal Institutions and Principles, set at the Third Level only by L.C.C. & I., is offered as General Principles of English Law at both Intermediate and Advanced levels by the R.S.A. At both stages,[11] the student is required to be aware of four areas of common legal knowledge, with familiarity with an extra two being expected at Stage III.

Under the title "Sources of English Law" are listed customs; common law; judicial precedent; law reports; ratio decidendi and obiter dictum (virtually co-terminus with judicial precedent); the law merchant; statutes and delegated legislation; nature and development of Equity.

"English Legal System", the second area, requires study of civil and criminal law; the courts and their jurisdictions; House of Lords; Court of Appeal; High Court; Crown Court; County Court; Magistrates' Court; the Restrictive Practices Court; the Commercial Court, administrative tribunals; the legal profession; and the law reform agencies.

The third area of this syllabus, "Law of Contract", contains the usual contractual elements and remedies already detailed in this thesis, with the addition of Assignment at Advanced level.

The "Law of Persons" considers legal personality with particular reference to corporate and unincorporated associations. It is the final part of the Intermediate syllabus.

Although the L.C.C. & I. Legal Insitiutions and Principles does contain "property", the R.S.A.'s "Law of Property" section is rather more detailed. Students are required to understand the distinction between real and personal property and also between freehold and leasehold estates. They are also required to be familiar with the transfer of ownership and possession.

The final area of the Advanced level syllabus deals with the Law of Tort. The general principles of tortious liability (including strict liability) are considered, together with viarious liability. Trespass to person, land and chattels; nuisance; negligence and defamation are the torts detailed for study and the section closes with legal and equitable remedies for tort.

It is worth noting that, although the two general legal subjects offered by the L.C.C. & I. and the R.S.A. have similar titles. Legal Institutions and Principles, and General Principles of English Law respectively, their syllabi are not identical. Contract does not appear on the L.C.C. & I. syllabus, whereas it represents an important element on that of the R.S.A. and the Criminal Law does not appear on the R.S.A. syllabus. Although all topics are compulsary on the R.S.A. syllabus, only two of the areas of tort, property and crime are required to be offered from the L.C.C. & I. syllabus.

The Introduction to the fourth and final legal subject set by the R.S.A. - Legal Aspects of Business, makes it clear that this subject can be taken only by candidates who have left school[12] and therefore it lies beyond the province of this chapter. The syllabus, in fact, consists of sections dealing with the sources of law, the courts, contract, agency, tort and employment law with particular reference to statutory provision. [13]

Footnotes

1. E.g. B.E.C. 1978, now through amalgamation with T.E.C., B.T.E.C. 1983.

2. Those of the London Chamber of Commerce and The Royal Society of Arts.

3. In his booklet, 'A Career in Law', Professor Hogan states that students will be advised that there is a difference between 'academic' law and 'practical' law. He advises them, "never be misled by this canard".

4. Page 92.

5. Perhaps it is necessary to go back to the Medes and Persians in order to find pure law, or possibly only as far as Mount Sinai.

6. Although of 'A' level standard it is only 50% of an 'A' level examination in length and for this reason, not likely to be acceptable as an alternative degree entry subject.

7. The provisions for a mode III Syllabus in effect creates a fourth legal subject.

8. Though in contracted form as the L.C.C.I. examination consists of one three hour paper as opposed to the two found at 'A' level.

9. See Oxford 'A' level Contract Syllabus and L.C.C.I. Commercial Law Syllabus Section A and Law of Business Association Section A.

10. L.C.C.I. Law of Business Association Section B.

11. Broad outline knowledge only is expected at Stage II.

12. "The subject should be studied in the private and business lives of the candidates".

13. Fourteen statutes are mentioned specifically in this final section.

PART 3

How is Law taught in Schools- and to what effect?

Part 3

How is Law taught in Schools - and to what effect?

Teachers of English Literature sometimes claim that their subject is "caught not taught". It is very unlikely that any teacher of law would feel able to make a similar claim, as the high factual content of legal subjects necessitates a very real teaching element, even if this is, in part, self-teaching.[1]

Before examining the principal methods by which law is taught in schools as an examination subject, it may be helpful to recall, in general terms, what it is hoped will be achieved through that teaching. The Welsh Board's expressed Aim in terms of its 'A' level syllabus may be taken to represent the purpose of all 'A' level teaching and, with the conversion of 'area of law' into the plural, of all 'O' level/G.C.S.E. and equivalent teaching too. That Aim is: "To give a basic understanding and appreciation of the nature and function of law and the legal system in contemporary society, and by the study of a particular area of law, to develop a critical appraisal of the operation of legal rules in their social context[2]. The environmental emphasis in both parts of this expression of purpose is an apt reminder of the relevance of legal topics to life and justification per se for including them on the school curriculum.

Whatever personal approach is taken to teaching law, and different approaches are, of course, taken, certain tools are required for the task and the most necessary and most common of these is the textbook which will be considered first of all.[3]

Whilst at G.C.S.E./'O' level (or equivalent) one single textbook may suffice, this is unlikely to be the case at 'A' level, save where the textbook has been written specifically for the particular syllabus followed.[4] It is likely that at least three textbooks or rather two textbooks and a casebook will be required to accommodate most 'A' level syllabi,[5] one specifically devoted to the compulsory paper dealing with the English Legal System and informing students about topics from the structure of the courts and Legal Aid, to the tests for granting legal recognition to a custom and recognising the inter-relationships between law and morality; the other providing material for the optional paper or topics. Unless the school or college takes one of the series of Law Reports[6] or these are otherwise accessible to pupils, a good casebook will also be required. It is also recommended practice to read more intensively

about selected topics than is usually possible in a textbook. This reading may be pursued in articles in learned magazines or papers or may take the form of further texts.[7]

Most examination bodies recommend reading lists of varying length. It is not always a good practice to abide by such recommendations. Law teachers are united in regreting the fact that textbooks are possessed of notoriously short lives, that is they go out of date very quickly. This is particularly true of textbooks in optional subjects and topics such as criminal law or the law of contract, less so of textbooks on, for example, the English Legal System. The sensible practice of purchasing alternative textbooks on the ground that they are more up to date may not, however be as straightforward as it would seem. The alternative may not deal adequately with all matters, may indeed not deal at all with some topics, thus necessitating the acquisition of further texts to remedy the deficiency. The practice of photocopying of parts - even whole chapters - of some textbooks in order to supplement others, does not in view of the existence of copyright laws[8] appear to supply a solution to the problem, though the practice of "gutting" textbooks sometimes indulged in may be the answer in the opposite situation of the text which not only adequately covers the syllabus, but contains, in addition, amounts of totally extraneous material.[9]

The necessity or certainly overwhelming desirability of using a range of textbooks for at least 'A' level (or equivalent) work, inevitably raises the question of cost. Textbooks generally at the present time tend to be expensive and law texts particularly so as those recommended for use at 'A' level are in many cases those normally prescribed for undergraduate courses. Even if it can be assumed that the school library will hold an adequate number of casebooks, so obviating the need for every student to possess this extensive and expensive aid,[10] individual spending on law texts is not likely to be less on than £25 to £30 and could be still higher. Although there are alternatives to the possession of recommended law texts by every pupil, they are not as satisfactory and thus it is possible that a fairly high financial hurdle may well limit the introduction of law into some schools at 'A' level, especially in today's cost conscious climate.[11]

However expensive and however excellent a textbook may be it is still only at tool - a good tool probably, but a tool nonetheless. For a

tool to be used effectively, it must be in the hands of a craftsman and it is here that the lack of qualification and training of many law teachers will be felt. The pitfalls are there to trap the unwary. Is the author expressing a legitimate point of view or merely his own opinion? Is there a misprint in something which could make sense either way? Where exactly does the ratio decidendi of a case change and become obiter dictum? Has the author oversimplified? Is an understanding of technical terms assumed? An uninformed use of text-books could court disaster not least in examinations, but how many teachers are in this situation? How many pupils flounder accordingly?[12]

Teachers' Notes take various forms, dictated, written on the blackboard or written and distributed beforehand, in the latter case amounting to anything from supplementary material to almost an independent course. Whichever form they take, teachers' notes possess the valuable attribute of flexibility which no textbook can possibly possess and this is of particular importance in Law, for new material, especially cases which can actually change the law which is being taught, while it is being taught, can be readily assimilated into the course. Notes given in this way can also interpret an area of the syllabus in a topical manner especially bearing in mind the particular interests of the students or pupils concerned. Notes of this nature and quality, though, require long hours of preparation and it must be remembered that in many cases law teachers will spend only a small part of their timetable teaching law and, understandably, will feel that preparation for their major teaching subject must take precedence.[13]

Worksheets which counterbalance Teachers' Notes and share with them a common characteristic of time-consuming preparation, are commonly used in schools - though less so in sixth form colleges - as an adjunct to other written and oral teaching of law. Their value lies in their scope for determining the exact extent of pupils' knowledge and comprehension of textbooks and Notes. They have been found to be particularly useful in dealing with problems in the law of contract.

