

‘A GREAT AND NOBLE OCCUPATION!’

The Society of Legal Scholars, originally the Society of Public Teachers of Law, was created in 1909, but was fortunate to survive its first half-century. It had few members, lacked financial resources and was weak in influence. In comparison with other university disciplines, law enjoyed a fragile status, and was often held in low esteem by barristers and solicitors. At times the SPTL was caught up in problems of its own making, for instance refusing to admit women until the late 1940s. But there were also moments of excitement and achievement: the years between 1909 and the start of the First World War were full of hope and new ideas, and the establishment of the *Journal of the Society of Public Teachers of Law* in the 1920s was an important achievement for legal scholars.

During the social revolution of the 1960s the SPTL continued to function as a rather sedate gentleman's club, gathering at its annual conference to socialise, rather than to engage in academic debate. The 1970s saw a sustained drive from its Young Members' Group to create a new, more serious organisation, with better conferences and more effective decision-making processes. The Society evolved slowly, but the process accelerated in the 1990s, with members encouraged to reinforce their intellectual contribution to the discipline and act as a central point for policy debate within the legal academic community. As we stand at the beginning of the twenty-first century, the Society, with nearly 3,000 members, has come a long way from its small beginnings.

‘A Great and Noble Occupation!’

The History of the Society of Legal Scholars

Fiona Cownie
and
Raymond Cocks



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PREFACE

2009 was originally chosen as the year in which to publish the history of the Society of Legal Scholars because it is the year in which the Society becomes 100 years old. However, we hope that the resulting publication does not merely fulfil a wish on the part of the Society to commemorate its centenary, but will also provide a substantial contribution to the history of legal education in the UK, about which far too little is known.

During its first 100 years, the Society has grown enormously. About 60 law teachers expressed interest in joining the Society when it was first formed. In 2009 the Society is welcoming its 3,000th member. Over the years, the Society has changed its name from the Society of Public Teachers of Law to the Society of Legal Scholars, it has established a scholarly journal (originally the *Journal of the Society of Public Teachers of Law*, now *Legal Studies*) and it has provided annual meetings where, over the years, thousands of participants have considered issues of interest to academic lawyers. In recounting the story of these, and other significant events in the Society's history, we have benefited from free access to the Society's rich archive. However, the archive is by no means complete, and we have suffered the usual frustrations of historians, bemoaning those who in earlier years thought fit to destroy potentially fascinating documents.

Our approach throughout has been to try to allow those involved in the Society's history to speak for themselves through the documents we have unearthed. The Society's archive has never before been subjected to systematic examination, and we have taken the decision therefore to focus closely on the history of the Society itself, touching on general matters, including current affairs, legal education and higher education policy only where those were relevant to events that were significant for the Society. Like any research, this is a work in progress, in the sense that we hope it will inspire others to build on the basis we have provided and take further the project of charting the history of legal academics in the UK and Ireland.

We should like to draw the attention of readers to the fact that from 1990 onwards the Society's archives are not yet open to the general public. We were granted access to records from that date onwards by the Society on the understanding that we would use our discretion in what we made public. During the 1990s we have only omitted material not otherwise publicly available which, were it to have been included, would have constituted a breach of privacy relating to living individuals. As regards the 2000s, we have decided to include an epilogue which covers those years, as it is not possible, without the benefit of some

distance of time, to properly evaluate events so close to our own time, quite apart from the Society's need to keep confidential some recent documents which relate to matters still under negotiation or discussion with various third parties.

Finally, readers should note that both the authors have been involved with the Society in various capacities in the 1990s/2000s. In writing about the Society we have therefore attempted to meet Delamont's challenge to 'make the familiar strange'.¹ It will be up to the reader to make up their own minds to what extent we have succeeded.

We hope that readers will find the history of this learned society of academic lawyers as fascinating as we do, and that, by analysing some of the less glorious aspects of the Society's history we have not undermined too much the opinion of the Society's founder, Henry Goudy, that 'We are teachers of Law—a great and noble occupation!'

Ray Cocks and Fiona Cownie
Keele, May 2009

¹ S Delamont, 'Just Like the Novels? Researching the Occupational Culture(s) of Higher Education', in R Cuthbert (ed), *Working in Higher Education* (Buckingham, SRHE & Open University Press, 1996) 147.

ACKNOWLEDGEMENTS

Writing the history of the Society of Legal Scholars has been a fascinating task, carried out as a joint venture between a legal historian and a legal education specialist. We hope that readers will agree that we have pooled our respective expertise to good effect. Readers should know that Professor Ray Cocks has been primarily responsible for writing the material relating to the first 50 years of the Society's existence, and Professor Fiona Cownie has taken primary responsibility for material from 1960 to the present day.

In carrying out the research for this book, we have been greatly helped by a number of people, to whom we would like to express our thanks. Professor William Twining, a Past President of the Society, was most helpful, both in discussing this project and in making available large numbers of his private documents relating to the Society, which augmented those he had already deposited in the Society's archive. We are most grateful for his continuing interest in, and support of, this project. Professor David Sugarman was also most generous with his time in discussing the project in its early stages. Jules Winterton, Associate Director and Librarian of the Institute of Advanced Studies, welcomed us and greatly facilitated our research. We would also like to thank the staff of the Institute, including in particular the Archivist, Elizabeth Dawson, who not only helped us to access the archive, but also shared her office with us for several years. Lesley Young, Information Services Manager at the Institute, was equally helpful. Eliza Boudier, Secretary to the Director, and Monica Humble, Finance Assistant, helped us to master the intricacies of the photocopying machine and rescued us when necessary. All of these people generously provided assistance which made our task much easier. Deborah Parry (formerly of the University of Hull) responded to requests for material for the archive and provided documents which filled in some of the frustrating gaps that would otherwise have existed. Sally Thomson, current SLS Administrator, and Professor Nick Wikeley, former Honorary Secretary of the Society, deposited in the Archive large numbers of documents relating to the year 2000 onwards, all beautifully organised—saving us an enormous sorting job, for which we are extremely grateful. Others who have sent useful material include John Woodliffe (formerly of Leicester University), Hannah Quirk of Manchester University and Professor Geoffrey Samuels of Kent University. Many thanks to you all. Our joint thanks also go to Richard Hart and his team, whose patience and professionalism has been outstanding.

Ray Cocks would like to thank Andrew Francis and Phil Handler for their comments on a nearly final draft of his part of this project. Fiona Cownie would

like to express her thanks to Kate Malleson and Maurice Mitchell, whose generous hospitality over the past few years has enabled her to stay in London to access the archives. Also to Sam, Peter and Ellie—thank you for sharing your house with me for so long! Also to Elaine Morton, of the Flower Corner, in Leicester, whose blooms have cheered up my office as I worked on this project; equally to Anne and Mel Empsall, for their interest in legal academics of times past. My thanks would not be complete without acknowledging, as always, my heartfelt gratitude for the continuing support of my fellow-academic and husband, Tony Bradney.

