Report of the Committee on

LEGAL EDUCATION FOR STUDENTS FROM AFRICA

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REPORT OF THE COMMITTEE ON LEGAL EDUCATION FOR STUDENTS FROM AFRICA

To the Right Honourable the Viscount Kilmuir, G.C.V.O., Lord High Chancellor of Great Britain

PRELIMINARY

1. We were appointed a Committee in the first part of October, 1960, with the following Terms of Reference:—

"(*a*) To consider, and report as soon as possible, what facilities ought to be made available to provide any additional instruction and training, either in the United Kingdom or elsewhere, which may be required to ensure that those members of local bars in Africa who obtain their legal qualifications in the United Kingdom possess the knowledge and experience required to fit them for practice in the special conditions of the territories in which they are to practise, with special reference to the following:—

(i) the acquisition of practical experience in addition to academic qualifications; and

(ii) the giving of instruction in the functions of a solicitor to those who are English barristers or possess similar qualifications, and who practise as members of a fused profession.

(*b*) To consider the means to be adopted in the educational sphere to give the territorial authorities assistance which they may require in whatever provision they make for the education in Africa of local inhabitants seeking a legal qualification."

2. Lord Denning accepted the Chairmanship of the Committee on the 25th July, 1960, and, pending the appointment of the rest of the Committee, he visited Lagos and all the regions of Nigeria in August, 1960, and Uganda, Kenya, Tanganyika and Zanzibar in September, 1960. He had many discussions with judges, law officers and practitioners in all these territories and visited courts of every kind. He made a report on this visit which we have considered in detail.

3. We held our first meeting on the 14th October, 1960, and we have met on ten occasions since. We have interpreted our terms of reference as extending only to the Commonwealth countries in Africa whose legal systems are based on the English common law: and when we speak of African territories we refer only to them. We have heard several witnesses and have considered numerous memoranda which have been submitted to us. We have also drawn on our own knowledge which, in view of the urgency of the matter, we were desired to do. There is appended hereto a list of the witnesses whom we have seen, as well as a list of the memoranda.

INTRODUCTION

4. Our terms of reference relate only to students from Africa. But the men—and the women—who come to England to study law come from all over the Commonwealth. No solution can be reached about the African students without remembering that they form only part of the large number of students for whom provision has to be made.

5. The figures are striking. There are at present nearly 3,000 students from overseas studying law in England: and most of these are attending the Inns of Court in London. That figure includes students at all stages from their first to final years. But the best picture is given by taking the figures for one year's entry only. The total intake of the four Inns for the one year 1959 was 1,251 students, of whom 842 came from overseas and only 409 from the United Kingdom. Out of the 842 from overseas, no less than 438 came from the Commonwealth countries of Africa where the law is based on the English system. Their countries of origin were as follows:—

West Africa	
Nigeria	271
Ghana	90
Sierra Leone	7
Gambia	3
	371
East Africa	
Kenya	29
Uganda	21
Tanganyika	5
Zanzibar	4
	59
Central Africa	
Northern Rhodesia	7
Nyasaland	1
	8
Total	438

Thus the total from the common law countries of Africa was 438. The remaining 404 came from other countries of the Commonwealth, including 76 from the British West Indies, 67 from India, 47 from Malaya, 42 from Pakistan, 18 from Ceylon, 14 from the Union of South Africa, 7 from Mauritius, 3 from Southern Rhodesia, 3 from Aden, and so forth.

6. It must not be supposed that the whole of the 438 students are Africans by race or descent. The 371 from West Africa are nearly all Africans. The remaining 67 from East and Central Africa are nearly all European or Asian. Very few are African. This is because education for Africans came much earlier to the West Coast than to the rest of Africa : and it is shown by the state of the legal profession now—

In **West Africa** (except for the Northern Region of Nigeria) there are many African lawyers, most of whom have received their legal education in England and have been called to the English Bar. In Ghana and in the Eastern and Western Regions of Nigeria, in Sierra Leone and the Gambia there are distinguished African judges, able law officers and respected magistrates. There are said to be 700 African barristers in Nigeria alone. The law has received its fair share of educated men. But in Northern Nigeria there are less than ten northerners qualified to practise law.

In **East Africa** there are very few African lawyers. The majority of legal practitioners are European or Asian. Most of the judges, law officers and magistrates come from the British Isles and have been called to the Bar. Several of the practising lawyers also come from the British Isles, but many more, or their fathers before them, have come from India or Pakistan. Out of over 300 qualified lawyers in Kenya, under 10 are African. Out of some 150 lawyers in Uganda, only 20 are African. Out of 100 lawyers in Tanganyika, only one is African.

In Northern Rhodesia and Nyasaland, the picture is much the same. The profession is manned by men of European or Asian descent with hardly any Africans.

7. Those figures have a clear lesson to give. The great need in most of the territories is to train up Africans to take their proper part in the administration of justice. One territory after another is gaining independence or looking forward to it. On the transfer of power the territories will not only need legislators and administrators. They will also need judges and lawyers. And these should, so far as possible, be fairly representative of the community as a whole.

8. Until very recently higher legal education has not been available at all in these countries. Students desiring to enter the profession have had to leave Africa and go to England or some other countries of the Commonwealth: for the simple reason that it is only by so doing that they become qualified to practise. In most of the territories of **West Africa** a person is regarded as being duly qualified to practise if he is entitled to practise as a barrister or solicitor in England, Scotland, Northern Ireland or the Republic of Ireland. The territories in **East Africa** go further. They do not stop at the British Isles. They also accept persons who are entitled to practise in India or Pakistan or any other of the Commonwealth countries. In several of the territories there are some additional local requirements, such as a residential qualification of six or twelve months. But the normal qualification is call to the Bar or admission as a solicitor in England or one of the other countries of the Commonwealth.

9. In many territories now plans are being made for providing higher legal education inside Africa: and there will follow a radical revision of the qualification to practise. Take Nigeria for example. It is proposed that call to the English Bar should no longer be sufficient to entitle a person to practise. In future the regular method of qualification is to be by means of a degree in law at Ibadan or other Nigerian university (a three-years' course) followed by one year's practical training at a school of law at Lagos. But much value is still to be attached to the overseas qualification and it is expected that a man who is called to the English Bar will be granted exemption from the Nigerian requirements in so far as he has already covered them. In any case, this new system will not come into operation for a few years, and meanwhile the call to the English Bar will probably remain the principal qualification. Ghana has got further with its plans, but the position there is very similar.

10. In East Africa the change is likely to be of a similar character but it will take longer to bring about. In due course the regular method of qualification will probably be by means of a degree in law at the University of East Africa (where a faculty of law is to be established) followed by one year's practical training at a school of law at one of the great commercial centres. Meanwhile the principal qualification will be call to the English Bar followed by such additional local requirements as each territory thinks right to impose.

Likewise in Northern Rhodesia and Nyasaland: but there it will take even longer because the plans for a faculty of law are not so far advanced.

11. It is apparent that the number of students in England will fall considerably when the territories have established their own universities and schools of law. But it will be many years before this process is complete, and even then it is probable that many students will continue to come to England because it is the home of the common law from which much of their own law has sprung. In particular we anticipate that post-graduate students will come for research work and to fit themselves as teachers of law. It is the special responsibility of the lawyers of England to see to it that the system of education provided here is the best that can be given.

12. In viewing the African scene we find it necessary to draw a broad distinction between two kinds of legal education.

First, there is higher legal education by which men are trained for the higher branches of the profession, that is to say, the legal practitioners (barristers and solicitors) from whom are drawn the judges, magistrates and law officers.