For many who attend a court of law as a witness, whether they are children or adults, the experience is something of a 'trial'. The practice of schools of taking parties of their law pupils to courts to sit in the public gallery and, as it were, 'witness' a case cannot but be beneficial in obviating, or at least reducing, the natural apprehension

felt in connection with a court appearance. Though this practice is certainly justified on general educational grounds, its importance as a component of a G.C.S.E. or G.C.E. 'A' level course is such as to render its omission from such a course almost unthinkable. Nothing is more likely to "bring home" to a pupil the utility of the law he learns in class than to witness that self-same law being enforced before him. If it is true a picture is worth a thousand words, then the value of a picture that comes to life can hardly be doubted. How better, in fact, in the words of the Welsh Board's Representative Aim, quoted in full earlier in this chapter, to provide an "understanding and appreciation of the nature and function of law and the legal system in contemporary society". Moots (in which legal case points are argued) and mock trials (which emphasise the rules of evidence) are a useful extension of this aspect of school law teaching, though both require skillful handling.

Those who are professionally employed in "the law" are often prepared to talk about their work to schools, either at their place of work or in the classroom. The former is preferable as it enables pupils to see "the professional" - solicitor, justices' clerk, policeman or woman, in his or her working environment, the latter is more practicable and more usual - and less destructive of the school timetable. It is undoubtedly highly beneficial for pupils to be given, at first hand, the opportunity to learn from practitioners of the arts included in their law syllabi the knowledge they need of these areas of their course. The practice of using such visits or speakers is particularly useful in connection with the components of the English Legal System[14] and is popular with both pupils and teachers.[15] A note of caution should possibly be sounded though. Beneficial as visits and talks are,[16] they cannot be more than an adjunct to basic classroom teaching; indeed, the over-use of such practices would reflect adversely on the professionalism of the law teacher.[17]

The other 'tools' used by law teachers are more recognisable as tools: television, radio, films, audio and visual tapes, all of which, either singly or in various combinations, assist the teaching of law. They share a common characteristic of being capable of use outside the classroom as well as inside it and may therefore supplement, rather than replace, ordinary teaching.[18] Radio 4's "Law in Action" programme is widely utilised, as are television's offerings of "The Law Machine", "Out of Court" and, to a lesser extent, "Crown Court". Since 1984, video

tapes on legal topics have been available from one of the leading legal publishers in association with the University of Warwick.[19] One of the first 'law films' as they are termed, to be issued was 'The Sunday Times Case' dealing, against the background of the litigation over the Thalidomide issue, with the protection of human rights, the right to free expression and kindred issues, and the role played in these matters by the European Court of Human Rights in Strasbourg. Another useful 'Law film' 'A Case through the Courts', traces a civil case in all its stages right through to the House of Lords, showing the background to the case, e.g. the tactical decisions behind the litigation, procedural steps, involvement of legal personnel, as well as the role of the appellate courts, particularly in connection with their capacity to change the law.[20] Law films cover topics in a more comprehensive and a more compact way then is possible in class. Like a session in the public gallery of a court, a law film can bring law to life, but it lacks the contemporaneity and personal involvement that only physical presence can achieve. Moreover, the advent of new examinations such as the General Certificate of Secondary Education which require the production of course or project work, would appear to favour the participatory approach evinced by the practice of court visits. The latter approach also commends itself on the ground of cost. Whereas the law films each cost in excess of £100, court visits are free - a combination of necessity and virtue which appeals to all schools.[21]

It is to be expected that not all components of all courses will appeal equally either to teachers or to pupils. As already noted, matters on English Legal System syllabi 'taught' by probation officers, police officers, solicitors and others visiting schools tend to be popular 'consumer' items with pupils. This undoubtedly is due, in part, to their novelty value - but only in part. The opportunity thus provided for questioning and, indeed, debating with these primary sources, is of considerable educational value and if such modes of learning are enthusiastically received, so much the better. It is English Legal System items which, generally, possess the propensity to attract or to repel - matters of substantive law, whether criminal or civil, e.g. tort, contract and family law (including probate!) are normally found to be interesting. Among components of English Legal System papers (such papers are almost always compulsory) to complete for disfavour are legal aid ("hardly a cliff hanger"), nationality and domicile, statutory intrepretation, and Equity. Court structure and

type appears to be an ambivalent topic. The inevitable rote learning (this applies to law as a whole) is disliked by some as is, apparently, the criminal offence of conspiracy in both its common law and statutory forms.

Most English Legal System examination papers are broad enough to accommodate the majority of personal preferences and the element of choice usually permits the selection of questions from among the favoured topics.[22] The presence therefore, on the syllabus of topics pupils - or teachers - regard as "dry", and these will not always be the same topics, need not be detrimental to either the enjoyment of the course or the pupils' chances of obtaining the high grades currently demanded for degree course entry. It can, in any case, be argued that it is not necessary for every item on an examination syllabus to be agreeable.

Whilst the presence of disagreeable topics on a syllabus may not in itself be too serious, if the topics are,in addition, complex or outside the experience of most pupils, the desirability of including them on the syllabus would seem questionable. Equity has been mentioned as an area that is less than universally popular. The reason, it seems, lies in the abstract or philosophical nature of the subject. The basic definition of Equity as "fairness", is not difficult for pupils to understand. Indeed it is one that appeals readily to them. To define Equity as "fairness", however, though true enough originally, represents only half the truth today, for Equity possesses a set of rules no less complex than those of the Common Law whose harshness it was created to alleviate. Another 'philosophical' topic, also from the English Legal System stable, "aims of sentencing", requires a synthesis of purpose and justification, each composed of legal, moral and social determinants, which cannot easily be achieved by an average eighteen year old. It must, though, be admitted, in contradistinction to the argument that philosophical concepts are generally inappropriate on a school syllabus, that a major G.C.E. Examining Board has recently introduced philosophy as a subject offered to schools in its General Certificate of Education programme.[23] If it is considered to be educationally desirable for pupils to study only selected topics, it is open to any school so wishing to propose to the relevant examining authority, its own syllabus.[24] In view, too, of the fact that teachers of law in schools do not always possess a qualification in law, the opportunuity to compile

a school law syllabus which concentrates on the broad aspect of the subject, should be available.

Examining authorities traditionally do not normally stipulate the methods by which students should be prepared for their examinations beyond offering a number of aims and objectives for each course. Some, Oxford Local Examinations, for example, do not even do that. It may indeed be argued that detailing methods of teaching lies outside the legitimate concern of examining authorities whose function, by definition, is to examine candidates' knowledge of specified subject matter. Teaching materials are, however, increasingly issued, not only by commerical undertakings, but by the examining authorities themselves. This practice is being followed by the new Examining Groups responsible for the General Certificate of Secondary Education. As assessment of course work by the teacher is reflected in the final G.C.S.E. grade, it is essential that the teacher - examiner should be educated in the skills needed for his new role if he does not already possess them.[25]

G.C.S.E. Course Aims and Assessment Objectives are very detailed and specific and must be objectively implemented. As long as these criteria are borne in mind, a teacher may continue to use many of the teaching methods already considered. The transmission of knowledge is still a fundamental element of any G.C.S.E. course and teacher and text-book will remain the main although not, of course, the only, source of this knowledge. Study skills, such as critical evaluation and inter-pretation of materials, logical reasoning and analytical ability, recall and application of legal points in order to present coherent arguments, will continue to be acquired through reading, class or group discussion, observation of cases in court and on film and general inter-action with fellow pupils, as well as through direct and indirect[26] class teaching. As the Welsh G.C.S.E. Notes point out, the teacher takes on the role of "Research Tutor" in respect of the course work and "will need to give considerable guidance and counselling". This is a type of teaching different from that normally found at 'O' level and must be related to the individual pupil. By its nature, its efficacy will depend as much upon the ability of the pupil to receive it as it will on that of the teacher to provide it. Whatever methods of teaching are used, however, it seems that their effectiveness, at least as far as the Department of Education and Science is concerned, is a matter for the teacher alone to contemplate, for it appears that no official inspection of school

law lessons has ever been undertaken by H.M. Inspectorate.[27]

Pupils gain in a large variety of ways from their study of law. They acquire skills - transferable to other situations in life - in the solving of problems, in the presentation of logical and structured arguments, in the identification and selection of relevant material from a mass of background knowledge, in applying theory to practical situations, in debate. They learn about society, its nature and the role of law as "cement" and their own legal rights and legal responsibilities as citizens, consumers, employees and, later perhaps as employers. They learn responsibility towards and for the law. Not least they learn to memorize information, even if it is as a result of rote learning. Finally, the study of law as it develops generates "an interest in the interplay of change and continuity" in our national life.

Footnotes

1. In practice most courses will contain such an element. In theory it might be possible in the case of a pupil hospitalized, for example, for him to prepare entirely by this method, relying on "Teach Yourself" type texts and notes.

2. W.J.E.C. 'A' level syllabus stated Aim of course.

3. It could be the ONLY tool, though, for best results it should be used in combination with others described.

4. As is the case with the A.E.B. 'A' level Syllabus.

5. The Oxford Board recommends three textbooks for each of its Papers i.e. six altogether.

6. E.G. All England Reports.

7. Almost every major component of the syllabus followed is likely to be found to be the subject of separate treatment in book e.g. Professor Cross's 'Precedent'; pamphlet or article form. Law magazines are fairly plentiful e.g. Law Magazine; Modern Law Review; Cambridge Law Quarterly.

8. Copyright laws are presently being more strictly enforced than was previously the case, though the D.E.S. has promised to review matters.