CONTENTS

| | |
|--|-----|
| <i>Preface</i> | v |
| <i>Acknowledgements</i> | vii |
| <i>Chronological List of the Society's Office Holders</i> | xi |
| 1 New Questions Affecting the Teaching of Law: 1908–1909 | 1 |
| 2 Hope Followed by Dismay: 1910–1918 | 15 |
| 3 Defiance and Debate: 1919–1930 | 37 |
| 4 Research, Dissent and the Possible Admission of Women: 1930–1939 | 49 |
| 5 War, Respectability, the Admission of Women, Legal Education with ‘Vituperative Epithets’ and Increasing Self-confidence: 1940–1960 | 59 |
| 6 The First Fifty Years: A Summary | 79 |
| 7 The Swinging Sixties | 85 |
| 8 The 1970s: Reform Begins | 121 |
| 9 The 1980s: A Difficult Decade | 163 |
| 10 The 1990s: A Decade of Change | 207 |
| 11 The New Millennium: 2000 and Beyond | 245 |
| <i>Index</i> | 265 |

CHRONOLOGICAL LIST OF THE SOCIETY'S OFFICE HOLDERS

Presidents of the Society

| | |
|---------|---|
| 1909–10 | The late Professor H Goudy |
| 1910–11 | The late Sir Alfred Hopkinson Jenks, FBA KC |
| 1911–12 | The late Dr Blake Odgers, KC |
| 1912–13 | The late Sir John Macdonnell, |
| 1913–14 | The late Dr Henry Bond |
| 1914–15 | The late Professor Sir William Holdsworth OM, KC, FBA |
| 1915–16 | The late Sir Ernest Trevelyan |
| 1916–17 | The late Professor AF Murison, CBE KC |
| 1917–18 | The late Professor A Pearce Buckland, FBA Higgins, CBE, KC, FBA |
| 1918–19 | The late Professor H Goudy Burgin, MP |
| 1919–20 | The late Professor Edward |
| 1920–21 | The late Professor Geldart, CBE |
| 1921–22 | The late Mr GH Hurst |
| 1922–23 | The late Professor HD KCB, FBA Hazeltine, FBA |
| 1923–24 | The late Professor Sir William |
| 1924–25 | The late Professor JL Brierly, |
| 1925–26 | The late Professor WW Buckland, FBA |
| 1926–27 | The late Right Hon E Leslie |
| 1927–28 | The late Professor HC Gutteridge, QC |
| 1928–29 | The late Judge HC Dowdall, QC |
| 1929–30 | The late Professor Sir Percy Winfield, QC, FBA |
| 1930–31 | The late Dr AEW Hazel, CBE, KC |
| 1931–32 | The late Professor JDI Hughes |
| 1932–33 | The late Professor F de Zulueta, FBA |
| 1933–34 | The late Right Hon Lord McNair, CBE, QC, FBA |
| 1934–35 | The late Professor RA Eastwood, OBE |
| 1935–36 | The late Professor RW Lee, FBA |
| 1936–37 | The late Professor HF Jolowicz |
| 1937–38 | The late Professor HA Hollond, DSO, OBE |
| 1938–39 | The late Dr GRY Radcliffe |
| 1939–46 | The late Judge Raleigh Batt |
| 1946–47 | The late Dean CE Smalley-Baker, QC |

| | |
|---------|--|
| 1947–48 | The late Dr WT Stallybrass, OBE |
| 1948–49 | The late Professor Sir David Hughes Parry, QC |
| 1949–50 | The late Professor AL Goodhart, KBE, QC, FBA |
| 1950–51 | The late Professor ECS Wade, QC, FBA |
| 1951–52 | The late Mr PA Landon, MC |
| 1952–53 | The late Professor Denis Browne |
| 1953–54 | The late Professor TFT Plucknett, FBA |
| 1954–55 | The late Right Hon Lord Chorley, QC |
| 1955–56 | The late Professor DJLI Davies |
| 1956–57 | The late Professor JL Montrose |
| 1957–58 | The late Professor PW Duff |
| 1958–59 | The late Professor HG Hanbury, QC |
| 1959–60 | The late Professor FH Lawson, FBA |
| 1960–61 | The late Professor D Seaborne Davies |
| 1961–62 | The late Professor GW Keeton, FBA |
| 1962–63 | The late Professor AH Campbell |
| 1963–64 | The late Professor O Hood Phillips, QC |
| 1964–65 | The late Professor BA Wortley, OBE, QC, CMG |
| 1965–66 | The late Rt Hon Sir Robert Megarry, FBA |
| 1966–67 | The late Professor JA Coutts |
| 1967–68 | The late Sir Arthur LI Armitage |
| 1968–69 | The late Professor Sir Norman Anderson, OBE, QC, FBA |
| 1969–70 | The late Professor Sir Rupert Cross FBA |
| 1970–71 | The late Professor Sir Thomas Smith QC, FBA |
| 1971–72 | The late Professor PS James |
| 1972–73 | The late Professor RH Graveson QC |
| 1973–74 | The late Professor Glanville Williams QC, FBA |
| 1974–75 | The late Professor CF Parker |
| 1975–76 | The late Professor FR Crane |
| 1976–77 | The late Professor LCB Gower, FBA |
| 1977–78 | The late Professor H Street, CBE, FBA |
| 1978–79 | Professor WL Twining, FBA |
| 1979–80 | The late Professor Sir John Smith, CBE, QC, FBA |
| 1980–81 | Professor PG Stein, QC, FBA |
| 1981–82 | The late Professor JK Grodecki, OBE |
| 1982–83 | Professor PH Pettit |
| 1983–84 | The late Professor Sir Neil MacCormick, QC, MEP, FBA |
| 1984–85 | Professor L Neville Brown, OBE |
| 1985–86 | The late Professor AL Diamond, QC |
| 1986–87 | Professor JA Jolowicz, QC |
| 1987–88 | Professor HK Bevan |
| 1988–89 | Professor JA Andrews CBE |
| 1989–90 | Professor JF Wilson |
| 1990–91 | Professor MC Meston |

| | |
|---------|---------------------------------------|
| 1991–92 | Professor RM Goode, CBE, QC, FBA |
| 1992–93 | The Hon Sir Ross Cranston |
| 1993–94 | Professor JG Miller |
| 1994–95 | Professor JCW Wylie |
| 1995–96 | Professor J Tiley CBE |
| 1996–97 | Professor H Beale QC |
| 1997–98 | Professor M Brazier, OBE |
| 1998–99 | Professor JS Bell QC, FBA, FRSA |
| 1999–00 | Professor Dame Hazel Genn CBE |
| 2000–01 | Professor JM Thomson |
| 2001–02 | Professor RIE Card |
| 2002–03 | The late Professor PBH Birks, QC, FBA |
| 2003–04 | Professor JR Birds |
| 2004–05 | Professor A Paterson |
| 2005–06 | Professor AM Dugdale |
| 2006–07 | Professor Celia Wells, OBE |
| 2007–08 | Professor Sarah Worthington |
| 2008–09 | Professor Fiona Cownie |

