How Legal Education Has Changed In Guy's Lifetime

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Introduction

Guy Powles and I attended, at much the same time -1952-55, the same Law School – the Law Faculty of the Victoria University of Wellington, which at that time was situated in the Hunter Building, in the Kelburn suburb of Wellington, the capital of New Zealand. We also had something else in common, and that was that we both had to leave home and travel to Wellington to study law – Guy from Samoa, and I from Nelson - and take up residence in Weir House, a University hostel which was close to the University, and, at that time, was solely for male students. I can recall many occasions when we would trudge back from lectures at the end of the day and make our way wearily through the twilight to Weir House, to sample the gastronomical delights awaiting us. Then, after some relaxation and reading we would fall into bed for rest so as to be to ready, when another day dawned, to climb onto the cable car that would take us down into the law offices in the city below, where we spent our day, until lectures called us up the hill again to the premises of the Law Faculty.

It was while I was reflecting upon those days, over half a century ago, that I realised how much has changed in the study and teaching of law since then, and this seems a very appropriate occasion to record those changes and reflect upon them. I will try to avoid the critical and the censorious, and just record what I can recall from those years long ago when Guy Powles and I were students studying law together at the Victoria University of Wellington.

Latin and Roman Law

In our day, students wishing to study law were required to obtain a pass in Stage I Latin and also Roman Law. For some, and I think Guy may have been in this category, Latin was a severe burden, but I was fortunate to be able to find pleasure in the special features of Latin. Indeed I so enjoyed the study of Latin that I studied Latin Stage 2 level, and found it very enjoyable.

The purpose of the study of Latin we were told was not only that it was an excellent academic discipline in its own right, but also that it would make it easier to study Roman Law and also the many Latin expressions that were to be found in legal textbooks and court judgments. The study of a foreign language such as Latin, I am sure, also greatly strengthens one's understanding of the English language. The purpose of the study of Roman Law was, we were told, to present a legal system in a microcosm, so that we could see and understand how a legal system worked, before venturing into the details of the common law system inherited from England.

Nowadays, there is no requirement of a pass in Latin, and I am told that very few students planning to study law take Latin I in New Zealand Law Schools, and I presume also in Australia. Roman Law has vanished from the curriculum of law schools in New Zealand, and has never appeared in the curriculum of the Law School of The University of the South Pacific. The absence of Latin and Roman Law from modern day law curricula is one of the most obvious differences from the teaching and study of law that Guy and I encountered in the 1950's, but it is by no means the only one.

Reading cases

When I was growing up, before I went to the Law Faculty at the Victoria University of Wellington, I read books, many books, and thereby acquired a good knowledge of English vocabulary and grammar, and I would think that Guy did also. Nowadays however, young people seem to spend very little time reading for enjoyment. Rather they spend most of their times watching television and playing electronic games, and when they are not watching visual entertainments, they are listening on headsets and mobile phones to music. Now also there are other forms of communication, such as texting on mobile phones, which encourages abbreviations and other distortions of the English language.

Not only do young people today read for pleasure less than they did, but they also seem to read for the purposes of study much less. I can remember the law reading room at Victoria University, when it was not being used as a lecture room, was always occupied by students who were pulling law reports off the shelves. Now I hardly ever see law students taking volumes of the law reports

out from the shelves in the law section of Emalus Campus Library in order to read a case. It is of course possible that some may be reading cases online as a result of the online facilities now available. But when I have questioned students about this the answer is always an embarrassed silence, so I suspect that very few students do in fact read the law reports either in hard copy or on line.

Writing notes

Lectures for Guy and I were purely oral affairs, where the lecturer would speak and explain the development of the law, and orally describe the relevant cases. There was a black board, but it was not used often. There were no power points and no electronic recordings of lectures. This meant that students had to make handwritten notes for themselves in exercise books or pads. Keeping up with the lecturer was a great challenge, and one had to resort to scribbling and abbreviations, both of which skills have remained with me for the rest of my life.

The law reading room at Victoria University which Guy and I used was, as I mentioned earlier, filled with students, and these students were not only reading the law reports, but they were writing case briefs describing the effect of the case. Nowadays there is no need for students to write or scribble notes to record the words that are uttered by a lecturer. Writing seems to be becoming a dying art for students. Everything is recorded for the students in power points and in audio recordings and podcasts. The need to make notes to record what has been said by a lecturer in a class, or said by a judge in a case, seems to have almost completely disappeared. Even when a student today wishes to make a note, he or she usually does so by tapping the keys of a laptop computer, rather than by writing. Tests and tutorial questions are usually answered nowadays not in writing, but by pressing electronic devices that select one of several prepared statements. The need for students to prepare one written sentence, let alone a page of written sentences, is rapidly diminishing.

It has to be said that the standard of written English of law students today seems to be poor, and getting poorer. The students whom I most meet today are students who have probably come from a non-English speaking background, and so English is a special challenge for them. But it is a

challenge which neither the secondary school curriculum, nor the University curriculum, seems to have been able to overcome.