9. Such a practice would not only enable some members of a group or class to read some sections of the textbook whilst other members read other parts, but would, in particular, enable two law sets to be provided with texts for no more than the cost of provisioning one set.

10. Upto £20 for the better examples.

11. Oxford's main text for the criminal law option costs (1987) £14.50.

12. It is difficult for even professional teachers of law to keep their knowledge upto date.

13. Though, possibly, the lack of expertise experienced in law would indicate that a proportionately greater length of time should be spent on law preparation. Happily, there are some full-time law teachers. For 'General Studies' Law, the Law Society provides teaching materials.

14. Legal Aid. Solicitors will have expert and upto date information.

15. Not only from the point of view of "ringing the changes" but also because of the use that can be made of experts.

16. Not least to the practitioner who gains from this involvement in the educational process.

17. A teacher is, of course, expected to teach his or her subject and is - or should be - trained for that purpose.

18. As many households now possess the means to record sound or vision programmes broadcast during the day, the study of such programmes could be stipulated for homework.

19. Sweet and Maxwell. Teachers' Notes and Students' Worksheets are supplied with each law film.

20. Judges used to deny that they did this.

21. Occasionally films with varying degrees of relevance to the study of law appear on the cinema screen (and perhaps later on television). A recent example is the American divorce epic: Kramer vs Kramer. Stage plays are also occasionally relevant e.g. 'Beyond Reasonable Doubt' by Jeffrey Archer.

22. It would be very unusual for all topics of a syllabus to be represented on any single examination paper set on that syllabus, though major areas of concern are normally present in one guise or another. Topics regarded with anathema are best selected from amongst the minor areas therefore.

23. A.E.B. (at 'A' level), 1985.

24. In theory at least. Oxford will not now normally accept such proposals. J.M.B. states that it has no special syllabi in operation.

25. Previous experience may possibly have been obtained at G.C.E. or even 'O' level.

26. By means of written materials.

27. Confirmed by Mr. P. Raggett of the D.E.S. Library. Unless the H.M.I. concerned possessed a law degree or similar qualification, he/she would not in any case be appropriately qualified for the task. There may be difficulties in connection with teacher appraisal generally in this area for similar reasons.

PART 4

Towards Professional Law Teaching in Schools

Part 4

Towards Professional Law Teaching in Schools

Anyone who favours the introduction of courses of professional training for those who wish to teach law in schools, particularly in view of the fact that law is set as a subject by four[1] of the five Examining Groups in England and Wales offering subjects for the new General Certificate of Secondary Education, will appreciate the frustration of the traveller who, upon enquiring the way to his destination, received the reply, "It is better not to start from here". Like the traveller, however, the seeker for a professionally qualified law teacher has no alternative.

The present position, certainly, is unsatisfactory. All courses for professional teacher training purposes must be approved by the new Accreditation Council on behalf of the Department of Education and Science and, as the head of a professional teacher-training establishment[2] has pointed out, there is little chance of such approval being accorded to professional courses in law at the present time. Indeed law has been designated as a non-acceptable subject in respect of entry to the Post-Graduate certificate course.[3] How then may an aspiring teacher of law obtain some qualification in the new subject he wishes to teach? Surprisingly, there appears to be nearly a dozen possible ways of obtaining such a qualification, though not all are equally satisfactory. These will now be considered in turn.

Firstly the would-be teacher of law may take a degree in the normal way and be accepted for a P.G.C.E. course for another subject in which expertise is possessed - business studies, perhaps, or English, or possibly, for general training at middle or junior level. In view of the fact that, at least some of his career, a fair proportion probably, is likely to be spent teaching the other subject or at the other level, there is nothing in any degree dishonest about such a procedure. This option does not, of course produce a professionally trained teacher of law as such.

Business Studies (which includes law) is a 'growth subject' at the present time and this area of study appears to provide the only avenue to any sort of professional teacher-training in Law in the fullest sense, that is professional training in which the student teacher may expect to receive practical training in teaching law through the medium of the

teaching practice in schools. Four Colleges of Higher Education[4] currently offer a B.Ed. in Business Studies, together with a number of polytechnics, but it must be borne in mind that law represents only one element of a B.Ed. in Business Studies. An alternative to a B.Ed. in Business Studies would be to take a non-professional degree in Business Studies (to include law), followed by a P.G.C.E. Course in those institutions which offer, through this means, the possibility of supervised law teaching practice in schools.[5]

An alternative to the specialised law degree lies in the joint or combined honours degree in which law is included as a joint or component subject. An advantage which a law joint honours degree shares with a single honours degree in the subject is that either will normally secure exemption from Part 1 of the examinations for the legal profession - an advantage to be considered by a young person bearing in mind the possibility of a career change after a number of years - a practice likely to become more common in the future. From a teacher-training view point the choice of such a degree would be likely to secure a place on a P.G.C.E. course in respect of the second or, in the case of a combined degree, further, subject, though this would not, of course, provide professional teaching training in law. It would, however, increase the availability of teachers able and, at least academically, qualified to teach law in schools.

Oxford Polytechnic offers a B.Ed. (Hons.) degree which incorporates the advantages of the joint honours degree described above in that law may be incorporated in the qualification[6] and, as the Polytechnic points out, the law component suffices to secure exemption from initial professional legal examinations. Apart from this dual career option Oxford Polytechnic's B.Ed. is, perhaps, less useful to the intending teacher of law in that it is offered only in respect of primary education, whereas the holder of a law joint (or combined) honours degree is likely to train for the secondary age range in which are his law qualification could well be more useful.

An option in practice, if not in theory, almost identical to Oxford Polytechnic's B.Ed. with law, can be chosen by those who wish to delay their final decisions concerning law teaching. This is to take a Diploma in Higher Education with law as main subject for two years and then, their committment to law teaching, - or teaching in general confirmed - go on to take a B.Ed. degree as a third year of study. This is

possible at four polytechnics.[7]

It is possible at a number of universities[8] to take a degree, other than a B.Ed. which is in any case being phased out in universities, which incorporates both professional teacher-training and a teaching certificate. Such degrees may include law as at least part of the required study - the law Tripos, for example at Cambridge being taken before the education Tripos for the B.A. degree with Teaching Certificate.

The post-graduate teacher-training course at most universities is available to those who hold either graduate or equivalent qualifications. The latter, presumably, would include the qualification (formally referred to as a degree) of Barrister. Whilst it is not now open to a would-be teacher of law to train as a Barrister and then hope to be accepted as a P.G.C.E. student in view of the fact that the second part of the Bar examination is taken after a law degree, it would seem that a Barrister who trained prior to the law degree stipulation[9] could seek this avenue to law teaching. As with the holder of a university or polytechnic law degree, however, the barrister would normally need to offer another subject in respect of his training and occasionally universities insist on a pre-P.G.C.E. qualification in education.[10] It is possible that a barrister whose choice of optional bar subjects included 'Business' subjects such as commercial law or revenue law might secure admission to one of the P.G.C.E. courses listed above as provided for business studies graduates.[11]

Most routes to qualified teacher status now take four years.[12] The aspiring teacher of law could, in the same general time-span, obtain a degree in law, a degree in a mainstream school subject and qualified teacher status. The University of Buckingham offers a two year degree in law;[13] King's College, London is prepared to consider graduates in other disciplines for admission to its M.Th. degree programme which lasts for one year, and a P.G.C.E. could be completed in respect of the 'school' subject offered within one further year. It is appreciated that difficulties in securing financial assistance would make this an unusual course, but it is nevertheless a possible one. This course would provide both a dual career option in the same way as the joint or combined honours degree taken partly in law would do, and additionally, a separate and free standing graduate qualification in an acceptable school subject in the same time that it would take to obtain a traditional

qualification.

It is, of course, possible for a newly qualified teacher to go straight from his or her training institution onto a law degree or diploma course following a conversion to law teaching, but financial consideration would make this, too, an unusual choice. Such possibilities in any case really fall under the heading of "in-service" courses to be discussed separately in this part.

The last remaining path to an initial qualification for an intending law teacher is one that by its nature is not likely to be widely pursued. In some countries law is accepted as a mainstream school subject - commerical law in South Africa, for example, and a teacher with a foreign qualification incorporating a law element could, subject to the necessary acceptance of his qualification by the Department of Education and Science, be employed in state schools in England and Wales. This is not, one assumes, a route that would be deliberately selected, equally, teachers with foreign qualifications are, subject to the proviso in the last sentence, able to be offered teaching posts here. As already noted, foreign teaching practice is possible in connection with English training.

Is there, in consumer parlence, a "best buy" among the various initial law teacher qualifications which have now been considered? As in the commerical analogy, it depends to a large extent on the individual point of view - or at least the individual circumstances. It is suggested however, that other considerations being equal it might, in the declining years of the twentieth century, be advantageous to acquire a qualification with the maximum possible currency. Any of the 'dual career' choices discussed above, law joint (or combined honours, if the six legal professional subjects are covered) or Oxford Polytechnic's B.Ed. degree, for example, would satisfy this requirement. A law joint honours degree (i.e. joint with history; a modern language etc.) followed by a P.G.C.E. course in respect of the 'joint' subject, would provide the profession with a 'legitimate' teacher of a mainstream school subject and a prospective teacher of law. It might also, apart from exempting the holder from half of the requirements of the Bar and Law Society, provide an opening into a career as a university or polytechnic lecturer. The chief disadvantage which it shares however with almost all other courses discussed, is that it fails to provide any professional training[14] or teacher education in law in the sense of

enabling the student to give monitored lessons during a school teaching practice. Strangely, even Oxford Polytechnic's B.Ed. in which, it will be recalled, law can amount to between a quarter and a third of the requisite course or modules, does not satisfy this latter requirement for teaching training/education is provided only for the primary level. As a member of the Education Faculty points out, "In our context law is an acceptable field of study for someone going to teach in an infants' school".[15] It is encouraging to see a major institution in the field of teacher education permitting its students to incorporate the study of law in their programme of study for a B.Ed. [16] Unfortunately the concentration on preparation for the primary years precludes the giving of practice lessons in law.

