

**SERVICING THE LEGAL SYSTEM:  
A PROGRESS REPORT ON NORTHERN IRELAND**

Memorandum by the Commonwealth Secretariat  
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The jurisdiction of Northern Ireland is small in the sense that it has its own legal system and insufficient lawyers to make the production of legal textbooks and other materials attractive to commercial publishers.

1. To meet the demands of the legal profession, the energies of the jurisdiction's only law faculty were harnessed in a novel enterprise that brought together both governmental and private funding as well as both practising and academic lawyers. The result has been a programme entitled "Servicing the Legal Profession", instituted in July 1980.

2. At the invitation of the Secretariat, two of the prime movers behind the programme - Professor Campell and Brice Dickson, both of The Queen's University of Belfast - have prepared a paper, outlining the background to the programme and its success to date. The problem of legal publishing in small jurisdictions is one which has assumed a growing dimension: the need for domestic materials has steadily increased but has been matched by escalating costs of production. At the same time, too, an eventual need for computerized legal materials is being recognised. The Northern Ireland programme illustrates one possible solution.

**ANNEX TO LMM(83)3**

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**Introduction**

In February 1979 a proposal was submitted to government departments, the governing bodies of the legal professions and to private institutions suggesting that significant sums of finance be made available to the Faculty of Law, in The Queen's University of Belfast. The proposal was that a Programme entitled "Servicing the Legal System" should be established. The dearth of published information about the law and the legal system in Northern Ireland was described, and it was argued that this detracted from the quality and efficiency of professional practice, hindered legal education and training, and inhibited access to the law by the general public. It was claimed that if new financial resources were made available, fresh opportunities to tackle the problems on behalf of the legal profession and the public could be pursued with some confidence of success. The idea to create a Programme, using the new finance, which would ensure that the whole was much greater than the sum of its constituent parts.

2. The background to the proposal may be sketched briefly. Northern Ireland has a population of approximately 1.5 million people. It has its own legal system; the legislation in force may be similar to that in the rest of the United Kingdom and the common law administered by the courts may be close to that followed in England and

Wales, but in important ways, and in various branches of the law, the legal provisions may be different and unique. In 1979 the legal profession comprised approximately 720 solicitors in private practice and 150 members of the Bar (overall, perhaps, 1,500 lawyers in all walks of life). Within the jurisdiction of Northern Ireland there was only one Faculty of Law - the Faculty in The Queen's University of Belfast. The proposal to establish the "Servicing the Legal System (SLS) Programme" claimed that because Northern Ireland was a "small jurisdiction" it followed that it did not receive the support from legal publishers and specialised institutions such as were enjoyed in larger jurisdictions. In simple terms the problems in Northern Ireland arose from the combination of (a) having a fully developed modern and complex legal system and (b) there being too small a market to support publications to cover all aspects of that system. Northern Ireland's problems were not, it was appreciated, unique - they compared with and mirrored similar situations in other "small jurisdictions" in the Commonwealth and elsewhere.

3. The initial proposal was drafted and presented by the then Dean of the Faculty of Law, Professor Colin Campbell. It was his duty, in the early stages, to undertake the lengthy discussions which ultimately (more than a later) led to sufficient financial sponsorship being available for the Programme to be inaugurated. Contributions came from the Northern Ireland Courts Service (the government department responsible for administration of the courts in Northern Ireland), from the governing bodies of the legal profession (The Law Society, the Bar Council and the Benchers) and, in addition, from the charitable Nuffield Foundation and the Northern Ireland Bankers' Association. In broad terms the Programme was funded for a five year term, subject to review, for a total of about £2,000,000 (i.e. £40,000 per annum). Matching this financial support, however, was the preparedness of Queen's University, as host of the Programme, to provide extensive hidden subsidies. It is difficult to cost the University's contribution but it is significant indeed.