Secondly, there is basic legal education by which men are trained for the special posts in African territories where knowledge of the law is essential, that is to say, judges of the African courts, judicial advisers to African courts, administrative officers and police officers.

13. We propose therefore to consider legal education for African students under three main heads :

(1) Higher Legal Education in England.

(2) Higher Legal Education in Africa.

(3) Basic Legal Education in Africa.

HIGHER LEGAL EDUCATION IN ENGLAND

14. Most of the students who come to England join one of the four Inns of Court: for the simple reason that, if a man is called to the Bar of England, he is accepted in most of the territories of Africa as being qualified to practise law there. The rank of barrister-at-law carries with it a special mark of esteem. And we are pleased to record that the members of the Bar retain great loyalty and affection for their respective Inns of Court—a feeling which is of inestimable value in maintaining the standards of the profession. But the legal education afforded by the Inns of Court is designed for students intending to practise in the United Kingdom. It needs to be adapted and supplemented if it is to be suited for students intending to practise in Africa.

15. Some of the students from overseas not only join an Inn of Court but also secure admission to one of the universities and take a law degree. This is most valuable, and it enables them to obtain exemption from part of the Bar examinations. But, as a great majority go only to an Inn of Court, it is to legal education there that we have principally directed our attention.

Educational Qualifications

16. The Inns of Court many years ago laid down in their Consolidated Regulations a Schedule of examinations which qualified a person to be admitted as a student. Much of this Schedule is out of date. The only items in the Schedule which are of general application today are the graduate's qualification and the matriculation equivalent. A very great number of students from overseas have not passed such a matriculation examination. They have only got a school-leaving certificate which is not nearly up to matriculation standard and they have to seek dispensation from the matriculation requirements. The Masters of the Bench of each Inn of Court have power under Regulation 1 to grant the dispensation in any case in which they think that special circumstances justify such a course. But "special circumstances" have been generously interpreted. All the Inns insist, rightly enough, on a pass in the English language. Some of them have until recently also insisted on Latin. One of them, we believe, still does. Beyond this there is no uniformity.

17. We have received from the territories many expressions of regret that the Inns of Court so readily dispense with educational qualifications. The Attorney-General of one of the territories speaks of "the well-meaning but in my view misguided practice of relaxing the prescribed standards of general education for admission as a student in favour of overseas applicants". The result is that students are admitted who have not sufficient intelligence or general education to be able to pass the Bar examinations. A considerable proportion fail. This brings disappointment and frustration: to say nothing of the loss of the time and money involved. Many a man has been sponsored by his family, friends or village and has been too ashamed to return to them.

18. We would suggest that the Inns of Court should recast the Schedule of qualifications so as to bring it up to date. The qualifying examination

should be the equivalent of a university entrance examination. The Schedule might be as follows :—

"I. Any Examination, the passing of which gives the right to a degree, held by any University approved by the Council of Legal Education in the United Kingdom or in the Republic of Ireland or in any country or territory forming part of the Commonwealth.

II. Any Examination, being a qualification by virtue of which the student has been admitted to and is in attendance at a degree course of any University in the United Kingdom or in the Republic of Ireland.

III. Any of the following Examinations, provided that one of the subjects in which the Student has passed is English Language and that the remainder are subjects acceptable for University entrance in England :—

1. The Examination for the General Certificate of Education of any of the Examination Boards in the United Kingdom, with passes in five subjects of which at least two must be at the Advanced Level.

2. The Overseas School Certificate and Higher School Certificate awarded by the University of Cambridge Local Examinations Syndicate, with passes in five subjects of which at least two must be at the Principal Level of the Higher School Certificate and the remainder at Credit Level of the School Certificate or at Subsidiary Level of the Higher School Certificate.

3. The Preliminary Examination for the degree of M.A. conducted by the Scottish Universities Entrance Board, according to the standard required in the case of students whose native language is English.

IV. The University Matriculation Examination of any country or territory of the Commonwealth which is accepted by the University of London in partial exemption from its matriculation requirements, together with such further passes as that University may require, provided that one of the subjects in which the candidate has passed is English Language."

19. We think that this new Schedule would fit modern practice and meet most if not all eventualities Clause I would admit students who are already graduates. Clause II would admit students who have proved their qualifications by having been already admitted to and started on a university course. Clause III covers the three normal methods of negotiating the university entrance hurdles at the minimum level, and Clause IV offers a simple means of assessing the special overseas certificates. It would need the co-operation of the University of London but we hope that this would be forthcoming. It will be noticed that Latin is not specified as a compulsory subject in any part of the Schedule.

20. But we realise that there are many good men who cannot produce this qualification. In many of the territories the examination system is not yet sufficiently advanced for it to be the sole test of admissibility. It must be relaxed else few will qualify : and the territories will not get the

practitioners they so badly need. Quite recently some of the Inns of Court have admitted students from Northern Nigeria on the recommendation of the authorities there, although they have not the educational qualifications. This pattern might well be followed elsewhere. We would suggest that the Inns of Court might consider whether in general, before dispensing with the educational requirement, they should not require a report from the Director of Education for the territory or other educational authority. We would like to see it become a general practice that a student who is overseas should not come to England to study law until his admission has been approved. Only too often in the past men have come to England, relying on a sympathetic Inn of Court admitting them as students without the educational qualifications. This should be discouraged in the interests of the men themselves. But the rule must not be too rigid. More than one man has been known to come here, earn his living in the daytime, and study at his books in the evening. The door should not be closed against him.

Certificates of Character

21. A person who seeks admission as a student of an Inn of Court has under Regulation 2 to produce two certificates of good character: but there are special provisions about these certificates on the following lines—

(*a*) If he or his family reside in the United Kingdom, he has to produce certificates from two responsible persons in the United Kingdom.

(*b*) If neither he nor his family reside here, then he has to produce a certificate from a responsible person who knows him personally; and in addition—

(i) if he comes from India, Pakistan or Ceylon, a certificate from the Secretary of the Education Department in the office of the High Commissioner;

(ii) if he comes from Africa or elsewhere, a certificate of character from a judge or magistrate of his district.

22. We understand that this latter requirement has been a source of considerable embarrassment to students: because very few of them know a judge or magistrate sufficiently well for the purpose. We see no reason why there should be any difference drawn between the territories of Africa and those of India, Pakistan and Ceylon. We would suggest, therefore, that a certificate of a judge or magistrate be no longer required and that there should be accepted a certificate from the Secretary of the Education Department or the Students Advisory Committee of the territory concerned. Even this should not be too rigid. In special circumstances a certificate from some other responsible person should be accepted.

Dining Terms

23. The Inns of Court attach special importance to the requirement of "keeping terms". Every student has ordinarily to keep twelve dining terms. There are four dining terms each year. Each term lasts twenty-three days. In order to keep a term a student has to eat six dinners. But if he is at the same time a member of a university in the United Kingdom, he has only to eat three dinners.

24. Recently a special privilege has been granted to students who reside outside the United Kingdom. If they take Part I of the Bar examination overseas before they come to this country and pass in four of the subjects, they are permitted under Regulation 15B to keep four terms *in absentia*: provided that when they come to London they regularly attend the lectures and classes of the Council of Legal Education for four educational terms in a specified order. We regard this privilege as especially valuable: for it offers a strong inducement to students to take Part I overseas and thus establish some measure of suitability before they come to England. It saves the good student the expense of an extra year in England: and it saves the bad student from the frustration of failure after coming here. But not many are able to take advantage of this privilege because of the lack of teaching facilities overseas. Students who seek to take Part I overseas have to rely on private study, often aided by a correspondence course from England. We hope that arrangements can be made in the territories overseas for lectures and classes to be given to help these students to take Part I there. We understand that this is already being done at the Institute of Administration at Zaria in Northern Nigeria and at the Royal Technical College at Nairobi. If these examples could be followed in other centres, it would be most valuable.