As law is, at present, a minor subject in state schools it is not surprising that most of those called upon to teach the subject either at 'O'/G.C.S.E. level or even, unfortunately, at 'A' level (or their equivalents) lack any professional or even academic expertise in law. As law becomes established as a school subject the need for some form of in-service training will become increasingly felt and the questions as to the nature of that provision will require to be answered.

The situation is made more complex and, inevitably, more complicated by such factors as the current professional and academic background of those who either offer to teach-or are inveigled into the teaching of - law in schools and the level to which they are asked to teach the subject. It may be helpful to list the possible qualifications of staff who may be found teaching law at present in schools:

(i) Law degree alone - taken before P.G.C.E. became necessary;

(ii) Law degree plus P.G.C.E. in another subject;[17]

(iii) Joint/Combined Honours degree, with or without P.G.C.E. in non law subject;

(iv) Oxford Polytechnic or other modular B.Ed. degree including law;

(v) B.Ed. in Business Studies, with or without specialism in law and in the case of the second alternative, with or without teaching practice in law;

(vi) B.Ed. in a mainstream secondary subject;

(vii) B.Ed. in primary education, holder transferring to secondary sector;

(viii) Degree in mainstream subject, with or without P.G.C.E.

(ix) Degree with, or more likely, without, law component incorporating a teaching certificate;

(x) Non-graduate teaching certificate taken earlier before replacement by B.Ed. or since in the subjects (music and craft) in which this is still permitted.

It will be apparent that any in-service qualification to be offered to law teachers -actual or potential - in schools would need to be extremely flexible to take account of the very varied backgrounds of possible law teachers, although perhaps it is possible to overstress this divesity of backgrund, most teachers asked to take law lessons are likely to come from an arts background.[18]

What form should this qualification take and which body should offer or, at least, validate it?[19]

It would seem appropriate for a law in-service qualification[20] to contain both professional, that is teacher - education/training, and academic elements. It would also seem appropriate, as almost all new entrants to the profession are required to be graduates, that the qualification should be offered at graduate level. Bearing in mind that a teacher taking 'A' level classes in law is expected to be proficient in one compulsory area of law (English Legal System) and one or more (possibly upto three) optional areas, it would seem sensible for such a teacher to be required to display personal legal academic knowledge of a commensurate nature. A compulsory three hour written paper in the English Legal System together with at least two such papers in the options most commonly available for 'A' level study e.g. law of contract and criminal law, or a two part paper, each of three hours' duration containing compulsory and voluntary questions over a range of such optional subjects, would satisfy, reasonably adequately, the academic requirement. The professional component of the Diploma should perhaps consist of a three hour written paper in the theory of legal education at secondary school level with questions concerning both the philosophy and practical aspects of such teaching,[21] together with a specimen lesson to be given to a class in front of Diploma Examiners.

The diversity of background and of the initial qualification of law teachers must be borne in mind in relation to the Diploma as must any

experience of such teachers in actually teaching law. It is suggested, therefore, that, in order to accommodate such background and experience, teachers (e.g. those who have already studied law at degree level) should be exempted from relevant academic papers and, in the case of teachers who have been engaged in such teaching for, say, at least three years, from the practical examination if their headteacher is prepared to certify their competence. All teachers would need, however, to take the professional paper.[22]

There remains the question as to which body would take responsibility for the Law Teacher's Diploma. Universities, polytechnics (or the C.N.A.A. generally), colleges of higher education, all could put forward valid claims in this respect. There is however one body which, because of its long and honourable participation in the field of teacher education,[23] would seem to be particularly well fitted to undertake the task of providing this Diploma. This body is The College of Preceptors. It is well known that the College already provides graduate - level qualifications[24] and it would appear from the College's present involvement in the provision of modules in educational/juvenile law at graduate level that participation in a qualification such as that proposed could be achieved without too extensive a departure from present undertakings. It is likely that such a solution would command general acceptance.

Footnotes

1. The Southern, Northern, London and East Anglian, and Welsh Examining Groups. When the Midland Group's Law (Mature) Syllabus is in place in 1989, Law will be universally available as a G.C.S.E. subject.

2. A.G. Bamford, Principal of Homerton College, Cambridge, in a letter to the author.

3. D.E.S. 1986, Crewe & Alsager College, the only college of Higher Education to offer a P.G.C.E. Course in Law as well as a B.Ed. with Law, withdrew both courses in 1986.

4. Crewe & Alsager (Business Education); N.E. Wales; Trinity & All Saints (Leeds); West Glamorgan. N.E. Wales students may undertake their Teaching Practice overseas (especially in the U.S.A.) and in F.E. colleges. Teaching Practice may in, any case, often be undertaken in independent schools. Opportunity exists, therefore, for Law Teaching Practice outside the limited facilities of maintained schools. Similar opportunity may exist in maintained schools in the future if the advent of G.C.S.E. Law establishes Law as mainstream school subject.

5. Crewe & Alsager; Roehampton.

6. Between a quarter and a third of the degree may be taken in law.

7. Oxford, Lancashire, Wolverhampton and Plymouth.

8. E.g. Cambridge and Keele.

9. Or who entered the Bar as a mature student.

10. The Post Graduate Certificate in Education course at the University of York is intended for those who have read Education as a subsidiary subject in their primary degree.

11. See note 5.

12. Or even five, following a Scottish or Irish honours degree.

13. This may be taken in July (thus avoiding the 'gap' that would ensue from a January start) or, with French Law and French, in October.

14. Some teachers object to this term, preferring the alternative given.

15. J.F. Isare in a letter to the author.

16. As already noted, a law Dip.H.E. can form the first two years of a B.Ed. degree. See note 7.

17. Or even in Law. The P.G.C.E. qualification may be obtained in further, as opposed to primary and secondary education and Law is frequently taught at this level. The holder of such a P.G.C.E., however, would not be trained to teach Law in <u>schools</u>. See also note 4.

18. Law, though, as has been suggested is equally suitable for study by those whose general interest lies in either the Arts or the Sciences. As long ago as 1554, Law was referred to as a 'science' by Saunders J. in Buckley v Rice-Thomas. An M.Sc. in Law is offered by U.C.L. (International Law).

19. The Law Teachers Association, which has a close connection with a major Law Publishing House, has devised a Certificate in Law as an in-service qualification for teachers of other subjects who wish to teach law in schools. Whilst the certificate is, of course, a useful qualification, it suffers from several disadvantages, including the fundamental one that it is offered by a body which, however excellent in other ways, is not an "official" provider/validator of teacher-training/education courses. Other subject bodies e.g. those for History and Mathematics offer similar courses, but these are taken by teachers who already possess extensive knowledge of the subject concerned from their own previous education. This will not be true of most prospective Law Teachers.

20. For the sake of convenience this will be entitled a 'Law Teacher's Diploma.

21. Examples of such questions might be:

1) Do you agree there is a hidden curriculum in law teaching?
2) How would you teach the elements of a contract to a 14 year old pupil?
3) Is law primarily an academic or a vocational subject?

22. In order to meet the requirements of academic respectability, there would need to be a specified maximum period of time within which the Law Teacher's Diploma could be taken - a maximum of three years would seem appropriate. All written papers could, of course, be taken at the same sitting and the specimen lesson given at the same time. It must be borne in mind, though, that this graduate level study of four law subjects would be difficult to attain by a stranger to law in one academic year unless pursued full-time. This might be done immediately following the initial qualification, but questions of cost would probably prohibit and the Bar Diploma would be more advantageous choice for full-time study, as would the Solicitors' equivalent, both giving the teacher a dual career option in addition to exempting from 50% of the proposed Law Teacher's Diploma. An external or C.N.A.A. degree in Law is also a possibility.

23. The College received a Royal Charter in 1849.

24. The College's qualification of Licenciate (L.C.P.) was officially recognised as equivalent to a university first degree for salary purposes in 1969. Graduate level diplomas awarded by the College generally require two thirds of the work necessary for the L.C.P.

PART 5

School Law: An End or a Means to an End?

Part 5

School Law: An End or a Means to an End?

It would be wrong to characterize all pupils as being uninterested in or unaware of the moral and aesthetic bases of education. Nevertheless, it is probably true that, in relation to their selection of optional subjects at G.C.S.E. and, particularly at 'A' level, that the prevailing philosophy is utilitarian. The question most often asked is not, "What is the intrinsic value of this subject that I could take as one of my options?", but "What use will it be to me?".