Honorary Treasurers

| | |
|---------|--|
| 1909–15 | The late Professor HD Hazeltine, FBA |
| 1915–21 | The late Right Hon Lord McNair, CBE, QC, FBA |
| 1921–28 | The late Professor Sir Percy OBE Winfield, QC, FBA |
| 1928–51 | The late Mr PA Landon, MC |
| 1951–60 | The late Trevor C Thomas Hazeltine, FBA |
| 1960–63 | John F Wilson |
| 1963–71 | The late Professor FR Crane McNair, CBE, QC, FBA |
| 1971–83 | Professor L Neville Brown, |
| 1983–00 | Clive A Weston |
| 2000–05 | Professor KM Stanton |
| 2005– | Professor D Miers |

Honorary Secretaries

| | |
|---------|--|
| 1909–19 | The late Professor Edward Jenks, FBA |
| 1919–24 | The late Right Hon E Leslie Burgin, MP |
| 1924–38 | The late Professor ECS Wade, QC, FBA |
| 1938–50 | The late Professor DJLI Davies |

| | |
|---------|---|
| 1950–60 | The late Professor LCB Gower, MBE, FBA |
| 1960–63 | The late Professor ER Hardy Ivamy |
| 1963–72 | Professor JF Wilson |
| 1972–75 | Professor JS Read |
| 1975–81 | Professor PB Fairest |
| 1981–89 | Professor DB Casson |
| 1989–96 | The late Professor P B H Birks, QC, FBA |
| 1996–01 | Professor DJ Hayton |
| 2001–06 | Professor NJ Wikeley |
| 2006– | Professor SJ Bailey |

Subject Section Secretaries

| | |
|-----------|----------------------|
| 1991–96 | Professor FD Rose |
| 1996–99 | Professor DJ Feldman |
| 1999–2006 | Professor P Sparkes |
| 2006– | Professor L Vickers |

Honorary Editors of *Legal Studies*

| | |
|-----------|---|
| 1924–55 | The late Professor HF Jolowicz |
| 1955–62 | The late Professor FH Lawson, |
| 1962–80 | Professor JA Jolowicz, QC |
| 1981–93 | Professor JA Andrews CBE |
| 1994–98 | Professor J Bell FBA |
| 1998–2005 | Professor Derek Morgan and Professor Celia Wells |
| 2005–08 | Professor Nick Wikeley |
| 2009– | Professor R Merkin, Professor J Poole, Professor J Steele |

We are *teachers of Law*—a great and noble occupation!

(Professor Goudy, first President of the Society of Public Teachers
of Law, in his Introductory Address to the Society, 1909)

The objects of the Society shall be the furtherance of the cause of legal education in England and Wales, and the work and interests of public teachers of law therein, by holding discussions and enquiries, by publishing documents, and by taking such other steps as may from time to time be deemed desirable.

(Preliminary draft of the Society's objects, 1909)

1

New Questions Affecting the Teaching of Law: 1908–1909

I am anxious to enlist your support in a scheme which has been in my mind for some little time, and which seems now to have a fair chance of being realised.

The ranks of the teachers of law throughout the kingdom have increased substantially in the last few years, and are likely, with the growth of provincial Universities, to increase still more in the future. The work of these new teachers is different from that of older established teachers at Oxford and Cambridge; but it is equally important, and likely to become still more important in the future. Moreover, new questions effecting the teaching of law, and particularly in relation to the professional side of study, are continually presenting themselves.

Would it not be in the natural order of things, and for the benefit of all concerned, that a society or association of teachers of law be formed, to meet occasionally (say once a year) in London or some other convenient centre, to discuss questions of general interest connected with legal education? It would be, I think a mistake to limit the usefulness of the contemplated Society by constitutional restrictions, but personally I can think of more than one direction in which it might usefully employ itself.¹

These words were written on 19 June 1908 by Edward Jenks, a law teacher in London, in a letter to Walter Copinger, then one of the Professors of Law in Manchester. It was carefully phrased with a view to eliciting support from a law teacher who, along with all other law teachers in England and Wales at that time,

¹ General Correspondence Files, 1908–50, 19 June 1908, A.SPTL 2/1–2. Unless otherwise stated, references to manuscripts are to the archives at the Institute of Advanced Legal Studies, Russell Square, London. The archive presents numerous challenges because SPTL officers used different systems of referencing at different times and the records were periodically weeded. Anyone working with the records soon has cause to be grateful to the modern archivists at the Institute and the system of referencing they have developed. In some respects the system is intricate because of the need to relate the new references to inconsistent practice in the original records: we have used our judgement in this regard. Also, in what follows we often do not use page numbers because the original pagination is sometimes inconsistent. Instead we refer to the relevant committee or meeting or person and give the date used in the records. The Class is given for all archive texts but the full archive description is only used where it would assist the understanding of the reader. Note that the full class, dates and description for A.SPTL 1, which is extensively used below, is 1909–77, Minute Books of Council, General Committee and Special Committee but for the sake of brevity it is referred to as Minutes of General Meetings, followed, where appropriate, by a reference to a specific meeting or committee and the class reference.

2 *The History of the Society of Legal Scholars*

had no experience of a professional organisation for academic lawyers. The letter from Jenks went on in a practical way.

Of course, what one thinks of immediately on hearing such proposals is, the question of time; but I suggest something on the model of the Association of International Law, which does most useful work without trespassing much upon the time of its members. One annual meeting, with a certain amount of work done in the interval by special committees, would, I think, be all that was needed, at any rate at first. The more personal meetings at the general gathering would itself be a gain to all concerned.

I have broached the matter to my former colleague, Professor Goudy, of Oxford, to Dr Blake Odgers, the head of the teaching staff at the Council of Legal Education and to Sir John Macdonell, Professor of Comparative Jurisprudence in the University of London; and, without committing themselves to details, these gentlemen are inclined to regard the proposal with favour. I am addressing a letter also to Professor Kenny, of Cambridge, Professor Maitland's successor in the Chair of English Law.

My proposal is, that, before separating for the holidays, we six (if I am so fortunate as to secure all) should put our names to a carefully worded circular, which I would undertake to see through the Press, and dispatch to every Public teacher of law in England at the beginning of the October term, inviting him to attend a constituent meeting in London in the middle of December. . . . There would be little difficulty about securing a suitable and dignified meeting place.

The remainder of the letter made it clear that Jenks wanted a small constituent committee, and the inference was that it would be followed by the first meeting of the new society at some time in 1909. The further communications inviting law teachers to attend this meeting had a purposeful tone.