25. Apart from this privilege, the Inns of Court have strictly insisted on the full twelve terms being kept, subject only in special circumstances to a dispensation of two terms under Regulation 37 and a few other special dispensations. We are of opinion that there is a great deal to be said for relaxing this strictness even more. Two cases were drawn to our attention:

(1) An administrative officer in Nigeria (who has taken a law degree at Cambridge University) desires to be called to the Bar. He became a student of an Inn in November, 1956. Whilst on leave he has taken his Bar examinations. He passed Part I in 1958 and the Final in 1960 with second-class honours. He is actually lecturing in law to students for Part I of the Bar examination: and for this purpose, it is most desirable that he should be called to the Bar. But dining as he has on every possible occasion during his leaves, he has only been able to keep six terms so far: and even if he gets the special dispensation of two terms, he has four more yet to do. And fitting in leaves as best he can, he cannot complete them until after 1962.

(2) A police officer in Kenya (who has taken a law degree at London University) desires to be called to the Bar. Since 1950 he has, as a police officer, conducted over 3,000 prosecutions, often most difficult and opposed by counsel. He has been an instructor in law at the Police Training School. He became a student of an Inn in 1958. He passed Part I in Kenya in 1959: and in May, 1960, whilst on leave he passed the Final with second-class honours. He has only been able to keep four terms so far: and if he is not granted exemption he cannot be called until 1968.

26. We suggest that the Inns of Court might consider exercising their overriding power under Regulation 48A more liberally so as to dispense with their Regulations in such deserving cases as those. We do not recommend

any further general dispensing power in respect of keeping terms. Properly used they give an opportunity for social and cultural development and for learning the standards of conduct of the profession.

Omissions in Training

27. The legal education given by the Inns of Court is not sufficient in itself to fit a man completely for practice in Africa. In every territory the profession is "fused". Every qualified man can practise both as barrister and solicitor and most do so. The training afforded by the Inns of Court can help towards proficiency as an advocate but it is not designed to enable a man to act as a solicitor. Yet the solicitor's side is often a most important part of his work. A progressive society needs not only advocates to prosecute and defend criminals, and to conduct civil cases in court. It requires draftsmen to prepare conveyances of land, commercial contracts, mortgages, wills, and the like. It needs lawyers who can keep accounts and be trusted with clients' money. The Solicitor-General of one of the territories pointedly observes that "the importance of book-keeping and accounting in a fused profession cannot be over-emphasised. Many of the young men coming back can make quite a good show as lawyers, but they have absolutely no knowledge of how to handle their accounts or of the desirability of keeping their clients' money separate from their own . . . . It must be remembered too that many of the clients are themselves ill-educated and consequently slow to draw any irregularities to the notice of the Law Society."

28. Furthermore, the legal education given by the Inns is designed for the needs of the English legal system. It takes only small account of the special needs of the African system. This is understandable but it means that, when students return to their home countries fully qualified barristers, they are knowledgeable in the laws of England but they have no special knowledge of the particular laws and customs of their own territories. In consequence some of the territories propose to have an examination in local laws before they are permitted to practise. It has been suggested to us that it would be advantageous if more account could be taken in London of the special subjects of use to African students.

29. We think the right solution of these problems is to take the existing system of call to the Bar and expand it to meet the needs of a "fused" profession. There is not so much difficulty in this as might be supposed. We have considered the written examinations for call to the Bar and for admission as a solicitor: and we find that they contain much common ground. Indeed, there is a proposal on foot for revising the first examinations, at least, of both branches so as to make them comparable. The difference lies much more in the practical training. A barrister has to read for twelve months as a pupil in chambers before being allowed to practise in England or Wales. A solicitor has to be articled to a practising solicitor, normally for five years. We think that the correct solution is—

(1) to remodel the Bar examinations so as to include alternative subjects more suited to the needs of students from overseas; and

(2) to introduce a substantial period of practical training in both the barrister's and solicitor's side of the work which all such students must take before being allowed to practise.

Remodelling the Bar Examinations

Part I of the Bar Examination

30. At present Part I contains five sections, which can be taken, singly or together, at home or overseas. But at present a student in London has three opportunities of taking it, in September, December or May: whereas a student overseas has only two, in September and May. We have received representations that overseas students should be enabled to take it three times a year too. We would suggest for the consideration of the Council of Legal Education that, if it is practicable, overseas students should be allowed to take the examination just as frequently as students here.

31. **Section 1. Roman Law.** In the days when Latin was essential to admission, it was reasonable to make Roman Law a compulsory subject because of its educational value. But if Latin is not to be essential, we think Roman Law should be no longer a compulsory subject. We would suggest that a student should be allowed to offer as alternatives the following subjects which are at present alternatives to section 4:

African Law, consisting of two half-papers, one general and one devoted particularly to Customary Law : *or*

African and Mohamedan Law, consisting of one half-paper in African Law and one half-paper in Mohamedan Law (a combination especially suitable for those from Mohamedan parts of Africa): *or*

Hindu and Mohamedan Law (two half-papers): *or*

Mohamedan Law (as applied in Africa and India : two half-papers) : *or*

Roman-Dutch Law.

Section 2. Constitutional Law and Legal History. Whilst constitutional law is of fundamental importance, we think that legal history, as at present in the syllabus, does not raise questions of the same order. Far more important nowadays is administrative law. We would suggest for the consideration of the Council of Legal Education that the paper should be recast so as to cover the " Outlines of Constitutional and Administrative Law ". This would have the added advantage that there is to be a paper on this subject in Part I of the Law Society's examination.

Section 3. The Law of Contract and the Law of Tort. These are essential and we suggest no change in them.

Section 4. The Law of Real Property (including Wills and Intestacy). Hitherto this subject has not been compulsory. Alternatives have been permitted, such as Hindu and Mohamedan law, and Roman-Dutch law. We think that those alternatives should be transferred into section 1 : and we recommend that Real Property, Wills and Intestacy should be compulsory: save that, as an alternative to some of the questions on real property, an option should be given to take questions based on the Torrens or a similar system, which is becoming much more widespread, especially in Africa.

Section 5. Criminal law. This is essential and we recommend no change in it. In most of the African territories the criminal law is embodied in codes or ordinances: but, as these are mainly founded on the principles

of English criminal law, we think instruction in these principles is still most valuable.

Part II : The Final Examination

32. The five sections in Part II must be taken all together in London at the same time.

Section 1. Common Law.

Section 2. Equity.

Section 3. Procedure—

(i) **Civil Procedure.**

(ii) **Criminal Procedure.**

Section 4. (i) **The Law of Evidence.**

(ii) **Company Law.**

We think that these subjects are most valuable to any practitioner in a fused profession and we suggest no change in them.

Section 5. At present this consists of any two of the following:—

(i) **Practical Conveyancing:**

(ii) **Divorce (Law and Procedure):**

(iii) **Conflict of Laws:**

(iv) **Public International Law.**

Whilst we do not doubt the value of these subjects, we think it would be worth while for the Council of Legal Education to see whether an opportunity could not be afforded in this section for a student from overseas to take alternative subjects of special value to him, such as a prescribed subject in African Law.