4. The "Servicing the Legal System Programme" was designed to allow existing expertise (in academia and in both branches of the profession) to be tapped and, by the provision of a new resource for shared use, to underwrite its transformation into written and generally available form. By providing a new "vehicle" it was hoped new publications and services might emanate in a way that was not allowed previously. The Programme was, above all, to be "non-exclusive" - work of quality from whatever source was to be encouraged and published. There was no intention of duplicating such services as were already offered by the major English legal publishers (whose services were in some cases of value in Northern Ireland) but to fill gaps, supplement existing services, or establish on an "in-house" basis what the commercial publishers could not countenance. Even at the earliest stages, however, it was realised that the Programme would have to be relatively unambitious and should concentrate on practical and useful tasks rather than attempting any grand or wide-ranging provision of the publications and services that prevail within large and well-endowed jurisdictions.

5. Since the original idea was to tap existing resources as much as possible, so as to minimise the amount of new finance required, it should be noted that the total new staff engaged to run the Programme comprised one Senior Fellow, one full time Research Assistant, and two secretaries. Other members of the Faculty academic staff have administrative, editorial and financial responsibilities within the Programme, but they are very much part-time contributors. One office containing some relatively advanced office technology was opened.

6. In July 1980 the Senate of the University formally established the "Servicing the Legal System Programme" and constituted its Advisory Committee to comprise representatives of the sponsoring bodies under the Chairmanship of the University's Vice-Chancellor. The Projects Committee to undertake day to day responsibility for the programme was set up in the Faculty of Law, the office was opened, and work got underway. The broad objectives were to publish the information that was needed by professional lawyers, law students, other professional groups and associations, and the general public. The ways of "reaching" these groups could vary and might include awareness and up-dating services, textbooks, pamphlets, conferences and seminars. It was up to the Projects Committee, under the Chairmanship of Professor Desmond Greer, and with Brice Dickson as Secretary, to implement in practical ways the objectives so generously endorsed by the sponsors, the Faculty and the University.

## The First Two Years

7. A review of experience in the first two years will begin with a general description of the types of work which have actually been done. These may be grouped into six areas. (Appendix A lists all SLS publications and activities during 1980-1982).

8. In the discussions leading to the establishment of SLS it came to be agreed that the major priority was to be the publication of a regular Bulletin providing up-to-date information about all major developments in the law of Northern Ireland. In August 1980 Judith Eve was appointed Editor and, with the assistance of an editorial team, she planned and then published the Bulletin of Northern Ireland (BNIL). It is worth recording that in these early days, the Faculty received generous help and advice from legal publishers - in particular Sweet & Maxwell Ltd., who advised on their methods and experience in publishing the famous Current Law. The first issue of the Bulletin appeared in February 1981 and it has been published regularly since then - there being ten issues each year (no issues appear in the summer). The Bulletin digests all relevant legal developments affecting Northern Ireland in the previous calendar month.

9. The Bulletin is usually about 40 pages in length and includes material on the following items:

- all new legislation applicable in Northern Ireland
- written judgments delivered in the Province's Court of Appeal, the High Court and county courts
- published decisions of the Industrial Court, industrial tribunals, and society security tribunals
- selected decisions of the Lands Tribunal and the Planning Appeals Commission
- selected tax cases
- jury awards in the High Court
- selected county court awards and criminal damage and criminal injury to persons claims
- practice directions
- Law Society and Bar Council circulars
- selected developments in EEC law
- selected developments in the law of England and Wales and of the Republic of Ireland.

10. There can be no question that the Bulletin has been an outstanding success and has already achieved the status of being indispensable for anyone who wishes to know and keep up-to-date with the law in Northern Ireland. The vast majority of subscribers are legal practitioners, but other individuals and groups subscribe also. In 1981 there were 480 subscriptions (the annual cost is £42.50) which meant that after only a year in operation three-quarters of all firms of solicitors in Northern Ireland had subscribed. The take-up among barristers is much less encouraging - doubtless because they have access to the Bulletin in a central library. All the signs are that the Bulletin will proceed and flourish in the foreseeable future - no matter what happens to any of the other aspects of the SLS Programme.