Gender

When Guy and I were studying law at Victoria University of Wellington, it was almost entirely a male student body. There was only one woman in our Roman Law Class, Miss Shirley Smith, the daughter of a distinguished judge, and Chancellor of the University of New Zealand, Sir David Smith. I can still visualise our lecturer for Roman Law, Mr Kingston Braybrooke, coming into the room, and with a little wry smile and wiggle of his toothbrush moustache, he would always say: "Good morning Gentlemen, and Ms Smith," and Ms Smith, who was considerably older than us and married to a well-known public servant, would look demurely down at her books.

There has certainly been a massive change in the gender of classes from the times when Guy and I were in the testosterone charged atmosphere of Roman Law at Victoria University of Wellington, in the 1950's to nowadays, when I am told that at least half of the law students in New Zealand, and I believe also in Australia, are females. The same is true in the South Pacific and indeed, I have sometimes conducted tutorials in the Law School of the University of the South Pacific where all the members of the tutorial were female.

Full-time law teachers

When Guy and I began studying at Victoria University, law was only just emerging from being a night school programme taught in a law office by practitioners into an academic discipline taught at a University by fulltime academic teachers. The Dean, Professor Colin Aikman, who had been a member of the Department of Foreign Affairs, and taught us Constitutional Law and Administrative Law, was still very much involved with the constitutional developments in what was then Western Samoa, and in the Cook Islands, and he seemed to spend most of his time shuttling between the two. At the times scheduled for our lectures, we would wait by the window of the law reading room to see if we could spy the Aikman motor car - I think it was a small grey Austin or Morris - racing up The Terrace from the Foreign Affairs Department into Kelburn

Parade. If there was no sign of that car we knew there would be no class that day, but if we caught a glimpse of the car we rushed back to our seats in the law reading room.

Norman Morrison, who taught us Civil Procedure, was a practitioner with a very well-known firm, Chapman Tripp and Co, and I recall how he used to regale us with stories about the rallying of troops in the robing rooms of the Supreme Court. Dr George Barton, who taught us Contracts and Torts, and Dr Don Inglis, who taught us Family Law and Conflict of Laws, practised as barristers and both had thriving professional practices which kept them away from the Law Faculty, except for the time that they were giving lectures.

Professor Ian Campbell, and Mr Kingston Braybrooke, on the other hand, were full-time teachers of law and were seldom absent from their scheduled hours of classes, and were to be found in their rooms in the University throughout the day.

Nowadays almost all the teaching staff of law schools in New Zealand and also Australia are full-time teachers of law, and even the professional subjects such as Evidence and Civil Procedure are often taught by full-time teachers. So also with the Law School of the University of the South Pacific.

Part time Law Study

When Guy and I enrolled for study at the Law Faculty of the University of Wellington, law study was, as mentioned above, just emerging from being totally part time, undertaken at the end of a day's work in a law office, and was moving toward full-time study. It was expected that for the first two years we would be full-time students, and the following two years we would be working in a law office during the day, and so during those years, we would be part-time students. As it happened, because I was undertaking a conjoint degree, with a BA in History and Latin, I was allowed to be a full-time student for 3 years, with the remaining two years as part-time. But that was unusual – the normal practice was for students to study full-time for the first two years and then study part-time for the remaining two years.

Nowadays students are expected to complete all their years of study as full-time students, and not undertake work until they graduate with a law degree. Some students, for personal reasons, particularly if they do not have a government scholarship, are working while they are studying as part-time students. Clearly these students struggle, because the study regime is now based upon the assumption that students can devote themselves full time to their studies.

Online Law Study

When Guy Powles and I were studying law at the Law Faculty of the Victoria University of Wellington, whether we were studying as full-time students in our first two years, or as part-time students in our later two years, we always saw our teachers face to face and could speak to them, either in the class room or in the corridors outside. There was no online teaching of law courses or indeed extension teaching by written materials. That I believe is still the general practice in New Zealand law schools.

In recent years, some law schools in Australia, however, have been increasingly providing for more and more of the law courses to be taught on line, with power point notes of lectures, and podcast recording of lectures. From the early years of its existence, the law school of the University of the South Pacific has taught all its compulsory courses online, and some of its elective courses. The purpose of online teaching is to enable more students to study law who would not have been able to do so previously, especially students who for employment or family reasons are not able to come to the law school and attend lectures at the time when those lectures are presented. The result is that there is a generation of law graduates who have never looked at a law report, or handled hard copies of legislation, or spoken to, or received advice from, a law teacher, something which in our days, Guy Powles and I would have found incomprehensible.