At G.C.S.E./'O' level, the utility argument is less important than at 'A' level, for the object here is usually to acquire a range of at least five or six subjects as a leaving certificate which may also serve as a qualification for sixth form study, should this option be pursued. Save where subjects are taken at the lower level in preparation for study at the higher, and then only in relation to those subjects, does the choice of subject become crucial. The appeal of a subject as an area of knowledge in its own right may thus be considered. Indeed, with a broadening dichotomy between 16+ and 18+ examinations following the introduction of the G.C.S.E., it is perhaps, less necessary to select G.C.S.E. subjects with an eye to 'A' level study. Certainly there will still be a correlation between G.C.S.E. subjects and their 'A' level counterparts, but even where the subject matter is similar, treatment is different. There is more chance, therefore, of selection of G.C.S.E. subjects being made independently of 'A' level consideration and, indeed, of 'A' level subjects being ultimately chosen which have no G.C.S.E. counterparts at all.[1]

It is in connection with the selection of 'A' level subjects that, for better or worse, the utility argument is of overriding importance in the minds of most pupils and must, therefore, be listened to by those responsible for the school curriculum.

Although by no means all pupils study 'A' level subjects for the purpose of gaining entry to higher education and reading one[2] of those subjects at degree level, for many this represents an ultimate goal which they - or their parents - wish to be attained. An 'A' level course may be sought by a pupil because he wishes to read the subject concerned for his degree or because it is a recognised "supporting" subject, the offering of which is either desirable or, possibly,

compulsory. As a supporting subject, law has a number of advantages. Firstly, it is a 'neutral' subject which is outside the arts or science argument; secondly, it is an 'academic' subject which will therefore be acceptable for university courses as opposed to 'practical' subjects which generally are not;[3] thirdly, law may be introduced into a school curriculum easily and relatively inexpensively as compared, for example with a subject requiring heavy capital support and/or extensive facilities.[4]

The primary reason for taking an 'A' level subject in cases where it is not confined to a supporting role is because the subject is required as a condition of entry to further study of that subject at degree level. It is completely logical that a history admissions tutor should expect history to be offered as an 'A' level subject by the prospective history undergraduate, or that a physics tutor should expect physics at 'A' level, or a modern languages tutor, a modern language. This logic does not apply to law, however, as law at 'A' level is never a pre-requisite for entry to a law degree course. Indeed, prospective law undergraduates who offer an equivalent qualification to that mandatory for their peers in other subjects, may receive a less than enthusiastic welcome from their law faculties. A warmer reception may well be extended to intending law undergraduates who have never heard of 'A' level law! The advice given to prospective undergraduates by the School of Law at the University of Buckingham, a university particularly known for the study of Law, is instructive[5]: "Candidates for admissions should not assume that any preference will be given to those who have studied law at Advanced Level". If this is not sufficiently depressing to a sixth former wishing to study 'A' level law, or who has actually commenced such a course, there is further advice: "The School recommends the study of non-law subjects as the best preparation for the study of Law at this Univeristy".[6]

Further examination of the situation at Buckingham, however, reveals a more accommodating approach. The Law Admissions' Tutor states that the Law School has only a "slight preference"[7] for intending under-graduates not to have studied law previously. After indicating that the School will, "of course" consider applicants who have studied 'A' Level Law the Admissions Tutor indicates a reason for his School's attitude: "Our preference is for 'A' Level subjects which have been first studied to 'O' Level". Law is, of course, available[8] for study at

'O' Level, but the comment bears out the fact that students may study Law at 'A' Level without first taking the subject at 'O' Level, a practice which is perfectly possible (unavoidable in some schools), however undersirable. There are few subjects offered in schools at 'A' Level as a first level of study. Indeed, Law may be unique in this regard. Buckingham is not, however, against the teaching of Law in schools at all, accepting that the teaching of the subject as part of a social studies course ("Law in context"[9] as the Tutor describes it), may be "no bad thing". It is the "harmful simplification" which, he believes, can characterize 'A' Level Law which argues against this teaching. Interestingly, Buckingham believes that, "G.C.S.E. may well make a difference", to the present situation. That difference has already been pointed in this thesis.[10] It is that the inclusion of Law within the framework of this new 'national' examination will enhance its claims to be considered as a mainstream subject.[11] Presumably, Buckingham, in view of its comments, would then be prepared to look favourably upon an 'A' Level Law qualification for degree course entry which had been preceded by a two year general course. Holders of an 'A' Level in Law could then claim at least four years' study of the subject which would, to some extent at least, obviate the need for "harmful simplification". Meanwhile Buckingham prefers subjects such as English and History to be offered at 'A' Level by the hopeful Law degree student.

Although Buckingham's School of Law is the newest such institution in the country,[12] it shares its apprehension concerning the acceptance of 'A' Level Law as a Law degree course entry subject with a number of longer established faculties. Nottingham, which has taught Law for some thirty years, actually, prefers its prospective law undergraduates not to offer 'A' level law, "But we do not discriminate against such applicants", the Faculty states. The reason for the preference is the wish "to avoid duplication/repetition between 'A' level studies and degree studies". As, however, the Faculty doubts the existence of a connection between performance in degree studies and previous study of Law at 'A' level, the concern is obviously that undergraduates will not waste their time, rather than that they will have been taught badly or inadequately. Law as part of general school education upto G.C.S.E. Level is actually favoured.

Manchester's Faculty of Law shares Nottingham's preference for law degree candidates not to offer 'A' Level Law but for a different

reason. The Law Admissions Tutor explains succinctly, "We have doubts about the qualifications of persons teaching 'A' Level Law". This concern is certainly understandable but not, it is submitted, totally justifiable as SOME law teachers are qualified, at least academically, to teach the subject. It is appreciated that it could sometimes be difficult for a Law Faculty to establish the qualifications of each applicant's teacher, however.

Brasenose College, Oxford, which has taught Law since 1882, has no preference concerning the offering of 'A' Level Law. The College's Director of Studies for Law summarizes the situation clearly. "The problem with Law as a preparation for undergraduate study in schools is that (necessarily, I suppose) it concentrates on rules rather than techniques. The former without the latter is no preparation at all. It would be different if schools could afford to buy sets of law reports, statutes and so on". The Director's comment underlines the second[13] of the two main reasons for inadequate - or non-existent - law teaching in schools, that of financial constraint. The purchase of at least one copy of a law casebook, whilst not as satisfactory as a set of law reports, may alleviate the financial difficulty and this solution was discussed in Part 3. Brasenose would, interestingly encourage the teaching of school law courses "designed for those not planning to be lawyers, to give a general grasp of law and the legal system". Is it not, though, possible, that participation in this type of course might result in the formation of such a plan?

The intending applicant for a place at Cardiff University College to read for its LL.B. degree is helpfully advised that "There is no particular advantage or disadvantage so far as admission to the course is concerned in having studied General Principles of English Law or British Constitution at 'A' Level". Cardiff's careful choice of language would seem to imply that an undergraduate possessing an 'A' level in Law (or, interestingly, in British Constitution) will enjoy an advantage over other members of the course who have not taken Law or British Constitution before. This could be regarded as axiomatic, but Law Tutors at Cardiff or elsewhere are reluctant to accept this, possibly for the reasons advanced by the Director of Studies for Law at Brasenose quoted in the previous paragraph.

Trinity College Cambridge in its Notes for intending under-graduates states, "You will be admitted for entry to Trinity on the

basis of your work in a subject other than Law. We do not consider that any particular subject of study at school would give you any significant advantage in taking up the study of Law". This comment again, it will be noted, refers to admission procedure, and in view of the Law Test devised by Cambridge University and recommended by the University, is hardly surprising. This Test was discussed in Part 1.

Birmingham's Faculty of Law tries - and fails - to be ambivalent to 'A' Level Law: "Although 'A' Level Law is not discouraged by this Faculty, neither is it encouraged and on balance we should prefer an applicant who has not studied the subject before". The Admissions' Tutor's explanation echoes the fears felt at Buckingham in regard to the possible simpliciation of the syllabus. "My suspicions are that school law is often more of a hindrance than a help to first year undergraduates who frequently have a rather closed view of the subject". It is understandable that Law Faculties should wish the full complexitiies of the subject to be explored, but this approach is best left to university study itself when, hopefully, both the time will be available and the growing maturity of the student will allow full benefit to be taken. Meanwhile sixth form studies are likely to continue to be broadly based[14] and treatment of syllabus content within any 'A' Level subject will be likely to be,through timetable pressures, more restricted than many would regard as ideal.[15]

It should be noted that it is not only among university faculties of law that doubts are heard concerning the offering of 'A' Level Law as a Law degree entry qualification. Polytechnics, too, express reservations. The Polytechnic of Central London, which may be described as Buckingham's counterpart in the polytechnic world is at best ambivalent in its attitude to candidates offering 'A' Level Law. "The advantages of having studied Law at 'A' Level are clear - though it depends on the syllabus - students have some of the essential pre-requisities in terms of knwoledge. The disadvantages are equally clear - a view that they know enough already and a view of Law that is, in some cases, undesirable." Kingston Polytechnic, too, would rather students seeking a place to read Law did not offer 'A' Level Law so that they have "no preconception" and are "prepared to be stimulated from Day 1 by legal material". Kingston finds that the "majority of "A" Level students freewheel in year 1". Whilst agreeing with the Law Admission's Tutor's comment that this is a "dangerous habit", it could

be countered that first year degree course in many subjects will contain material already experienced at 'A' Level. This could indeed be a justification for increasing, rather than diminishing, the incidence of 'A' Level Law teaching and requiring the subject of all intending Law Undergraduates; for one reason why 'A' Level students freewheel is because others in the class are unable to maintain a rigorous pace and instruction has to be pitched at a lower level for their benefit.[16]

On the whole, however, university faculties of Law appear to be more concerned with the type of qualifying 'A' Level subject offered rather than whether or not Law has been studied to this level, or at all. Frequently "Arts" subjects cited, particularly English and History and non-academic subjects, especially "pure craft subjects[17] are discounted. The University College of Cardiff emphasizes "prose subjects" and concern about writing ability is general. Unusually Kingston Polytechnic prefers "science subjects, mathematics and languages", but excludes the more practical subjects, such as biology from the science subjects acceptable. Nottingham University prefers "traditional scholastic subjects either Science or Arts".