The New Practical Training

33. The Council of Legal Education have recently organised a course of practical training for students who have passed their Bar Finals. It has been very successful. The course for home students lasts five months. The course for overseas students lasts three months. It is designed to give practical training comparable to that provided by "reading in chambers". It is under the supervision of experienced practising barristers and includes such subjects as these:

Work in chambers (conferences, writing opinions, drafting indictments, writs, summonses, pleadings and affidavits):

Work in criminal courts (prosecuting and defending in magistrates' courts, quarter sessions and assizes):

Work in civil courts (summonses before a master, cases in county courts, and High Court, with and without a jury):

The examination of witnesses:

Professional ethics and responsibilities:

Full case hearings (each pupil acting as counsel, witness, clerk of court, etc.):

Final exercise in a formal court.

34. We think that this post-final course provides the pattern for future development. It covers the work of a barrister. It should be extended to at least six months so as to cover practical training in the work of a solicitor. This part of the course should be conducted by the Law Society and be under the supervision of experienced solicitors and cover such subjects as these:

The organisation and management of a solicitor's office:

Relationship between solicitor and client, including professional etiquette:

Elements of book-keeping: and the keeping of accounts by a solicitor, and bills of costs:

How the English solicitor prepares a case for trial:

The drafting of commercial documents:

Taking instructions for wills:

Conveyancing and land registration.

The whole course should be run by the Council of Legal Education and the Law Society in close consultation.

35. We do not think that there should be a written examination at the end of the post-final course. The subject-matter does not lend itself to it. But test papers could be set as part of the course, particularly in book-keeping and the keeping of accounts. At the end of the course certificates should be awarded by the Council of Legal Education and the Law Society to those pupils who have attended diligently and done their duties satisfactorily.

Pupillage

36. The Inns of Court have always considered it to be very important that a barrister should read as a pupil in chambers for twelve months before setting up to practise on his own account: and this is enforced nowadays by requiring every man, when he is called to the Bar, to give an undertaking that he will not practise as a barrister in England or Wales until he has done twelve months' pupillage. But, as an alternative, the Masters of the Bench may allow a man to substitute attendance for five months at a post-final practical training course in place of some or all of a period of pupillage.

37. We attach the same high value to a period of "reading in chambers", provided always that the master is conscientious to instruct and the pupil diligent to learn. And we would attach equal importance to a period of attendance in the office of a solicitor on the like proviso. We consider that a period of pupillage gives a valuable introduction to the practice and conduct of the profession: and it has inestimable advantages in bringing

the pupil more closely into contact with people here and the way things are done. It has great social and educational value which will stand the pupil in good stead when he returns to his own country. Until recently both branches of the profession have been reluctant to take pupils who did not intend to practise in England. But this reluctance is being overcome. Some members of the Bar have taken pupils from overseas with conspicuous success: and the Bar Council is advancing a scheme which a group of fifteen sets of common law chambers has stated its willingness to support. It is to start on the 1st January, 1961. We have good reports too from those solicitors who have taken articled clerks from overseas into their offices.

38. We hope that the Bar Council and the Law Society will do all they can to encourage their members to take pupils from overseas. The numbers who could be taken would necessarily be few: but we think that places should be found for the best. No pupil should be accepted until he has passed his Bar examinations and taken the post-final course. The pupillage should be for a period of not less than six months. The pupil should be the pupil of one master—one barrister or one solicitor, as the case may be—and not the pupil of a set of chambers or of a partnership firm. The Bar Council propose to keep a list of those barristers ready, able and willing to take pupils from overseas and who have the practice and accommodation necessary for the purpose. And the Law Society should be asked to do the same for solicitors. Any pupil desiring to become a pupil should apply to one of these bodies with recommendations from those who sponsor him. Sometimes he will be sponsored by a government from overseas. At other times recommended by his tutors in England. The Bar Council and the Law Society should supply the prospective master in advance with detailed information about any candidate for pupillage. The freedom of choice on either side—pupil and master—should be unimpaired. No barrister or solicitor should take pupils if the Bar Council or the Law Society dissent from his doing so owing to his want of practice or so forth.

39. We realise that some alteration will be necessary in the Consolidated Regulations to enable a man from overseas, after call to the Bar, to become a pupil in a solicitor's office; but we suggest that such alteration might be made. We hope that the Inns of Court will see no objection to a barrister from overseas entering a solicitor's office as a pupil, so long as he undertakes not to practise in this country. None of the pupils whom we have in mind will wish to practise at all in this country. If they could be found places in solicitors' offices, it would be the best way to fit them for practice in a "fused" profession.

Qualification to Practise

40. If it were possible, we should like to see it made a condition of right to practise that a man from overseas should pass his Bar examinations, take the post-final practical training course, and then do six months' pupillage with a barrister or solicitor. But we realise that very few will be able to do the pupillage. There are not places available for all. So we are forced to the conclusion that the pupillage cannot be compulsory. A man from overseas should be qualified to practise after passing the Bar examinations

and taking the post-final course of six months which we have recommended; or at any rate doing a substantial period of practical training.

41. All of us think that post-final training in some form or other should be made compulsory as a condition of a right to practise. We understand that some of the territories are imposing their own conditions for post-final training. They will not allow a man to practise unless he has done one year's practical training in the territory and passed an examination in the local laws. We hope that all the territories themselves will take the steps necessary to ensure that a man does a course of practical training before being allowed to practise. We would suggest for consideration this solution:

In those territories which have established or are establishing their own courses of practical training, they will no doubt make Regulations requiring students to take their own course before they are allowed to practise. But we would like to suggest that, if a student should take the post-final course here, credit should be given in the territory for his having done it, and he should be given exemption from the territorial course to a corresponding extent.

In those territories which have not yet established their own courses of practical training, we hope very much that the territories will insist on the student doing the six months' post-final course in England or its equivalent elsewhere before he is admitted to practise: and will make Regulations or take such other steps as are appropriate for the purpose.

We realise that this insistence on practical training will mean that it takes a man longer before he is admitted to practise. But an industrious student should be able to pass his final examination at least six months before he has completed his dinners. A requirement by the territories that he should take the post-final course should not normally involve any prolongation of his stay in England.

Admission as Solicitors

42. Few students from Africa have attempted to qualify by securing admission as solicitors in England. Yet we should have thought that, for practice in Africa, a solicitor's training was most valuable. Indeed just as valuable as that of a barrister. And we know that the Governments of some territories have reserved scholarship grants for those who qualify in this way. We would like to see more of those students. Just as we hope that the Law Society will do all it can to encourage solicitors to take pupils for six months, so we hope it will encourage them to take African articled clerks. The numbers will necessarily be small but they are likely to be students intended to occupy important public offices in their own countries.

As a variant, we venture to make this suggestion: There are in the territories a number of English solicitors. If these were at liberty to accept Africans as articled clerks who could take the Intermediate examination in the territory, and then come over to England and complete articles with a solicitor here, attend the Law School here, and take the Final Examination here, it might provide a valuable means of entry. But it would mean some amendment of the Law Society's Regulations.

43. If the suggestions we have made are accepted, especially as to the post-final course, it will mean that more staff and more accommodation will be needed both for the Council of Legal Education and the Law Society's School of Law. The Law Society will, we hope, be able to do their part but we appreciate it will put a considerable strain on their accommodation and staff. And we feel that we must draw attention to the problems facing the Council of Legal Education. They have been presented over the years with an ever-increasing number of students and they have been hard put to provide for them. Whereas in 1949 the number was 900 students of whom 40 *per cent.* came from overseas, ten years later in 1959 the number was 1,250 students of whom 75 *per cent.* came from overseas. And in 1960 the number was as many as 1,200 even up to the end of November, 1960, with some 75 *per cent.* or more from overseas.