The mere fact of an occasional meeting of legal teachers would itself be no small incentive to enthusiasm and improvement in work admittedly difficult. But it may well be that it would be desirable, from time to time, to utter, on behalf of what has really become a special profession, some organised expression of opinion on subjects affecting the teaching of law; and this can only be done through a definite and permanent body representing legal teachers. We do not desire to prejudge or limit in any way the scope of an organisation which we hope to see come into existence; but we may instance, as subjects well worthy [for] the consideration of such an organisation the relation of academic to professional teaching of law, and the proper contents and sequence of legal curricula.²

Copinger and other recipients responded in a positive way and a general invitation to a constituent meeting was sent out in October. The invitation produced at least one significant note of doubt. Arthur Chapman of Leeds University wrote back on 27 October 1908, saying 'I suppose there is no danger of such an organisation in the end imposing upon the various Schools of Law one rigid pattern of abstraction or one inflexible list of subjects.'³ Jenks replied the next day, arguing:

² Ibid.

³ Ibid.

I think you need have no fear whatever as to the result of the Society's work being to stereotype any general scheme of education; and, indeed, it seems to me that there is a far greater danger of such an event happening through force of circumstances whilst there is no organ which can utter a protest on behalf of the only persons who are really competent to speak on the question. On the other hand, it seems to me desirable that, if they are so agreed, public teachers of law should be able to recommend the adoption of certain general principles in teaching.⁴

Jenks's argument was convincing in that representatives from Leeds (including Chapman) participated in the early years of the Society's work without raising this again as an issue. Jenks had given an early indication that in so far as he had a say in the matter he would support flexible but informed ideas for educational change. In his view, the expression of a unified opinion on the part of law teachers need not threaten institutional autonomy.

In any event, there were enough supportive responses for a constituent committee to meet on 15 December at 4.30 pm in the Law Society Council Room. AD Bowers, who was to give half a century of administrative service to the Society, has shown that the result, in the form of providing for the setting up a new organisation, was a foregone conclusion.⁵ Professor Dicey proposed the motion for 'The formation of the Society of Public Teachers of Law in England and Wales, consisting of teachers of law in England and Wales appointed by any public body.'⁶ The proposal was accepted unanimously.

With almost perpetual energy in the following months Jenks was communicating with others and claiming support from about 60 teachers of law, including, for example, Henry Bond from Cambridge, Edward Bramley from Sheffield, Chaloner Dowdall from Liverpool, William Holdsworth from Oxford, Professor Levi from Aberystwyth, Professor Morgan from University College London, W Blake Odgers KC from the Council of Legal Education, Professor Phillips from Leeds, and Sir Alfred Hopkinson from Manchester. There is doubt about the precise number of law teachers in the country at this time but one list in the SPTL archives suggests 20 at Oxford, 20 at Cambridge, 18 at London, 9 at the Law Society, 11 at the Inns of Court, 1 at Birmingham, 2 at Bristol, 3 at Leeds, 9 at Liverpool, 9 at Manchester, 3 at Nottingham, 5 at Sheffield, 2 from the county of

⁴ Ibid. The records reveal more favourable reactions from other teachers such as that of A Aston of Downing College, Cambridge who wrote on 13 October 1908 that 'such a meeting can hardly fail to be of use to the profession'.

⁵ AD Bowers, 'The Founding of the Society' (1959–1960) 5(NS) *JSPTL* 1, 3–5. Bowers was the first honorary assistant secretary of the Society and over the decades he was to make a notable administrative contribution to its work. On his 100th birthday on 25 February 1982 the Society sent a number of its members to visit him at home. Amongst other things, Bowers was remembered by people in the Society as someone who had survived service in the Boer War and later in the battles of the Somme and Passchendaele. See A.SPTL 10/8.

⁶ The official record of this meeting is at A.SPTL 2/2 which is not complete and is frustratingly described as 'Chiefly regarding constituent meeting unimportant stuff destroyed by Dr Radcliffe, March 1937 under Committee resolution of December 1935.' Dr Radcliffe was acting as 'Hon Sec'. The problems caused by Society officials destroying what they thought was unimportant are a constant issue for anyone writing a history of the Society. The significance of periodical 'weeding' is assessed in ch 2, below. The records do also contain a brief printed summary of the meeting.

4 *The History of the Society of Legal Scholars*

Sussex and 2 from Wales.⁷ In other words it seems there was a membership of approximately 60 from a pool of over 100. An annual general meeting had become a possibility but this did nothing to stop Jenks from continuing with his efforts to increase membership in May and June. On 26 May he wrote to Chaloner Dowdall at Liverpool, saying

I wish you would get Emmott and one or two of the other members of your Faculty to join the Society. There is really now a chance of doing something for legal education, if the people most interested will only buck up. With the exception of your own letter, the only one yet received from Liverpool is that of Sparrow—a refusal.⁸

Later, on 2 June he pointed out to Goudy that ‘We must try to get Kenny, who is really the best known Cambridge teacher at present.’⁹ In respect of both these initiatives he was successful.

The first Annual General Meeting was held at precisely 4.00 pm on Thursday, 1 July 1909 in the Council Room of the Law Society.¹⁰ The Chair was taken by Professor Goudy, a well-known Oxford professor with a reputation for radical views and a long-term friend and supporter of Jenks. There is every reason to believe that Goudy and Jenks had been discussing the formation of the Society for some time, although these informal discussions were not recorded. AD Bowers and Professor Pettit are surely correct in concluding that the founding of the Society should be seen as the work of these two law teachers with their precise respective roles not being entirely clear. Bowers concludes that ‘both should be credited with the idea of the Society’s foundation’.¹¹ Certainly, Jenks could not have done it by himself. He needed well-established professorial support and at the start the Society was founded on Goudy’s eminence and Jenks’s energy. But it has to be said that it was not long before the energy of the latter was of primary importance. As Professor Pettit put it ‘Jenks was the one who really got things moving’.¹² Born in 1861, Jenks was a Cambridge graduate in law and history and had wide experience of teaching. Professor of Law at Melbourne (1889–1891) and at Liverpool (1892–96) and Reader in Law at Oxford (1896–1903), he became Principal and Director in Legal Studies at the Law Society in 1903 and began a phase of deep involvement with law teaching in the capital. He transformed teaching at the Law Society and he went on to work

⁷ A.SPTL 3/1.

⁸ A.SPTL 2/2, Part I.

⁹ Ibid.

¹⁰ Minutes of General Meetings, Annual General Meeting, 1 July 1909: A.SPTL 1/1. (For the general use of this source, see above n 1.) See too A.SPTL 3/3: ‘The Society was formally inaugurated, and its first general meeting held, at the Law Society Hall on 1st July, 1909.’