Generally, the ability to offer 'A' Level Law is neither a particular recommendation nor a disadvantage in gaining access to most Law Faculties at the present time.[18] Two factors may cause it to become more acceptable in the future. The first is the likely extension of Law teaching in schools following its availability as a G.C.S.E. subject, the second is the improvement of quality of such teaching which such extension should bring in its wake. Certainly, it is clear that poor 'A' Level teaching is a major reason for universities' current attitude to 'A' Level Law. Widespread Law teaching should also emphasize the need for qualified teachers of the subject, but this matter has already been discussed.

It is possible that extensive teaching of Law to 'A' Level in schools could reduce the numbers opting for this subject at degree level and, therefore, cause fewer to terminate their studies after discovering Law for the first time, but there is no universal acceptance of this possibility. Indeed the feeling is that it would not; Manchester Law Faculty believes that applications would actually increase as a result of 'A' Level Law becoming generally available.

Irrespective of acceptability as a degree course qualification, 'A' Level Law stands as a discipline in its own right. Like other areas of knowledge, it may be pursued for its own intrinsic delights. It is both an end and likely to be increasingly a means.

Footnotes

1. E.g. Philosophy which is set as an 'A' Level subject by A.E.B.

2. Or two or three subjects in relation to joint or combined honours degrees respectively.

3. One such subject may occasionally be acceptable.

4. Even acquiring a specialist Law Teacher need not prove difficult, at least in a large city, as such appointment may be made to cover just the teaching required e.g. 'A' Level Law only, as at Crown Woods School, Eltham, which advertised for a 'Qualified Teacher in Law' for just this purpose in October 1987. (T.E.S. 23:10:87)

5. In both senses of the word.

6. University of Buckingham Prospectus, 1988-89.

7. Buckingham's emphasis.

8. It is provided by three Boards: Oxford, A.E.B. and the Welsh Board.

9. Does not this phrase accurately describe most of 'O' level/G.C.S.E. Law and at least some 'A' Level Law?

10. Part 1.

11. Present proposals for a National Curriculum not withstanding. At least one "mainstream subject" - R.E. - is not included on this Curriculum, and the teaching of R.E. is compulsory!

12. Founded as the University College at Buckingham, in 1976.

13. The first concerns the standard of 'A' Level Law teaching in schools.

14. They may indeed become even broader if the present A/S proposals come to be generally accepted or if 'A' Level itself is reformed.

15. It is worth remembering, though, in this connection that it is not uncommon to find degree level textbooks recommended for 'A' courses. This is certainly true of 'A' Level Law.

16. Clearly as 'A' Level Law instruction cannot cover all first year university subjects, part of the advantage possessed by holders of 'A' Level Law certificates must lie in intellectual attainment.

17. Birmingham's stipulation.

18. It seems to be welcomed by those college preparing students for London LL.B. external degrees.

Epilogue

Epilogue

Reference was made in the Prologue to Law teaching in the past; most of what has been written since has been concerned with Law teaching in schools at the present time; it is now appropriate to consider whether Law teaching in schools has a future.

In one sense the future of law teaching in schools is assured for, as in the past, law will continue to be taught incidentally as part of politics, history, social or general studies, and, particularly, as a component of business studies. It is, however, with law as a discipline in its own right and with a right to a place on a normal secondary school timetable as a subject that will, at least ultimately, be examined, that this thesis has been concerned. Between Law as a mere component of a cognate subject and Law as a fully fledged school examination subject there is, as it were, a half way house: Law taught in a recognisable identity that is "as Law", but without any external measurement of proficiency or progress, though there may be school tests or other assessment. As might be expected the Law Society, the organisation to which the solicitors' branch of the legal profession owes its allegience, has taken an interest in attempts to present legal knowledge to pupils in schools. It has already been noted that the Society has, for a number of years issued material of general interest for school level discussion. The Society is presently, in co-operation with the School Curriculum Development Committee,[1] working on a project, "The Law in Education Project" designed to remedy the poor legal awareness of the average adult. A resource package, "Understand the Law" will be published upon completion of this project in the autumn of 1988 and will incorporate seven major themes: law and the individual; law and society; implementing the law; the road user; the law at home and school; consumer law, and, the the law at work. Through these themes the project aims to:

a) develop and expand legal awareness among pupils of all abilities in the 14 to 16 age groups;

b) help young people to understand the law, its nature and role in society;

c) develop the necessary skills of reasoning, communicating, problem solving, and decision making, which enable young people to act independently and with confidence; and

d) encourage an appreciation of the values underpinning the law and to

develop a concern for justice, social responsibility and respect for others.

One of the project co-ordinators, Andrew Phillips, an Old Bailey solicitor, legal consultant for the Jimmy Young Show, and himself a teacher in schools on and off for the past twenty years, stresses that the project is not about turning school-children into little lawyers, but rather to remedy a situation in which far too many people visited solicitors when the time for help had long passed. Phillips is concerned about the cultural disinclination of the working classes to visit law offices, "We want to destroy that nonsense - literally outlaw it", he says. The project material has been tested in over fifty schools. The evidence from Irlam High School, Greater Manchester, that pupils, "are not that worried about the police side of it", is refreshing, and the fact that the same pupils "have actually been interested in the civil side", is encouraging. This is the burden of the comment from Mr. Trevor Stent, Deputy Headmaster of Halewood Comprehensive School, Merseyside, whose school has used the materials: "The pupils like the fact that law is not just about the criminal law and that it's not just do's and don'ts. They see the law more as a positive force than perhaps they did before, something that will help them rather than just restrict them".[2]

It will be noted that "The Law in Education Project" together with its succeeding lesson materials "Understand the Law, available from the 1988/89 school year, is intended to cater for the 14-16 age group which is exactly the same age group that could be taking a G.C.S.E. Law course. As much of the material overlaps G.C.S.E. syllabi[3] - it would, of course, be surprising if it did not - there will be, at least amongst possible examinees, direct competition between the Law Society Course and G.C.S.E. possibilities. As the Law Society materials are intended for "all abilities" and G.C.S.E. courses for any pupil capable of passing an examination at the end of his/her school career, there is the almost inevitable possibility that, in schools in which Law is taken as a G.C.S.E. subject,the Law Society course will come to be regarded as just for the less able.

Just as teachers are very often unqualified to teach law to G.C.E. 'A' level and G.C.S.E., so are they sometimes ill-equipped to teach law at all, even as part of citizenship. Fortunately, help is

available from Leicester University's Moral Education Centre which prepares teachers to teach a personal and social education programme that includes law as a separate and distinct element. The programme has been implemented with considerable success at Chenderit Comprehensive School in Northampton. A similar scheme with materials prepared by Michael Cross, a Lecturer at St. Martin's College, has now been permanently incorporated into the curriculum of Lancashire schools.

As for the continued existence of Law as a 'normal' school examination subject, taken principally at G.C.S.E. and G.C.E. 'A' level, the future would appear to be at least hopeful. It has already been suggested that the all-encompassing nature of G.C.S.E. provision should tend to establish the subjects offered as "school" subjects and law, now firmly implanted on G.C.S.E. syllabi, qualifies in this way, whilst at 'A' level, the incursion of another Board (London) into the area suggests that the market is broadening. The number of advertisements for teachers of law in schools, whilst still minute, also shows a perceptible increase Paradoxically, perhaps, the undoubted growth of law schemes and projects such as those described above, whilst able to be viewed as 'rivals' of examination subject law, are ultimately likely to encourage its perception as an examination subject for they will provide the infrastructure to support law which it might well otherwise lack.

Law appeals to most pupils in whatever type of school. Its practical, environmental nature alone justifies its inclusion on the school timetable - it is this aspect, of course, which spawns courses for general pupil consumption. The Oxford Report, quoted earlier in this thesis, is only one pointer to the fact that law can be - and is - taught successfully in schools. Indeed, Oxford Local Examinations continue to supply evidence of this healthy state of affairs. In the summer of 1987 almost one hundred and twenty thousand pupils were entered by their schools for Oxford 'O' Level Law examinations and nearly thirty one and a half thousand for 'A' Level.[4] It is also encouraging to note that Law is taught in schools in other member states of the European Community. France, for example, introduced Law into its school curriculum some two years ago while pupils in Greek schools are taught law for two hours each week and German pupils, if not actually taught law, are at least given a copy of their country's constitution.[5] The recent dark clound on the horizon in the shape of

the requirements of the proposed National Curriculum, is now seen not to be so dark after all as the proportion of the timetable stipulated for these subjects has, following consultations held by the Secretary of State for Education, been reduced from about ninety per cent to only seventy. There is, therefore, almost a third of timetable space available to be allocated to other subjects. Law, for the reasons adduced in this Thesis, has a strong claim to be included in this allocation, not least as an examination subject.