Academic insignia and degrees

In the 1950's, when Guy Powles and I were attending law school, all the law teachers, even those who were practicing as barristers, like Dr Barton and Dr Inglis, wore black gowns, as a mark that distinguished them from other teachers, and some also wore black trenchers with a long black

tassel that looked very impressive. I recall how Professor Ian Campbell, whenever he wanted to make an important point in Property Law, or Criminal Law, would clear his voice loudly, and hitch up his gown on both shoulders, to make a suitably dramatic announcement. Nowadays, on the other hand, one rarely sees in a classroom in a law school in New Zealand, or in Australia, a black gown being worn by a lecturer, and much less a black trencher and tassel. Certainly there is no trace of such academic insignia to be seen in the classrooms of the Law School of the University of the South Pacific.

It was during our time at the Law Faculty of the Victoria University of Wellington in the 1950's, and I believe in other Law Schools in New Zealand at that time, that importance was beginning to be placed upon lecturers in law holding a doctorate degree. Our lecturer in the first year, Mr Kingstone Braybrooke, did not have a doctorate and I still remember the stir and suppressed excitement, that went around the class room when we were told that a new lecturer would be joining the Law Faculty to teach us Contracts and Torts in the second year who had actually gained a doctor of laws degree from the University of Cambridge in England – Dr George Barton. A short time later we were also very greatly excited to hear that Dr Barton was to be joined by another lecturer who had gained a doctorate in the United States - Dr Don Inglis. Both these Doctors, who are now very sadly no longer with us, used to meet frequently for friendly banter in a coffee shop in the city, which came known as the Doctors' Commons.

Nowadays, things are very different, and lecturers in all Law Schools are expected to obtain a doctoral degree, and law schools are literally awash with doctorates. This expectation places quite a burden, not only on the individual staff members, who may have other demands and expectations on their time, but also, especially in smaller Law Schools, on the other staff members who are required to pick up the subjects which cannot be taught by the staff members because of their doctoral pre-occupations.

Indigenous Custom

When Guy and I were studying law at the Faculty of Law of the University of Wellington we completed the entire degree without encountering any mention of Maori custom, or indeed

indigenous custom of any kind. We learnt about local custom in England which had to be of immemorial age and certainty of terms. But we learnt nothing at all about the customs of Maori or other Pacific Islanders. The nearest that I can remember coming to Maori custom during the course of my legal studies was the notorious decision of the Full Supreme Court in *Wi Parata v Bishop of Wellington* (1877) 3 Jur (N.S) 72, 77, which held that the Treaty of Waitangi was a nullity, and which, when I related it to my father when I returned home for the Christmas vacation, caused my father, who was a history master at Nelson College, and of a rather choleric disposition, to explode and denounce the law as an ass, and put in serious jeopardy my continuing in the study of law.

Looking back at what little Guy and I learnt about indigenous custom in the course of our studies for our law degrees, it is quite remarkable that both Guy and I developed such an interest in the customs of people of the South Pacific. We certainly received no training in such matters at all whilst we were students studying for our law degree. Nowadays, things are very different in law schools in New Zealand, and I am told that indigenous custom features much more significantly in the curricula of most law schools in Australia and New Zealand, as it does in the curriculum of the Law School of the University of the South Pacific.

Customary Land

In the light of what has just been said with regard to the absence of indigenous custom from the teaching in the law degree, it is not surprising that there was an equal lack of teaching about Maori land. I can remember Professor Campbell mentioning, as we embarked upon an extensive study of freehold land in New Zealand that there were different principles that applied to Maori land, but that was the last we heard about Maori land, and both the law and the practice of Maori land were total mysteries to me, and I am sure also to Guy, when we graduated.

Again, considering how little we knew about Maori land when we came out of law school, it is surprising that Guy and I later acquired considerable interest in, and knowledge of, customary land, and both of us became much involved in teaching, and in policy-making, with regard to customary land in countries of the South Pacific.

Again, nowadays, things are very different in law schools in New Zealand, and also I understand in Australia, and Maori Land and Aboriginal Land are to be found in the curricula of most law schools, and also in the curriculum of the Law School of the University of the South Pacific.

The City of Wellington

I cannot conclude this reminiscing without mentioning the city of Wellington. When Guy and I were attending the Law Faculty of Victoria University of Wellington, and also working in the city of Wellington, the city was a much smaller place than it is now. In our time, most buildings in the city were two stories high, with three or four stories being the exception. Now it seems that most of the buildings in the city of Wellington are twice or three times the height that we were accustomed to. Not only are the buildings now much higher, but also there appear to be many more hotels in the inner city than there were in our time. Featherston Street, which was in our time a subdued street with professional and government offices, now seems to be glittering succession of tourist hotels and attractions. Even Lambton Quay and The Terrace, which seemed to me in the 1950's to be the epitome of urban development, have now, although retaining the same physical alignments, changed almost beyond recognition.

Conclusion

The purpose of this paper has merely been to draw attention to the changes that have occurred in the teaching and study of law during the lifetimes of Guy Powles and myself. Its principal purpose was merely descriptive, and I have endeavoured as far as possible to avoid the censorial and the critical.

Clearly great changes have occurred with regard to both teaching and studying law: whether those changes are for the better or for the worse, I leave the reader for himself or herself to decide.