¹¹ On Goudy, see TB Smith, (1972–73) 12(NS) *JSPTL* 3. Goudy was educated at Glasgow, Edinburgh and Königsberg; he was elected to the Edinburgh Chair of Civil Law in 1889 and appointed to the Regius Chair of Civil Law at Oxford in 1893 by Gladstone after the latter had consulted with Bryce. More generally, see AD Bowers, ‘The Founding of the Society’ (1959–60) 5(NS) *JSPTL* 1, 2. PH Pettit, ‘The Society of Public Teachers of Law—The First Seventy-Five Years’ (1983) 3 *Legal Studies* 231.

¹² Ibid, 231.

with the Webbs in setting up a Law Department at the London School of Economics (LSE). He combined a knowledge of international developments in legal education with personal experience of teaching law in both academic and professional contexts. Having played a major role in creating it, he was not the sort of person who would allow a new organisation to falter.¹³

Forty-two people attended the Annual General Meeting, including Professor EC Clark from Cambridge, WM Geldart and WS Holdsworth from Oxford, W Blake Odgers KC (who was linked, as we have seen, with the Inns of Court School of Law), and younger academics such as PH Winfield, later an authority on the law of tort. It was agreed that:

The objects of the Society shall be the furtherance of the cause of legal education in England and Wales, and the work and interests of public teachers of law therein, by holding discussions and enquiries, by publishing documents, and by taking such other steps as may from time to time be deemed desirable.¹⁴

Professor Goudy spoke at some length, declaring amongst other things that:

Our posts as teachers, it is true, do not bring us any great emoluments or honours, such as await success at the Bar and in other fields. . . . But the dignity of our office we must hold and assert to be inferior to none.¹⁵

On this determined note a Vice-President for the coming year was elected. Professor Alfred Hopkinson KC, Vice-Chancellor of the University of Manchester was, like Walter Copinger, a law professor and a committed supporter of the idea that legal academics should organise themselves.¹⁶ A new society of lawyers had come into existence.

¹³ On Jenks, see Lord Chorley's article in (1947–51) 1(NS) *JSPTL* 114 and the entry by Tony Honore in the *Oxford Dictionary of National Biography* (Oxford, 2004), where he points out that Jenks was 'By nature pugnacious'. This is corroborated in a note by Sir Harold Dankwerts in (1959–60) 9(NS) *JSPTL* 9. The latter points out at p 9 that Jenks had a 'combative nature' and that 'Meetings conducted by Jenks were always a joy, though somewhat exhausting.' But Dankwerts adds at p 10 that 'There is no doubt that he was a most profound lawyer, with the greatest powers of industry.' Jenks married in 1890 and his wife died soon after childbirth in 1891. Later, Jenks remarried. The child of the first marriage, a son, survived but was killed in the First World War in 1917. Jenks died in 1939. For Jenks's views on legal education prior to the formation of the Society, see (1907) 23 *Law Quarterly Review* 266. Obviously, at the Law Society he was very much involved with professional education. Soon after the creation of the SPTL he wanted someone to put forward a motion for an investigation into 'a general scheme of legal education for articulated clerks': see 15 June 1909, A.SPTL 2/2 Part I.

¹⁴ Minutes of General Meetings, Annual General Meeting, 1 July 1909, A.SPTL 1/1.

¹⁵ Introductory Address to the Society of Public Teachers of Law in England and Wales by the President, Henry Goudy, DCL, delivered at the First Annual General Meeting, printed copy dated 1 July 1909 with A.SPTL 3/1. Also summarised in the records at A.SPTL 1/1 A2.

¹⁶ On Manchester Law Faculty, see M Mulholland, *The Faculty of Law of Manchester University: A Brief History, 1855–2000* (Manchester, Manchester University Press, 2000). I am grateful to the author for pointing out that the Faculty records are not a useful source of information on the SPTL. Sir Alfred Hopkinson was also a Unionist Member of Parliament and had many years of experience at the University and its predecessors in Manchester. We will see in ch 2 that his chief interest was in the education of articulated clerks seeking to become solicitors.

Problematical Professions

What were the ‘new questions affecting the teaching of law’ to which Jenks referred? In particular, why was there a sense of a need for a new Society for academic lawyers? What was it about developments at Oxford and Cambridge, the growth of provincial universities and new professional courses in London that produced a desire for organisation amongst law teachers? The answer lies partly in the history of legal education for England and Wales, partly in the role of the legal professions, and partly in a related attempt in effect to answer the question: what is it to be a law teacher?

The new organisation was operating in a distinctive historical context. The conventional view—often expressed with the benefit of hindsight—is that legal education from, say, 1750 to 1900 looks like a series of missed opportunities. In the 1760s Blackstone’s *Commentaries on the Laws of England* had reflected his lectures at Oxford and had thereafter provided a reference point for anyone seeking to teach English law to undergraduates. But little was made of this and Blackstone’s temporary success merely highlights the uncertain history of what happened in respect of the teaching of English law at the universities in the years which followed. Lectures on common law topics did not, by and large, find a university audience. As in previous centuries, there were opportunities in respect of Roman law and international law at Oxford and Cambridge but topics in English law were seen as being predominantly professional and best understood in the context of practice in the courts.¹⁷

There was an important attempt to expose this as a failing and to remedy the shortcoming with the foundation of University College London in 1826. It was hoped that distinguished professors such as John Austin would anchor the teaching of English law in a metropolitan university. As is well known, the attempt had some successes. Austin’s lectures were inaudible but in later years, in

¹⁷ W Blackstone, *Commentaries on the Laws of England* (Oxford, Oxford University Press, 1765). Studies in 18th- and 19th-century legal education include JH Baker, *An Introduction to English Legal History*, 4th edn (London, Butterworths, 1999) ch 10, ‘Legal Education in the Universities’; DJ Ibbetson, C Viner and his Chair in JA Bush and A Wijffels (eds), *Learning the Law: Teaching and the Transmission of the Law in England, 1150–1900* (London, Hambledon Press, 1999) 315–29; CW Brooks and M Lobban, ‘Apprenticeship or Academy? The Idea of a Law University, 1830–1860’, in Bush and Wijffels, *Learning the Law*, 353–83; D Sugarman, ‘Legal Theory, the Common Law Mind and the Making of the Textbook Tradition’, in W Twining (ed), *Legal Theory and the Common Law* (Oxford, Oxford University Press, 1986) 26–61; W Twining, *Blackstone’s Tower: The English Law School* (London, Stevens & Sons/Sweet & Maxwell, 1994); RL Abel, *The Legal Profession in England and Wales* (Blackwell, Oxford, 1988) part IV; N Duxbury, ‘Frederick Pollock and the English Juristic Tradition’ (Oxford, Oxford University Press, 2004); HG Hanbury, *The Vinerian Chair and Legal Education* (Oxford, Oxford University Press, 1958); FH Lawson, *The Oxford Law School, 1850–1965* (Oxford, Oxford University Press, 1968); WR Cornish and G de N Clark, *Law and Society in England, 1750–1950* (London, Sweet & Maxwell, 1989) 105–7; B Abel-Smith and RB Stevens, *Lawyers and the Courts: A Sociological Study of the English Legal System, 1750–1965* (London, Heinemann, 1967); JH Baker, ‘University College and Legal Education, 1826–1976’ (1977) 30 *Current Legal Problems* 1; W Twining, ‘1836 and All That: Laws in the University of London, 1836–1986’ (1987) 40 *Current Legal Problems* 261.