Footnotes

1. The Law Society has contributed an unprecedented £350,000 towards the project, the S.C.D.M. £25,000. The Project extends over a five year period culiminating in 1988 with the issue of school materials.

2. Source: "A Just Amount of Legal Knowledge" Linda Blackburne T.E.S. 16th October, 1987.

3. Consumer Law (or its major component, contract law) is a major representative of, basically, civil law on virtually all school courses. The L.S. interesting and practical "road user" component, is a mirrored on the Welsh G.C.S.E. syllabus and will be found on the M.E.G. (Mature) syllabus from its introduction in 1989.

4. The actual figures were 119,681 and 31,405 respectively.

5. "A Just Amount of Legal Knowledge", Linda Blackburne T.E.S. 16th October, 1987.

Addendum

Addendum

The Cambridge Law Studies Aptitude Test, which was discussed in Part 1, has recently been critised by leading academic lawyers.[1] The Test, set by the University's Local Examinations' Syndicate on an American model, is designed to determine the suitability of prospective law undergraduates for law degree study. Both the Standing Conference on University Entrance (S.C.U.E.) and University and Polytechnic Law Schools have condemned the Test in spite of its widespread employment in the United States (and Canada) over a period of forty years. In a joint statement, University and Polytechnic Law School Heads urge that "potential applicants for admission to law degree courses.... should not be encouraged by schools or colleges to take the test". Professor Stephen Cretney, Chairman of the Committee of Heads of University Law Schools, is concerned that a "class divide" will result from the ability of independent schools, as opposed to state schools, easily to afford to provide extra tuition for the Test. He is not, in any case, satisfied about the Test's validity as a predictor of university examination performance. The S.C.U.E. reports that most Law Departments consider the introduction of the Test in 1987 to be premature as trials are not yet complete. At school level, there is concern that tests would follow in other subjects, thus distorting sixth form study and adding to financial burdens.

The Test is defended by Dr. Ron McLone, Director of Examinations at the Cambridge Syndicate, on the ground that it is "a great leveller" and also that it is still an experiment and requires to be tested "in live conditions".

Peter Glazebrook, Lecturer in Law at Jesus College, Cambridge, in a "Second Opinion" article in The Times Educational Supplement, entitled "Test Case for Law"[2] responds to the specific criticisms made by Professor Cretney.

Firstly, Glazebrook points out that "vigorous and continuous" monitoring of the parent American Test by the American Law Schools Admission Council, "demonstrates that neither coaching nor repeated candidature results in any significant improvement in Test scores", and deduces from this that the Test is not socially divisive. On the contrary, he echoes Dr. McLone's view that the Test is "a great leveller", to the extent that it not only helps those who have been poorly prepared

for 'A' level examinations, but also those who perform badly at an admissions interview and who would otherwise be at a disadvantage. With respect, it is not easy to accept that this is necessarily true, given that the Syndicate does not expect the Test to be used as the sole criterion for admission to a law degree course. Indeed the Syndicate stresses that the Test should not be regarded as more than one element in the selection process. If all would-be law undergraduates are intended to take the Test - and all are - but other criteria are still to be taken into account, then poor 'A' level preparation and poor interview performance will still affect the outcome of the application.

Professor Cretney's concern about the Cambridge Test as a predictor of first year university performance is necessarily a qualified one as no Test student has yet taken a degree examination, but Glazebrook's citation of American satisfaction with the Cambridge Test's progenitor in this regard is not really to answer this concern if only because American students normally undertake their law studies at a later age.3

As was suggested in the comment made on the Test in Part 1, the existence of qualities which will enable a prospective law undergraduate to achieve success in his or her study of law do not need to be deduced from a series of non-legal questions - seen through a glass darkly, as it were - when they can be demonstrated in the most practical way possible. This, of course, is by the study of law itself as required for the obtaining of an 'A' level certificate. Certainly, it is true that performance at 'A' level is not necessarily a reliable predictor of performance at degree level, but a test which involves, in addition to the acquisition of legal skills, the acquisition of legal knowledge, might be thought to be a more reliable indicator of suitability for legal study than a Test which does not measure the former specifically and which does not seek to measure the latter at all. Furthermore, the continued expansion of the Advanced Supplementary Examination[4] - almost half the schools in England with sixth forms will be offering A.S. examinations from September, 1988 - should result in the eventual extension of law teaching at this level in schools. The climate for such expansion is currently being created by the universal[5] provision of G.C.S.E. syllabi in Law and particularly by the overwhelming relevance of such syllabi to the educative process.[6]

Footnotes

1. The Times Educational Supplement News Report by Linda Blackburne 22nd January, 1988.

2. The Times Educational Supplement 12th February, 1988.

3. American Law Schools normally admit students who have already completed an undergraduate course. (Source: Bear's Guide to Non-Traditional College Degrees 1984. Mendocino Book Company, California.) The fact that the College of Law, the examining body for the solicitor's branch of the legal profession recommends the Test in connection with the Law Society's Common Professional Examination and the Final Solicitors' Examination, suggests that the Cambridge Test, like its American parent, is appropriately taken by older students.

4. The Advanced Supplementary Examination is now recognized by Universities: The Times Educational Supplement News Report, 25th December, 1987, quoting Sir Peter Swinnertion-Dyer, Chairman of the University Grants Council.

5. From 1989 when the Midland Examining Group's Mature Syllabus comes into operation.

6. The Northern Examining Group's Mature Syllabus, Law in Society (Rights and Duties), delineating the framework of citizen's rights and duties and expounding such rights and duties in relation to his or her Home, Community, and Place of Work, may be thought to be particularly relevant to the needs of the pupil for whom it is designed.

Bibliography

Primary Sources

The views were canvassed of Law Teachers in the following schools and sixth form colleges, and of Law Admissions' Tutors in the universities and colleges indicated, by means of either questionnaires or correspondence, or both. The institutions which have been particulary helpful are indicated by an asterisk.

Schools

Avonhurst School, Bristol.
Blackfyne Comprehensive School, Consett, Co. Durham.
*Collegiate High School, Blackpool.
Crown Woods School, Eltham, London.
*Irwin Academy VIth Form College, Leicester.
*Corpus Christi High School, Leeds.
*Northfleet Grammar School, Gravesend, Kent.
Portland House School (now Leicester High School for Girls).
*Strode's VIth Form College, Egham, Surrey.
West Buckland School, Barnstaple, North Devon.
Whitefriars School, Cheltenham, Gloucestershire.
*Wirral Grammar School for Boys.
Wolsingham Comprehensive School, Bishop Auckland, Co. Durham.
Woodbank Grammar School, Leicester.
*Xaverian VIth Form College, Manchester.

Universities, Polytechnics and Colleges

Birmingham University
*Brasenose College, Oxford.
Bristol University.
Buckingham University
Crewe & Alsager College.
*Durham University School of Education
Edge Hill College, Ormskirk, Lancashire.
Gwent College of Higher Education.
Homerton College Cambridge.
*King's College, London Departments of Law and Education.
Kingston Polytechnic
Lancashire Polytechnic.

Leicester University.
Liverpool University.
Manchester University.
*Nottingham University.
*Oxford Polytechnic.
Polytechnic of Central London.
Sussex University.
Trinity College, Cambridge.
Trinity Hall, Cambridge.
University College, Cardiff.
University College, London.

Examination Syllabi in Law

General Certificate of Education Syllabi:

A.E.B.	'A' Level Syllabus 1985 & 1988.
	'O' Level Syllabus 1986.
J.M.B.	'A' Level Syllabus 1986 & 1988.
London	'A' Level Syllabus 1986 & 1988.
Oxford	'A' Level Syllabus 1985 & 1988
	'O' Level Syllabus 1985.
W.J.E.C.	'A' Level Syllabus 1984 & 1988
	'O' Level Syllabus 1984.

General Certificate of Secondary Education Syllabi

London and East Anglia Examining Group Syllabus 1988.
Midland Examining Group Syllabus 1989.
Northern Examining Authority Syllabus 1988 & 1989.
Southern Examining Group Syllabus 1988.
Welsh Joint Education Committee Syllabus 1988.

Miscellaneous

London Chamber of Commerce Syllabi 1984/5 & 1988.
Royal Society of Arts Syllabi 1985.

Official Publications

Government Reports

The Belloe Report (Secondary School Examinations other than the G.C.E.). Secondary Schools Examination Council 1960.

The Crowther Report ("15 to 18") Central Advisory Council for Education (England) Volume 1 1959 Volume 2 1960.

The Hadow Report (Education of the Adolescent) Board of Education Consultative Committee 1926.

The Newsom Report (Half Our Future) Central Advisory Council for Education (England) 1963.

The Robbins Report The Robbins Committee 1963.

The Spens Report Board of Education Consultative Committee 1938.

H.M.I. Report

Sixth Form Education in Schools in Wales 1977.