44. This great increase means that the Council's premises at 7 Stone Buildings are far too small for their purposes. They are cramped and unsuitable. Classes have to be held in the basement. They have been sometimes so crowded that students have had to stand, and this means they found it difficult to take notes. Large lectures are given in the Old Hall at Lincoln's Inn: but this is so old that it is cold in winter: and although every effort is made to heat it, students have often to sit in their coats. An additional lecture room has just recently been provided in Gray's Inn. It is an improvement but has its drawbacks too.

The Council of Legal Education has no library for the use of the students. Nor has the Law Society a library which could be used by students taking the post-final course. In order to read their law, students have to go to the libraries of their Inns, which are sometimes uncomfortably full.

The increase in numbers has its impact too on the nature of instruction. Many of the lectures and classes are so large that there is little chance of discussion and none of individual tuition. Students tend to fall off in their attendances. Many of them resort to private tuition at well-known "crammers" for which, of course, they have to pay.

Apart from actual teaching facilities, there is a great need for better accommodation for social activities. The Council of Legal Education has provided a common room but it is inadequate for the purpose. It has had to be curtailed so as to give more room for teaching.

45. We have stated these matters not with any wish to criticise but to show the need for improvement. It is imperative to get more and better accommodation. It should be possible to adapt an existing building for the purpose. It has been suggested to us that the building in Lincoln's Inn, which is at present used by the Inns of Court Regiment, would be well suited for adaptation. This regiment is not nearly so closely associated with the Inns of Court as once it was: and, as it has now been amalgamated with another unit, there may be a chance of the building becoming free. If so, we hope that no effort will be spared to obtain it for the purposes of legal education. But, by one means or another, something should be done to remedy the present situation.

Fees

46. Our suggestions will, we fear, involve some increase in fees. The fee for the present post-final course of three months is £25. If this is extended to six months, the fee for the whole course will have to be increased : for it must be self-supporting. In some cases it may mean a longer stay in England and the student will have to pay for his board and lodging in London for this extended time. In the case of those students who are sponsored by their governments, this should present no great difficulty : for it will be money well spent. But in the case of private students, it may present a considerable problem : for many find it difficult to find the money necessary for the various fees and deposits, as well as pay for their board and lodging in London for three or four years. If it were possible, we should like to see some inquiries made, before a student is admitted, to see that his financial resources are adequate for his needs ; for more than one has been found in serious trouble here owing to financial difficulties.

Conclusion

47. We would not wish to part from our consideration of legal education without stressing the need to do everything possible to enable the students to take part in the corporate life of the Inns. We know that the Inns already do much for their students by arranging for moots, debates and social evenings. But more can be done. The Middle Temple has started a scheme of " sponsorship " which we warmly commend. The individual touch whereby the English barrister meets and talks to the student from overseas does much good. It helps more than anything else to maintain the traditions and standards of conduct of a great profession.

CHAPTER II

HIGHER LEGAL EDUCATION IN AFRICA

48. In order to carry out our terms of reference, we have found it necessary to inquire what provision is being made by the territorial authorities for legal education in Africa: for only thus can we make suggestions for giving assistance to them. And where we make any positive recommendation, it will of course be understood that this is only in regard to territories for which the Government of the United Kingdom has a responsibility.

University Education

49. In every territory there is a strong feeling that there should be instituted, as soon as possible, a faculty of law at a university in Africa where students can proceed to a degree in law. This degree course should extend over three or four years. But an academic degree should not by itself be a qualification to practise. There should in addition be practical training of one year in one of the great commercial centres.

50. In **West Africa** considerable progress has already been made along these lines :

In **Ghana** there has been set up a faculty of law at the University of Ghana. There is a four-year course leading to a degree of LL.B. At the moment there are some 56 students in their first and second years. In

addition a school of law has been set up at Accra where the graduates, after taking their degrees, will do a year's full time practical training but this course has not yet been started.

In **Nigeria** a committee has recommended that there should be a faculty of law established in the first instance at the University at Ibadan. There is a good prospect of this being implemented in the next year or two. This faculty will provide a three-year course leading to a degree in law. It is hoped that faculties of law will be established at other Nigerian Universities. In addition a school of law is to be set up at Lagos where the graduates, after taking their degrees, will have to do a year's full-time practical training.

In **Sierra Leone** there are already courses of legal instruction at the Fourah Bay College, but there is no law faculty. There is a law department within the Faculty of Economics Studies. There are two law teachers (one full-time and one part-time) who prepare students for law examinations: and this nucleus may evolve into a faculty of law preparing students for degrees.

51. In the **East African** territories there is no faculty of law at all. It is realised everywhere, however, that a faculty of law should be established as soon as possible and we understand that it is proposed that in the first place a faculty of law should be set up in Tanganyika. It should be one of the principal features of the new university college which is to be established there as one of the constituent colleges of the proposed University of East Africa. The Quinquennial Advisory Committee have recommended a time-table for the establishment of this college. It provides four years for selecting the site, erecting the buildings, and so forth. The university college would first open its doors to law students in 1964/65 with a total of ten students, rising to twenty students in 1965/66. At this rate it will be 1968 or 1969 before the first graduates from this university college begin to practise. These dates are so disappointing that many people in the territories reject them as far too slow to meet the needs of the time: and we are glad to find that proposals are being made to better them.

According to these new proposals, there is no need to wait upon the selection of a site and erection of buildings. It should be possible to find temporary accommodation in Dar-es-Salaam or elsewhere. To make a start, all that is needed is a lecture room, reading room and library: and a hostel for students. Existing premises could be adapted for the purpose.

52. In the **Central African** territories there is at present no faculty of law at all but there are proposals on foot for the establishment of a faculty of law at the University College of Rhodesia and Nyasaland situate at Salisbury. One law teacher has already been appointed in another faculty. The matter was debated in the Federal Parliament on the 28th June, 1960: from which it appears that the proposed faculty of law has to compete with proposed faculties of medicine and engineering.

53. Such being the provisions proposed by the territories for university education in law, our task is to see what assistance can be given to help the territories in the implementing of them. This falls into two branches:— (i) staff: (ii) finance.

54. *Staff*. It is generally appreciated that the first and most important thing to be done, when setting up a faculty of law, is to appoint a principal: for he must set to work at once in thinking out the curriculum, recruiting the

staff, getting lecture rooms and library, and making known to the schools the facilities which are being offered. Every endeavour must be made to find a man of outstanding qualities who will dedicate himself to the task: for upon him the future of legal education will largely depend.

55. Other teachers will also be needed. It will be possible, we hope, to find part-time lecturers from the ranks of Crown counsel, magistrates or practitioners in the law. But the principal will require one or two full-time teachers with him from the outset. It is unlikely, at any rate in East Africa, that many Africans will be available for some time: and, if teachers are sought from overseas, there is today much difficulty in inducing them to come. We commend an extension of the system whereby men are lent from the universities and law schools of the United Kingdom and other Commonwealth countries. The best solution, if it could be achieved, would be some means whereby they would be able to increase their law faculties by one extra man so that, at any one time, one of them can be serving in Africa, for at least 6 months or a year but preferably for two or three years; and then return to his university with his position and prospects unimpaired: but rather enhanced, we hope, by reason of his having done valuable work in Africa. If this proposal is to succeed, it would need the close support of the University Grants Committee and the Inter-University Council for Higher Education Overseas. But we hope it would be forthcoming.

56. *Finance.* We believe that the governments of the territories accept responsibility for financing the university colleges: but their difficulty is to find enough money for all the demands on them. When money is short, the question is: What priority should be given to a faculty of law? Hitherto priority seems to have been given to medicine, arts and science. Law has ranked low. We would suggest that, in future, when it is a question of competing priorities, legal education should rank very high: because upon it the territories depend for their future judges and magistrates.