book form, they served as the foundation for important parts of his influential writing on jurisprudence. Professor Amos secured an audience for a while in respect of topics related to professional practice. Intellectually, there were interesting links between the law teachers and the reform of law in India. But at this time undergraduates never appeared in sufficiently large numbers to establish a sustained presence. At King's College another metropolitan attempt was made with the provision of undergraduate law degrees, and the lectures of Professor Park in particular were successful for a while. There was also a remarkable and more sustained development of comparative study in Hindu and Islamic law. But, again, these were exceptions, and by the middle of the nineteenth century the failure to provide an effective programme of study in English law was seen by some as being scandalous. In fact, by this time there was nothing anachronistic in seeing legal education as a series of missed opportunities because a number of contemporaries saw it in precisely this way and were embarrassed by it. The teaching of solicitors was minimal despite the creation of the Law Society. More generally, the situation invited unfavourable comparisons with the law schools of France, Germany and the United States. Within England and Wales it frustrated those who saw clear theoretical analysis as a foundation for much-needed reforms in substantive law. Again and again, reformers felt thwarted by the uncritical assumption that the ideas of practitioners should be the central or even exclusive approach to any appreciation of the subject.¹⁸

With little to justify optimism for what might happen at the universities, attention turned to the Inns of Court. In the mid-1840s a small group of reformers managed to secure the appointment of a Parliamentary Select Committee on legal education, and in the early 1850s this was followed by an investigation into the role of the Inns of Court. The failure of the Inns of that time to provide useful instruction was revealed in full, and the proposed remedy lay in the creation of a new School of Law supported financially by the four Inns. In the early 1850s there were radical hopes for this enterprise. It had strong support from leading lawyers such as Lord Brougham and Richard Bethell, later Lord Westbury. It attracted talented teachers. The lectures on jurisprudence were given by Henry Maine and became influential when many of their themes appeared in Maine's 'best-selling' book *Ancient Law*. Others such as Broome lectured on more practical subjects. It was during these years that Charles Dickens published the articles which were to become his major novel of legal life, *Bleak House*, and it was as if the new teaching initiative offered an antidote to the idea that lawyers were always introverted and more concerned with procedures and profit than with what the law could do for people.¹⁹

¹⁸ Amongst the sources mentioned in n 17, Brooks and Lobban, 'Apprenticeship or Academy?' is particularly useful on this phase.

¹⁹ Ibid, and C Dickens, *Bleak House* (London, 1853); H Maine, *Ancient Law* (London, John Murray, 1861); RCJ Cocks, 'That Exalted and Noble Science of Jurisprudence: The Recruitment of Jurists with "Superior Qualifications" by the Middle Temple in the Mid-Nineteenth Century' (1999) 20 *Journal of Legal History* 62; RCJ Cocks, *Foundations of the Modern Bar* (London, Sweet & Maxwell, 1982) ch 4.

But the hopes for radical change in legal education were not realised. By the end of the 1850s sceptics saw unresolved problems. It was not undergraduates who were being taught but prospective barristers on a one-year course. Even more striking to contemporaries, the examinations at the end of the course were voluntary! In other words, it was still possible to be called to the Bar without having taken an examination because the Inns ensured that the papers were a voluntary 'extra'. Examinations for the Bar eventually became compulsory in 1872.²⁰

Fortunately for the reformers of the day there was a revival of interest in the 1860s in the teaching of English law at the ancient universities. Oxford established a combined degree in Law and History. Cambridge developed an undergraduate programme containing both theoretical and substantive elements. Teachers and writers such as Maine, Bryce, Pollock and Clark worked on the creation of new degree programmes and found an undergraduate audience. But it was as if legal education still lacked an identity that would enable it to withstand comparison with other subjects.²¹

The issue was not merely rhetorical. Law was trying to claim a place in advanced education both in relation to the legal professions and as against other university disciplines. At a time when other programmes were being established in, say, economics or political science, the place of the law teacher remained in many ways ambiguous. Was he (invariably at this time he was a he) part of a liberal arts movement designed to secure a training of the mind? Or was he someone with a significant duty to the legal profession; and, if so, what was this responsibility? For example, was it to teach certain law subjects which the profession viewed as being of practical relevance?²²

The hopes of those seeking to resolve these issues reached their nadir as the Inns of Court continued to fail to acknowledge honours degrees in law as sufficient evidence of some competence, however slight and incomplete. It was as if the ancient universities and the Bar inhabited different worlds of legal education. The legal author and teacher Frederick Pollock was not impressed: in addition to his other academic roles, he had been Professor of Common Law at the Inns of Court between 1884 and 1900 and he recorded his frustration in the *Law Quarterly Review* and elsewhere. He thought the system of law teaching at the Inns was 'absurd'.²³ For Pollock, the Inns reflected the views of practitioners: 'the bulk of the legal profession in England remains in its usual and deplorable state of profound indifference and ignorance on the whole matter'.²⁴ In reality, neither the legal professions nor the older academic disciplines treated the claim that undergraduate law degrees had merit with much respect. Behind these issues lay

²⁰ Cocks, *Foundations of the Modern Bar*, above n 19, 177.

²¹ D Sugarman, 'Legal Theory, the Common Law Mind and the Making of the Textbook Tradition', in Twining, *Legal Theory and the Common Law*, above n 17, eg 56.

²² For explorations of these themes, see S Collini, *Public Moralists: Political Thought and Intellectual Life in Britain: 1850–1930* (Oxford, Clarendon Press, 1991) esp ch 7.

²³ (1898) 14 *Law Quarterly Review* 127 and see Duxbury, above n 17, 51.

²⁴ (1892) 8 *Law Quarterly Review* 20.

an additional problem with money. The law teachers lacked the funding available to legal education at Harvard or Yale and they were unable to take advantage of the political and social changes which were opening up an increasingly significant role for law schools generally in American society.²⁵ They also lacked the professionally recognised place for the law teacher in continental civilian systems. It was as if the roles allotted to them were parochial and secondary. Their uncertain status in the universities sometimes made them look to the professions. Conversely, the indifference or hostility of practitioners made them sometimes look to the universities. It seemed as if they had no home.