Prospectuses and Guides

Buckingham University 1988/89.
Cambridge College of Arts & Technology 1987.
Cambridge Admissions' Prospectus 1984-85.
Colleges of Institues of Higher Education Guide 1987 & 1988.
Durham University Undergraduate Prospectus 1987/8.
The College of Preceptors 1986/88.
Crewe and Alsager College 1985/86; 1987/88.
Handbook of Degree and Advanced Courses in Institutes/Colleges of Higher Education, Polytechnics and University Departments of Education in England and Wales 1987.
North East Wales Institute of Higher Education 1987.
Nottingham University Regulations for Higher Degrees 1986-87.
Oxford University Undergraduate Prospectus 1983/84.
Polytechnic Courses Handbook 1987/88.
Trinity and All Saints' College, Leeds 1988.
University of South Africa Calendar 1981.
West Glamorgan Institute of Higher Education 1987/88.

Articles

Baker Kenneth: The Challenge that Britain can meet.
The Times 6th August 1987.

Blackburne Linda: A Just Amount of Legal Knowledge.
The Times Educational Supplement 16th October 1987.

Blackburne Linda: Universities Criticise Law Test for 'A' Level Students
The Times Educational Supplement 22nd January 1988.

Davies Patricia Wynn: New Horizons for Dickens' Heirs.
Law Magazine 7th & 21st August 1987.

Fairhall John: Research Finds School Reforms Suspect.
The Guardian 26th August 1987.

Lodge Bert: Classroom Control Change
The Times Educational Supplement 20th November 1987.

Makins Viginia: Poineering A.S. Level while others Wait and See.
The Times Educational Supplement 23rd October 1987.

Owen Joan Llewellyn: The Law Degree as a Lever to enter other Fields.
Daily Telegraph 15th December 1980.

Sanderson Phil: Death of a Mode Three
The Times Educational Supplement 4th September 1987

Spencer Diane: Caution urged over teaching Law at Schools.
The Times Educational Supplement 29th June 1984.

Sutcliffe Jeremy: Potentially Expensive Half Measures (Article on A.S. Levels) The Times Educational Supplement 14th August 1987.

Thompson Sarah: Lessons in Citizenship.
The Times 28th October 1987.

BOOKS

Bagehot Walter: The English Constitution
London: Fontana 1963

Bloomfield Barbara L.: Schools Council Research Studies:
Dobby John L. Ability and Examinations at 16+
Kendall Lesley
London: Macmillan 1979

Clark Leonard H.: The American Secondary School Curriculum
Kelvin Raymond L.
Burks John B.
New York: Macmillan 1965

Curtis S.J.: An Introductory History of English Education Since 1800.
Boultwood M.C.A. Foxton, Cambridge: University Tutorial Press. 1964.

Dias R.W.M.: Jurisprudence 4th Edition
London: Butterworths 1976

Dicey A.V.: Introduction to the Study of the Law of Constitution
London: Macmillan 1961

Horton Tim (Ed). G.C.S.E.: Examining the New System
London: Harper & Row 1986

Jackson R.M.: The Machinery of Justice in England
Cambridge, at the University Press. 1977

Moblen Maureen: All About G.C.S.E.
Emerson Chris
Goodwin Ivor
Goodwin Shirley
Letch Ron.
London: Heinemann 1986

Munro Colin: Studies in Constitutional Law
London: Butterworths 1987

Roy Walker: The New Examination System - G.C.S.E. 1986
Crook Helm 1986

Rusk Robert R.: Doctrines of the Great Educators (2nd Ed.)
London: Macmillan 1962

Sim R.S.: 'A' Level English Law (5th Ed.)
Scott D.M.M. London: Butterworths 1978

Smith S.A. de: Constitutional and Administrative Law
Harmondsworth, Middlesex 1974

Taylor Philip H.: The English Sixth Form - A Case Study in Curriculum
Reid W.A. Research.
Holley B.J.
(Teaching Research Unit
Birmingham University)
London: Routledge & Kegan Paul. 1974

Monographs

Weston Penelope B.: Framework for the Curriculum:
A Study in Secondary Schooling
(Monograph No. 2)

Negotiating the Curriculum:
A Study in Secondary Schooling.
(Monograph No. 4)
Windsor: N.F.E.R. Publishing Co. 1979

Research Project Report

Vorhaus G.: "Ignorance of the Law"
Research Report into Juveniles' Legal Knowledge in
London Borough of Hillingdon.
Hayes, Middlesex: Hillingdon Legal Resource Centre 1984.

Miscellaneous

A.M.M.A. Conference Report 1983 The Way Ahead for 16 year olds.
Aspects of C.P.V.E. A Project Report D.E.S.F.E. Unit 1986
Cambridge University Local Examinations Syndicate's Law Studies
Aptitude Test 1987

Harrap New Generation Series Booklets: The Law
Radio 4 Education Special: "Education: the Priorities". A Broadcast
from Tevelyan College in the University of
Durham, 1st October 1987.

Schools Council Working Papers Nos. 20, 23, 25, 27, 28, 31, 32, 33, 34,
38, 45, 46, 47, 53, 100.
"Skills for the Future" Research at Sheffield University for the Manpower
Services Commission.

The Certificate of Pre-Vocational Education Parts B & C B.TEC/C.G.L.I. 1985

The Times Educational Supplement: Advertisements of Courses in School and Commerce/Industry Links. 11th and 18th October 1985.

Appendix

Appendix

Sample Questions from the Cambridge Law Studies Test

The Law Studies Test issued, on an American model, by the University of Cambridge Local Examinations Syndicate, and intended to be taken by applicants to Law Faculties as a predictor of competence for undergraduate study of Law is subdivided into three part-tests designed to assess analytical reasoning, logical reasoning, and reading comprehension. Each part lasts for forty-five minutes and contains 24, 26 and 28 questions respectively. Samples of questions contained in the first two parts only are given below.

Analytical Reasoning

Questions 19-24

Nine fish are contained in three aquariums. There are two specimens of type L, two specimens of type M, and one specimen each of types N, O, P, Q and R. Each aquariam contains specimens of at least two types of fish.

The two specimens of type L are in different aquariums.
The two specimens of type M are in different aquariums.
The specimens of types L and N are in different aquariums.
The specimens of type Q and R are in the same aquarium.
The specimen of type O is in an aquarium with one of the type M specimens.

19. If the P, the Q, and the R are in the same aquarium, which of the following must be true?

(A) The N and the O are in the same aquarium.
(B) The P, the Q, the R, and an L are in the same aquarium.
(C) The P, the Q, the R, and the N are in the same aquarium.
(D) Neither L is in the same aquarium as the O.
(E) Neither M is in the same aquarium as the P.

20. If one aquarium contains exactly five fish, which of the following must be true?

(A) The Q is in an aquarium with an M.

(B) The N is in the aquarium that contains exactly five fish.

(C) One aquarium contains only an L and an M.

(D) One aquarium contains only the N and the P.

(E) One aquarium contains only the P and an L.

21. If there are three fish in each aquarium, which of the following must be true?

(A) The N and the O are in the same aquarium.

(B) The P and an L are in the same aquarium.

(C) If the N and the P are in the same aquarium, an M is with them.

(D) If the N and the P are in the same aquarium, the Q, the R, and an M are together in another aquarium.

(E) If the Q and an L are in the same aquarium, the N, the P, and an M are together in another aquarium.

Logical Reasoning

22. Sceptics say there are no miracles, whereas the superstitious may regard any stroke of extraordinary good luck as miraculous. In between these two viewpoints lies the truth of supernatural events that manifest themselves as miracles.

Which of the following statements is most similar in logic to the passage above?

(A) All people tell lies, the philosopher said; but the philosopher was a person, therefore, what he said was untrue.

(B) When it is raining, it is not snowing; when the Sun shines, it is not raining; however, whatever the weather is, its source is the Sun's heat and the rotation of the Earth.

(C) You can fool all of the people some of the time and you can fool some of the people all of the time, but you cannot fool all of the people all of the time.

(D) Skin specialists claim that sun-bathing is dangerous, but many people believe it to be beneficial; in fact, sunshine is a necessary source of valuable vitamins.

(E) To argue that personality is innate is as misleading as claiming that personality is solely a function of environment; both nature and nurture contribute to the development of personality.

23. It is necessary to wear the latest style of clothing in our society because it is essential to be fashionably dressed.

Which of the following most closely parallels the kind of reasoning used in the sentence above?

(A) Because students today are obsessed with examination results, they are more willing to accept authority than were the students of the 1960s.

(B) Because of our nation's energy needs, we must be willing to accept the hazards to air quality that result from the burning of coal.

(C) The boss has to give Tom a rise, because if she doesn't he'll have to sell his car, and he can't afford to sell his car.

(D) Logic is a valuable field of study because an acquaintance with the structures and techniques of reasoning is worthwhile.

(E) Because the sun has, in the past, risen each morning in the east, it is safe to assume that it will always do so in the future.

24. Workers need and deserve a voice in determining their own destiny. To be effective, that voice must be heard before decisions are made, rather than afterwards. Because workers need to play a role in the decision-making process instead of reacting once the company has set its course, representation of the workforce on boards of directors in this country is long overdue.

It can be inferred from the passage above that

(A) workers who are affected by company decisions have no voice in company management.

(B) company management does not consider the effects of its decisions on the workforce.

(C) a company's board of directors chooses the course the company will follow.

(D) the participation of workers in decision-making is opposed by company boards of directors.

(E) company boards of directors are not responsive to workers' reactions to their decisions.