57. Perhaps the greatest need for money is for the faculty of law for the new University College in Tanganyika. The Quinquennial Advisory Committee have made an estimate of the probable recurrent cost of the whole College (Law, Arts and Science) as follows:—

1961–62	*1962–63*	*1963–64*	*1964–65*	*1965–66*
£7,000	£15,000	£43,000	£78,000	£117,000

and the capital cost of buildings and so forth as follows:—

1962–63	*1963–64*	*1964–65*	*1965–66*
£100,000	£250,000	£250,000	£250,000

We hope that these dates will be advanced so that some money may be available at once in order to enable a faculty of law to be opened in October, 1961. It may be that the territorial Government could provide temporary buildings in which lectures could be given, a library housed, and where students could live. If this were done, we estimate that the cost of the law faculty would be £10,000 to £12,000 a year for the early years, plus £20,000 capital grant to establish a library—and we would emphasise that, without a good library, no law faculty can function. These sums are small compared to the cost of establishing a faculty of medicine or engineering where much scientific equipment is needed.

We have just heard with great pleasure that Her Majesty's Government has decided to contribute, within the next three and a half years, a sum of up to £350,000 towards the initial capital cost of the College. This splendid help will do much. But it is only for capital expenditure. There still has to be found the recurrent expenditure.

58. We notice that in the recent White Paper "Service with Overseas Governments" (Command Paper No. 1193) Her Majesty's Government have made important proposals whereby, so far as the public service is concerned, it will pay the "differential" so as to enable a territorial Government to employ a man from overseas at a salary it can afford. This "differential" concerns the cost of leave passages, children's education, and other expenses which arise in the case of an officer from overseas but not of a local officer. But the proposals in the Command Paper extend only to public servants. They do not extend to university teachers. But their case is also being met. We are glad to see that in the White Paper on "Commonwealth Educational Co-operation" (Command Paper No. 1032) recommendations have been made for similar help to be given to teachers in key posts in universities. The money is to come from the estimates of the Colonial Office and the Commonwealth Relations Office. We very much hope that these recommendations will be applied in the case of teachers of law. Their work is, we suggest, of great importance: and we do not see how the men are to be obtained unless the "differential" is paid by some one or other.

59. Quite apart from the help which is being given by the United Kingdom, we do hope that help will be forthcoming from other quarters. We understand that a British-American conference on this very question has recently been held at Princeton, U.S.A.: and we know that there are influential bodies in the United States which see the urgent need. If help should be forthcoming, we are sure it would be warmly welcomed.

Professional Post-Graduate Training

60. In some parts of the world a university degree in law is considered by itself to be a qualification to practise. We do not take this view. We think that practical training is a necessary part of the equipment of a lawyer just as it is of a doctor. After a man has taken his degree at the university, he should have a period of one year's practical training at a school of law where he can be taught such things as the drawing of pleadings, trust accounts and bookkeeping, practical conveyancing, etiquette and professional conduct.

61. In **West Africa** considerable progress has already been made. A school of law has been set up in Accra and one is proposed at Lagos. In each case a man must attend at the school for one year's practical training before being allowed to practise.

In **East Africa,** too, we understand it is proposed that a school of law should be set up for practical training. There is not so much urgency about it as there is about the university faculty of law because students will not be coming forward to the school of law until they have taken their degrees. The school would probably need a full-time director; but we would hope that the lectures and classes would mostly be given by practising lawyers, such as Crown counsel, magistrates, and practitioners, who

would spare part of their time for the work. We hope that facilities would be provided whereby the students could visit the courts and see the leading practitioners at work. And it would be of inestimable advantage if they could meet them from time to time on social occasions. In short we would like to see the school of law develop into an Inn of Court where students would not only receive practical instruction but also build up a corporate life as members of the profession: and in the course of time have their own library, hall and common room.

62. We envisage that in the first instance there would be only one such school of law for East Africa. Just as one is proposed at Lagos for the whole of Nigeria, so one may suffice at one of the commercial centres for the whole of East Africa. We doubt whether the several territories have the means or the men for each territory to have a post-graduate school of its own. There would not be enough students to make it a viable institution. It would appear that just as there is to be one university faculty of law, so there should be one professional post-graduate school. And the work of the two should be co-ordinated by a Board of Legal Studies which should be representative of all the territories.

Likewise in Central Africa we would hope in due course to see a school of law for practical training. But as the plans for a university faculty are not very advanced, a school of law must wait, no doubt, for a while.

63. It is difficult to say at present how far this country can give assistance in the establishment of these schools of law. But if advice were to be sought from the Council of Legal Education or the Law Society, we feel sure it would be forthcoming.

Training of Articled Clerks

64. In one at least of the territories plans are being made for instituting a system of "Articles" similar to the system adopted by the Law Society in England for training solicitors. In essence it is this:—A student (who may or may not have taken the higher certificate of education) or an experienced clerk (who has proved his capabilities in practice) is granted his articles by a lawyer of good standing. In other words, he is apprenticed to a lawyer for a specified period. In the case of a new student the period of articles is to be five years. In the case of a clerk of ten years' standing, the period of articles may be reduced to three years. During this period, he works in the lawyer's office, sees all that is going on and learns the practical side of the work. At the same time he attends lectures in the evening and studies his law books, and in due course takes his intermediate examination. If he proves himself of use to his principal, he may be paid a small salary on which he can keep himself. (Some students may have to receive Government help.) Later on he may be given leave of absence from the office so as to attend special courses of lectures for six months, or perhaps work intensively at his books. In due course he takes his final examination and, on passing it, becomes qualified to practise. The whole system would be under the control of the Law Society of the territory who would be responsible for seeing that the intermediate and final examinations were of a sufficiently high standard.

65. Where this proposal is adopted, we would like to stress how desirable it is that the standard of entry by this system should be equal to that obtained by the other ways of entry into the profession. There should not be two different standards for the same qualification. The best way of ensuring this would be for the examinations to be set by an outside body, such as the Law Society of England, who, we are sure, would be ready to help.

66. Something of the same kind is already in force in Hong Kong, the West Indies and Northern Rhodesia. In those territories a man can become qualified to practise as a solicitor provided that he passes an examination which is under the supervision of the Law Society of England. The syllabus for the examinations is identical with that for England. After such a man has practised in the territory for 3 years, he may be admitted as a solicitor of the Supreme Court of England under section 4 of the Solicitors Act, 1957. We understand that a proposal on the same lines is being made for Nyasaland.

67. If this system is to be applied to other territories of Africa, we would suggest a modification. At present, when the Law Society of England supervises the examinations in such cases, the candidates take papers identical with those in England. It would be an improvement if the papers, whilst insisting on the same standard, were re-modelled so as to include alternative subjects more suited to the needs of the territory. This might mean that the candidate would not afterwards qualify for admission as a solicitor in England but this would not matter because it is unlikely that he would wish to do so. All he wants is to qualify in the territory: and the examination would permit of this.

Qualification to Practise

68. In the future we anticipate that the normal pattern of higher legal education in the African territories will be a degree in law at a university in Africa followed by one year's practical training at a school of law in Africa. This should give a qualification to practise. But it will be some time yet before men will be coming forward with this qualification. Meanwhile there will still be students coming forward through the existing channels.