Despite this unpromising setting, a small number of late-Victorian lawyers had ideas about new forms of legal education. At various times in the last three decades of the nineteenth century there were grand plans for an Imperial Law School in the capital and there were hopes for new forms of legal education within the framework of the University of London. Abel-Smith and Stevens explored what then happened in some detail in their book, *Lawyers and the Courts*.²⁶ It was an entangled story of grand ideas colliding with an incapacity at any one time to bring together the views of people at the Inns of Court, the Law Society, Oxford and Cambridge, and the University of London. The Bar (as distinct from some distinguished judges) opposed proposals for the reform of London University in 1884 and 1891. On the latter occasion the Inns of Court actually ignored a request from a Privy Council Committee to attend and discuss the issues. Later, a Royal Commission encountered similar professional obstacles but there was, at least, legislative reform for the University and a further opportunity for linking its educational work in law to the four Inns. Despite generous provision for representation of the Inns, in January 1900 yet again the Inns refused to participate in a reform which would have transformed law teaching.

The Victorian reformers never gave up, but the extent of their difficulties sometimes led them to reflect on the underlying cause of their problems. James Bryce, the jurist and statesman, pointed as early as 1871 to the assumptions which characterised many professional opinions and in doing so revealed the full extent of the problem.

[T]he tendency of an English practitioner is by no means towards a search for principles: indeed he becomes absolutely averse to them; and the characteristic excellence which the profession has delighted to honour is the so-called 'case-lawyer' . . . Such a practitioner may acquire a sort of instinct which will usually keep him right, but may be unable to state the general doctrines on which the solution of a class of cases depends.

For Bryce the educational consequences were all too clear.

The result of all this is to make the process of learning English law very slow and somewhat distasteful. Certain persons indeed there are who, having no feeling for symmetry,

²⁵ RB Stevens, *Law School: Legal Education in America from the 1850s to the 1980s* (Chapel Hill, University of North Carolina Press, 1983).

²⁶ Abel-Smith and Stevens, above n 17, ch 7.

are willing to pick up their knowledge by scraps and morsels, and who, so to speak, role themselves about in cases in the hope that bits of legal knowledge will stick.²⁷

Given this sort of intellectual context it is hardly surprising that years later in a valedictory lecture Bryce railed against 'the short-sighted and perhaps somewhat perverse unwillingness of the authorities who control admission . . . to practice to give full recognition to Oxford degrees'.²⁸

To make matters more difficult what was *not* said about legal education was often as significant as what was asserted. Lord Halsbury of *Halsbury's Laws* had obvious opportunities as Lord Chancellor to explore the role of legal education in law making but conspicuously failed to take them. The professional exemplar of the day was not, say, the law reformer or analyst of law but rather the 'Great Advocate' such as Marshall Hall or Sir Edward Clarke. Lawyers such as these did not attribute their professional success to their legal education but rather to their practical apprenticeship in courts of law. Beyond these views lay the knowledge that the lawyers could rely for support on a powerful mixture of interests across politics and government, not least from an increasingly influential Lord Chancellor's Department.²⁹ To many lawyers it was as if legal education was hardly necessary for either the understanding of law or the advancement of their careers. In the words of a modern study of the Bar, the professions had 'ensured the subservience of academic law to professional demands'.³⁰

But, again, reformers refused to acknowledge defeat. The setback of 1900 was followed by a project to establish a school of law which would stand outside the University of London. Funds were available from the sale of certain properties and there was support from the Attorney-General, Sir Robert Finlay. By May of 1903 there were proposals for a Legal Education Authority with its own buildings. Now the Inns were divided, but this did more to produce inaction than anything else. The opponents of change were supported by some lawyers working in an individual capacity. The Inner Temple was particularly opposed and Lord Halsbury fortified its dissent. Once again the reformers experienced difficulties. By 1907 the pages of the *Law Quarterly Review* could be scathing in their criticisms of the Inns. 'The Inns which ought to give us a lead in this matter, have never been able to take a large and liberal view of their duty to learning.'³¹ With obvious frustration it was pointed out that 'There must, ultimately, be some understanding, some division of labour, between the Universities and the Inns.'³²

In the course of these years the Law Society was determined to bring about some sort of change for the sake of improving the education of articulated clerks.

²⁷ J Bryce, *Studies in History and Jurisprudence* (Oxford, Clarendon Press, 1901) vol II, 490–91. The 'Inaugural Lecture' was given in 1871.

²⁸ *Ibid*, 519.

²⁹ See generally R Stevens, *The Independence of the Judiciary* (Oxford, Oxford University Press, 1993).

³⁰ RCJ Cocks, *Foundations of the Modern Bar* (London, Sweet & Maxwell, 1982) 231.

³¹ (1907) 23 *Law Quarterly Review* 260 (T Raleigh).

³² *Ibid*, 264.

After his arrival at the Law Society Edward Jenks succeeded in establishing a Law School. It was hardly a grand achievement in international terms, but its creation took imagination and effort and it did at least signal a new departure. In future, the Inns of Court would not be allowed a stranglehold on all developments in professional legal education. There was the prospect of progress in the education of solicitors. For Jenks it brought the additional satisfaction of offering an alternative to the private and unregulated ‘coach’ for whom he had little or no respect, and in the years following 1903 he greatly improved the Law Society’s educational provision.³³

In this regard there was also the prospect of change outside London. At the same time as the Law Society developed teaching in Chancery Lane it also fostered the teaching of law for articled clerks at provincial universities such as Birmingham and Sheffield and, more generally, through local Law Societies. These provincial developments had just begun to intrude on metropolitan awareness. To take one example, ‘Edward Bramley, a young Sheffield solicitor and, at the time, secretary to the Sheffield and District Law Society, presented to the University College, Sheffield, a scheme for the instruction of articled clerks.’³⁴ Enough money was found to support an experimental course of lectures and teaching began in 1899. After some initial difficulties the numbers attending settled to about 12–15 a year. Sheffield University was given its Charter in 1905 and soon thereafter proposals were put up for permanent law teaching with funding coming half from the University and half from the Law Society. Bramley and others working with him, such as WF Trotter, wanted a Faculty of Law which could go beyond the professional courses and award degrees in law. At this point Jenks played an important role and provided support for linkage between national and local Law Societies. As a result an organisation called the Yorkshire Board of Legal Studies and the national Law Society guaranteed more than half the costs of a possible Faculty. Formal approval from the Privy Council arrived in 1909 but the Faculty was functioning from 1908 with a professor and a small number of lecturers.

For many years, the character of the Sheffield Law Faculty was essentially local. In this respect the Faculty was reflecting the pre-war pattern both of the University itself and the provincial law schools throughout the country. Moreover, of those who came to read law, nearly all intended to enter the legal profession, usually to become solicitors.³⁵

Despite the small number of students, in many ways these reforming efforts were

³³ For a valuable study of tensions within the Law Society at this time, see D Sugarman, ‘Bourgeois Collectivism, Professional Power and the Boundaries of the State. The Private and Public Life of the Law Society, 1825 to 1914’ (1996) 3(1/2) *International Journal of the Legal Profession* 81. For an account of Jenks’s work at the Law Society, see AD Bowers, ‘The Founding of the Society’ (1959–60) 5(NS) *JSP TL* 1.

³⁴ OR Marshall, *The Jubilee Lectures of the Faculty of Law University of Sheffield* (London, Stevens and Sons, 1960) vii.

³⁵ *Ibid.*, ix.

striking achievements and they were the more remarkable for the way they plainly went against the grain of expectations on the part of many practising lawyers, particularly barristers.

Provincial initiatives and the support of the Law Society for the work of law departments beyond London, Oxford and Cambridge obviously pointed in the direction of change. But, again and again, anyone thinking of organising law teachers had to come to terms with the legal professions. In respect of solicitors the 'precedents' for this sort of arrangement were mixed in terms of what they could do for teachers of law. There was nothing in the arrangements of the Law Society to encourage the formation of an organisation of law teachers. There was nothing that would enhance the status of law teachers. There were certain *potential* links with an organisation for academic lawyers but they were not such as to engender enthusiasm. For example, the Law Society had the dismal task of being partly responsible for the regulation of the professional conduct of solicitors, and in serious cases of alleged malpractice the Law Society was one of the parties involved in removal of the right to practice. But even if a capacity to exclude certain people from the opportunity to teach was in the minds of some law teachers, at the time it was a topic that would have to be approached with caution. Exclusionary or even disciplinary roles for a new academic society of any sort were likely to be contentious. The structure of the Law Society was an unlikely precedent for an organisation for teachers of law and in the long run might offer only equivocal support. This unpromising setting makes the work of Jenks as a teacher at the Law Society and an academic reformer all the more remarkable.

Just as important as administrative issues was the need to consider the status of solicitors as against that of barristers. If the new society identified closely with solicitors it would be associated with what was then indisputably the junior branch of the legal profession. At the time, both the social and professional supremacy of the Bar was beyond question. A close link with the Law Society might be looked at with scepticism by prospective members of an academic organisation at the older universities.

The Bar of the day had a potential attraction to someone such as Jenks in that it offered a clear example of a structure which could provide a precedent for law teachers. The Bar Committee had been established in 1883 in response to the belief of a few reforming barristers that the Inns of Court were not capable of organising the profession in an efficient way which could protect the needs of modern practitioners. It was not just educational issues on which the Inns were sometimes divided amongst themselves. It was also thought that they had become conservative after the judges returned to them in the years which followed the abolition of the Serjeants' Inn. It seems likely that a teacher of law thinking of a professional association for teachers in the early 1900s would have had this in mind. But, as with the Law Society, it would also have been obvious that this possible model for a new organisation came with problems. The status and role of the Bar Committee was open to question for the obvious reasons that

the Inns of Court remained and frequently eclipsed the power of the Bar Committee. The Inns had survived radical attempts at reform in the mid-Victorian years and, if anything, were now more fashionable than they had been. Their social and professional influence was undeniable and the Bar Committee could only offer limited prospects as a precedent for a professional organisation. In fact, after a lively start, the Committee became respectable, irrelevant and little interested in legal education.³⁶

Beyond the issues of structure there were important points of social friction which would have been of real concern to anyone founding an organisation for law teachers at this time. It was well known that in previous decades there had been numerous difficulties in the self-regulation of the Bar in respect of finding a satisfactory boundary between social and professional roles. In particular, there were problems outside London on the Circuits. In many respects the latter were self-regulating and some of the Circuit organisations—known as Messes—were caught up in debates as to whether they were social clubs or guardians of professional standards or both. Could someone be excluded from a Mess on the grounds that he was a disagreeable companion? If so, could the Mess then use its authority to prevent the person concerned from practising? Those who argued for the relevance of social acceptability were to some extent out-manoeuvred by the end of the century but the issue had not been fully resolved.³⁷ In short, the dominant profession of the day presented something of a muddled example of self-regulation. There was no one administrative structure with conclusive powers and there was no general agreement on the professional significance of social roles.

Faced with this unpromising context an academic group had to come to terms with both professional power and professions which, in modern terminology, offered no useful role model for academic lawyers. In many respects, the professions were a significant source of opposition to possible reforms and, in themselves, they offered no clear route for a new organisation to take. It was likely that relations between teachers of law and the professions would be both unavoidable and difficult. The reluctance of the Inns of Court in particular to respond to major educational initiatives was obvious. The lack of any clear social setting for law teachers within the professions, and the lack of professional respect for legal education, pointed to both the weakness of law teachers in influencing legal events and the likelihood that some at least of the teachers would find their position sufficiently irritating—or even humiliating—to want to do something about it. At the same time anyone seeking change would be well advised to act with a combination of caution and determination in their dealings with practitioners. Power lay with the professions.

In short, the assumptions produced by the history of legal education, and the

³⁶ Cocks, above n 30, 215–18.

³⁷ *Ibid.*, ch 6.

professional context facing the Society, presented a major challenge to its creators. In the words of Peter Birks, writing in 1996,

At the beginning of this century the common law had barely begun to acknowledge the existence, much less the importance, of jurists, and the notion that university law schools might be essential to the education of lawyers was still novel.³⁸

From the start, the organisation would require a clear intellectual justification for its existence. Beyond this, it would have to develop an independent and distinctive administrative structure which could sustain it across decades. Without both of these it was likely to appear to be no more than an educational anomaly which was subservient to the work and status of solicitors and barristers.

Two events in particular reveal that Jenks was fully aware of these problems. On the evening before the first Annual General Meeting he arranged a social event not for law teachers in general but for the founders of the Society and senior judges.³⁹ He saw the importance of having the sort of judicial support which would command respect in the professions. For the moment, judges outside the Society were more important for its future than teachers within the Society.

Later in the same year he entered into dismal but realistic correspondence with Alfred Topham of 3 New Square, Lincoln's Inn, barrister, teacher of law and author in subsequent years of popular works for students on property law. In response to an invitation to join the Society, Topham replied:

I doubt whether it would be advantageous for me to associate myself publically with the Society as I have found that it is not at all helpful to one's practice at the Bar to be too notoriously connected with teaching work.⁴⁰

Jenks responded by saying: 'I am sorry to learn that you do not see your way to join our Society; but can quite understand your reasons.'⁴¹

Jenks knew very well the extent of the difficulties which faced the new organisation.

³⁸ PBH Birks (ed), 'What Are Law Schools For?', *Pressing Problems in the Law*, Vol 2 (Oxford, Oxford University Press, 1996) Editor's Preface, v.

³⁹ General Correspondence Files, 1908–50, A.SPTL 2/2 Part 2: these records also reveal that on 7 June he had described this as 'a most distinguished gathering'.

⁴⁰ General Correspondence Files, 1908–50, 15 September 1909, A.SPTL 2/11.

⁴¹ 20 September 1909, A.SPTL 2/11.