69. So far as concerns the immediate future, before graduates come forward from the universities in Africa, we hope the territories will take steps to ensure that those who have been called to the Bar of England have received practical training before being admitted to practise. In short that they will require a man not only to be called to the Bar, but also to have done the six months' post-final course in England or a satisfactory alternative in the territory. We hope also that they will encourage the alternative qualification of admission as a solicitor by the Law Society of England. We would suggest that consideration should also be given to men who qualify at the Scottish or Irish Bars or in the countries of the Commonwealth so as to ensure that they are equipped to practise in the territory. Later on when graduates come forward from the universities in Africa, we hope that the territories will make provision whereby a man who is qualified overseas can obtain exemption from all or part of the territorial requirements so far as he has already covered them in his examinations and training overseas.

70. It is very desirable also to co-ordinate the standard of qualification as between one territory and the next. In Nigeria plans are well advanced for a Council of Legal Education for the whole country covering all the regions. It is to consist of representatives from the judges, the law officers, the Bar, the faculty of law and the school of law. All three regions are to be represented by their Attorneys-General. We understand that consideration is being given to something on the same lines for East Africa. Each territory might adopt substantially the same standard of qualification: so that a man qualified in one territory could readily be admitted to practise in another territory. We understand that it is suggested that for this purpose there should be set up a Law Advisory Council for all the territories so as to co-ordinate their activities. We warmly welcome this suggestion.

CHAPTER III

BASIC LEGAL EDUCATION IN AFRICA

71. In most of the territories proposals are being canvassed for the setting up of courses so as to give a basic legal training to several groups:

(i) The judges and clerks of African courts.

(ii) Advisers to African courts.

(iii) Administrative officers and police officers who have to pass an examination in law as part of their training.

(iv) Students for Part I of the English Bar examination.

We very much welcome these proposals: for we regard the establishment of these courses as at least as urgent and perhaps even more urgent than the setting up of university faculties of law. We will consider the four classes in order.

The Judges and Clerks of African Courts

72. In most territories there is a dual system of courts: one is a hierarchy of general courts based on the English system (magistrates courts, High Courts and Court of Appeal): the other is a hierarchy of African courts (lower grade courts with an appeal to higher grade courts, and, in most territories, appeal to the High Court). The general courts, if we may so describe them are manned by judges with high legal qualifications who have been usually called to the English Bar: or by magistrates who are often administrative officers who have usually passed a law examination locally. They deal with people of all races. And lawyers are entitled to appear before them. The African courts deal, in general, with disputes between Africans and with the lesser criminal offences (including some statutory offences) by Africans. They are manned by African judges and Elders of integrity and repute but as a rule

without any formal legal training and lawyers are not allowed to appear before them. (There is an exception in the Eastern and Western Regions of Nigeria where the higher grade courts are manned by qualified barristers.)

73. The African courts do not at present come within the regular judicial hierarchy. In many territories they come under the administrative branch of government and are supervised by administrative officers and native courts advisers. It is generally accepted that African courts should be gradually integrated into the general judicial system of the territory. Two stages in this process are foreseen. At the first stage, African courts will remain separate from the "general" courts but supervision will pass from the administration to the judiciary. It is probable that, to an increasing extent, the judges and clerks of these courts will receive some legal training, but, save in a few special cases, they are not likely to possess legal qualifications. At the second stage some African courts, particularly those at important centres of population, will be staffed by legally qualified judges. At this stage, they will cease to be "African" courts and become magistrates' courts and part of the "general" system.

74. The training of African court members is handled in different ways :

An advanced system of training has recently been initiated in Northern Nigeria. There is an Institute of Administration at Zaria at which there has been established a legal training wing. This wing is under the direction of a Crown counsel who was seconded for the purpose, together with two administrative officers who are legally qualified. All these speak fluent Hausa. They hold courses for African court judges which last for three months. Ninety attend at a time, divided into three classes of thirty each, two of the classes being taught in the vernacular and the third in English. It is proving a great success.

In Kenya a somewhat similar system of training is being set in operation. It is headed by the African Courts Officer who is assisted by a full-time Training Officer and soon by five Provincial African Courts Officers. This establishment proposes to run three types of courses for African court judges and clerks : (1) A lower course on law and procedure in Swahili for Presidents, Vice-Presidents and Elders who cannot speak English. (2) A similar course in English. (3) A higher course for those who pass the lower course with distinction which is designed to bring them up to the standard of the law examination for administrative officers.

Uganda has a training establishment but on more modest lines. It is very anxious to enlarge it. It wishes to establish "a residential law school designed to take thirty students in each alternate year, half of them being drawn from the present cadre of native court judges, and the other half from school certificate holders desiring a career in the local law".

Other territories run courses for African court judges and court clerks. These are usually conducted by administrative officers, some of whom are legally qualified, others are not. The courses last from six weeks to three months.

75. It is not possible in any territory to hold courses for all members of the junior courts. They are far too numerous. Instruction of them is given by administrative officers and by judicial advisers to whom we now turn.

Advisers to African Courts

76. In most of the territories there are judicial advisers who tour round the territory and visit the African courts. They see how the work is being done, review the files and give advice to the members of the courts. They are recruited from administrative officers who have taken a special interest in the law, or from lawyers in the public service. We think that their work is so valuable that their numbers should be increased and their special services recognised. The post of judicial adviser should be recognised as an avenue of promotion to the higher judiciary. It should not be regarded as a "dead-end". We think it very desirable that Africans should be trained to fill the posts of judicial advisers and assistant judicial advisers: and this could well be done at a basic training establishment such as we visualise.

Administrative Officers and Police Officers

77. Administrative officers have usually some legal training because they often do magisterial work and supervise African courts. Such training is also required by police officers because they have to conduct prosecutions in the courts. In several territories courses of legal training are provided for these officers and are being extended to cover a wide field of legal knowledge including local legislation.

Students for Part I of the Bar Examination

78. It is open to a student for the English Bar to take Part I of his examination in his home territory: and it is very desirable that he should be encouraged to do so: for by so doing, he goes some way to show that it is worth his while coming to England to complete the course. It saves the heartbreak of failure in England: and the waste of time and money consequent on it. In most of the territories there is little or no provision for instruction for these students. They have to gain their knowledge by correspondence courses or by private reading. But provision is being made in some territories and more is contemplated. The most outstanding is at Zaria where the legal training wing has (in addition to training native court judges) started to teach students for Part I. The first course of eleven students took eight months. The second course of twelve students is to take twelve months. Most of these students did not possess the educational requirements for admission to the Inns of Court but the Benchers, at the special request of the territorial authorities, accepted them. In other territories where courses are being run for African court judges, the most promising students are being encouraged to take Part I of the Bar examination.

The Pattern of the Future

79. Looking at the proposals as a whole, it appears that there is a real need in each territory for an institute where basic legal training can be given. Conditions vary from territory to territory so that there may be

variations in detail, such as the length and content of the courses and so forth. But the overall pattern is clear, and that is that in every territory there should be an Institute for Legal Training, call it a law school, if you will, where basic legal training can be given. We commend the Zaria pattern for consideration.

80. Such being the proposals, our task is to see what assistance can be given to help the territories in the implementing of them. The problem is altogether different from that of setting up a faculty of law at a university.

81. *Staff.* We anticipate that the staff for these new institutes of legal training will in due course be found from specially qualified Africans but meanwhile we suggest that they should be drawn as far as possible from administrative officers and lawyers in the public service at present serving in the territories: for they know the laws of the country and something of the customs and background of the people. Moreover they usually know the local language which is a *sine qua non* in such institutions. Although we would not exclude teachers from overseas if suitable men could be found, it appears to us that the advantage of getting men who know the country are overwhelming.

82. *Finance.* These new institutes will need class rooms and libraries. Also houses for the staff and hostels for the students. The staff may for a time have to be recruited from administrative officers or lawyers in the public service : so others will have to take their places. We hope that the territorial governments will be able to provide the buildings both for staff and students : but we are informed that many of the territories will not be able to pay the salaries of the staff and the other recurrent costs of running an Institute.

83. The problem is most acute in Uganda Protectorate. The Government estimates that the annual recurrent cost would be some £17,000 a year: but it cannot find the money for it. This is its statement upon it: "The Uganda Government, faced with a deficit budget and overtaken by the need to make drastic economies in its expenditure . . . is in no position to meet the recurrent costs of new development. If, therefore, this local law school is to be established, it will be necessary for its recurrent costs to be met from some outside source. The contribution to be made by the Uganda Government would have to be found from within existing resources. The Uganda Government would therefore hope to meet its responsibility in that matter by providing the staff housing and the school buildings which the law school will require."

84. What is here said of Uganda may apply in varying degrees to other territories too. The recurrent costs will have to be met from some outside source. Where is this outside source to be found? May we suggest that perhaps the great Charitable Foundations might help. There is no cause more important or more urgent ; for, if law and order is to be maintained in the territories, it is of the first importance at once to train the judges and magistrates of the future. The help would not be needed indefinitely. If moneys could be provided to cover the first five years, the territories would, we hope, be able to manage themselves thereafter.

SUMMARY OF RECOMMENDATIONS

85. We may summarise our principal recommendations as follows :

I. Higher Legal Education in England

(1) The Inns of Court should be invited to revise their conditions of entry so as to ensure that no student is admitted who has not sufficient general education to be able to pass the Bar examinations. (Paragraphs 16 to 20.)

(2) The Council of Legal Education should be invited to remodel the Bar Examinations so as to include alternative subjects more suited to the needs of students from overseas. (Paragraphs 30 to 32.)

(3) The Council of Legal Education and the Law Society should be invited to introduce a substantial period of practical training so as to fit a student from overseas for practice in a territory where the profession is " fused ". (Paragraphs 33 to 35.)

(4) The General Council of the Bar and the Law Society should encourage their members, barristers and solicitors respectively, to take pupils from overseas for a period of six months. (Paragraphs 36 to 39.)

(5) Steps should be taken to ensure that a man is not allowed to practise in Africa unless, in addition to passing the Final Bar Examination, he has done a substantial period of practical training in England or in the territory where he intends to practise. (Paragraphs 40 and 41.)

(6) Adequate accommodation should be provided for students from overseas attending the Inns of Court, not only for lectures and classes, but also for their social activities. (Paragraphs 43 to 45.)

II. Higher Legal Education in Africa

(7) The Faculty of Law (which it is proposed to set up in Tanganyika) should be started with all possible speed. (Paragraphs 51 and 57.)

(8) Law teachers should be lent on " secondment " to help the new Universities in Africa to staff the Faculties of Law which are to be established there. (Paragraphs 55 and 58.)

(9) One year's practical training should be provided for students after they have taken their degrees in law : and Schools of Law should be set up for the purpose. (Paragraphs 60 to 62.)

(10) The qualification to practise should be uniform throughout the territories of East Africa. (Paragraph 70.)

III. Basic Legal Education in Africa

(11) Steps should be taken in each territory to set up at once an Institute where basic legal training can be given to the judges and staff of African courts, to advisers of African courts, to administrative officers and police officers, and to students for Part I of the Bar Examination. (Paragraph 79.)

86. In conclusion we wish to express our thanks to our Secretary, Mr. Vivian Price, barrister-at-law. We desire to express our high appreciation of his work and the efficiency and industry with which he performed his duties. He was of the greatest assistance to us at all stages of our inquiry.

DENNING, *Chairman.*
SEYMOUR KARMINSKI.
KENNETH DIPLOCK.
J. N. D. ANDERSON.
DINGWALL L. BATESON.
E. R. DEW.
STAFFORD FOSTER SUTTON.
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BARCLAY NIHILL.
ARTHUR PHILLIPS.
FRED E. PRITCHARD.
KENNETH ROBERTS-WRAY.

V. W. C. PRICE, *Secretary.*
16th *December,* 1960.

APPENDIX

During his visit to Africa the Chairman had interviews with the President of the Court of Appeal for Eastern Africa, with the Chief Justices, Judges and Magistrates, the Law Officers, the African Courts Advisers, the African Court Judges and representatives of the Law Societies and practitioners of—

The Federation of Nigeria.
The Western Region of Nigeria.
The Eastern Region of Nigeria.
The Northern Region of Nigeria.
Uganda Protectorate.
The Kingdom of Buganda.
The Kingdom of Toro.
Kenya.
Tanganyika.
Zanzibar.

At our meetings we had the benefit of the following witnesses:—

Dr. A. N. Allott of the School of Oriental and African Studies.
Mr. D. J. Derx of the Finance Department of the Colonial Office.
The Honourable Mr. R. L. E. Dreschfield, C.M.G., Q.C., Attorney-General of Uganda.
The Honourable Dr. T. O. Elias, Attorney-General of the Federation of Nigeria and Minister of Justice.
Commander R. S. Flynn, Sub-Treasurer of the Inner Temple.
The Honourable Sir Audley McKisack, Chief Justice of Uganda.
Dr. H. F. Morris, Judicial Adviser for African Courts in Uganda.
The Honourable Mr. Julius Nyerere, Chief Minister of Tanganyika.
The Honourable Mr. Justice Ollennu of the High Court of Ghana.
Mr. B. G. Stone, O.B.E., Head of the Students Branch, the Colonial Office.
Mr. J. F. Warren of the Law Society.

And we have in addition had the benefit of memoranda from—

Nigeria

The Honourable Sir Adetokunbo Ademola, Chief Justice of the Federation of Nigeria.
The Honourable Mr. Justice L. N. Mbanefo, Kt., Chief Justice of Eastern Nigeria.
The Honourable Mr. H. H. Marshall, C.M.G., Q.C., Attorney-General of Northern Nigeria.
Mr. S. S. Richardson, O.B.E., the Commissioner for Native Courts in Northern Nigeria.
Mr. M. Bennion, C.B.E., Principal of the Institute of Administration, Zaria.

Sierra Leone

Dr. D. H. Nicol, Principal of the University College of Sierra Leone.

Ghana

Professor J. H. A. Lang, Director of Legal Education as Head of the Department of Law in the University College of Ghana.

East Africa

The Honourable Sir Kenneth O'Connor, K.B.E., M.C., President of the Court of Appeal for Eastern Africa.

Uganda

Mr. W. L. Bell, M.B.E., Permanent Secretary to the Minister of Education of Uganda.

Kenya

The Honourable Sir Ronald Sinclair, Chief Justice of Kenya.

The Honourable Mr. Justice Rudd, the Supreme Court of Kenya.

The Honourable Mr. D. W. Conroy, C.M.G., O.B.E., Q.C., Solicitor-General of Kenya.

Mr. A. Hannigan of the Royal Technical College of East Africa.

Tanganyika

The Honourable Sir Ralph Windham, Chief Justice of Tanganyika.

The Honourable J. S. R. Cole, Q.C., Attorney-General of Tanganyika.

Mr. W. E. M. Dawson, Q.C., Solicitor-General of Tanganyika.

Zanzibar

Mr. B. A. G. Target, Crown Counsel, Zanzibar.

Rhodesia and Nyasaland

Mr. Mervyn Dennison, Q.C., Solicitor-General of the Federation of Rhodesia and Nyasaland.

The Honourable Mr. B. A. Doyle, Q.C., Attorney-General of Northern Rhodesia.

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