11. The Northern Ireland Legal Quarterly is a journal which was originally launched in 1936. Its history has been a chequered one and substantive responsibility for its operations was transferred to the Faculty of Law in Queen's in 1964. By 1978 the financial pressures on the Quarterly had become dire and were becoming greater. The inauguration of the SLS Programme allowed its finances to be placed on a sounder footing and the appearance of the Bulletin allowed rationalisation of the journal's marketing and coverage. (The annual subscription has been "pegged" at £22.50 and

joint subscription to the Quarterly and the Bulletin costs only £55.00). The Quarterly need not, now be "all things to all men". It has serious and lengthy leading articles, some shorter articles, comments and notes, and book reviews. Since it is now relieved of the burden of carrying all the material that is included in the Bulletin, it is a more elegant, and more efficiently produced, publication.

12. A different series of publications, organised by the SLS Committee, is the preparation of annotated versions of selected Statutes or Orders in Council. These comprise section by section comment and reference is made to corresponding English legislation and to relevant case law interpreting Northern Irish or English provisions. The cost to a customer can, if the annotation is properly planned, be only very slightly above the purchase price of the "raw text" of the legislation, without annotation or commentary, from the Government's Stationery Office. The first pieces of legislation to be annotated in this way have been the Legal Aid, Advice and Assistance (N.I.) Order 1981 and the Limitation Amendment (N.I.) Order 1982. Annotations are in the pipeline for the Judgments Enforcement (N.I.) Order 1981, the Magistrates' Courts (N.I.) Order 1981, and the Road Traffic (N.I.) Order 1981. The aim is to have most of the publications in this series annotated by practitioners or administrators with particularly close and detailed working knowledge of the topics in question. There is little doubt that if such persons can be persuaded to co-operate on a regular basis the series as a whole could be very valuable.

13. Before 1980, very few textbooks about Northern Ireland law had been produced. An important aspect of the SLS Programme was to encourage the appearance in book form of materials that were being or might be written but whose production was inhibited by conventional market considerations. One book, Compensation for Criminal Damage to Property in Northern Ireland, has appeared already; another (Housing Law) is almost completed. Similarly practice manuals are sorely needed by the practising profession in Northern Ireland, and the first publication in this series (Land Registry Practice) has now been published. There is a need for many more books but it is unlikely the Faculty of Law staff can sustain the series by themselves. If practitioners, who alone have the necessary knowledge and expertise in some areas, are not prepared to contribute, the serious gaps will continue.

14. In some areas of law or legal practice, there are substantial Northern Ireland materials but not quite sufficient to justify the publication of a separate book. Here a supplement to a standard English text may (with the due consent of authors and publishers) be the best way of proceeding. Preparatory work has, accordingly, been done to produce supplements to such standard English legal texts as Smith and Hogan on Criminal Law, Cross on Evidence and Bromley on Family Law. This is work which can perhaps best be done by the academic rather than practising lawyer, and it is likely that the number of supplements will grow and that they will be updated from time to time. There are also lectures on recent developments in areas of importance to the practising profession, and the circulated materials which ensue are popular and valued.

15. As envisaged at the outset, the SLS team has organised conferences and seminars on matters of interest to members of the legal profession, other specialised groups, and wider audiences. Frequently, the organisation of a seminar is a quicker, more cost effective and indeed more appropriate way of allowing discussion and commentary on areas of topical interest rather than planning, preparing some printed copy. In addition it has provided some training for the lay staff of Citizens Advice Bureau (i.e. para-legal advisers). A major commitment has been the provision of a course on legal studies for employees of the Northern Ireland Housing Executive. This has been a serious exercise involving about seven members of the academic staff in the Law Faculty at Queen's and while it constitutes a considerable strain on the manpower resources of the SLS Programme, clearly it also fills an important need for those responsible for all public housing in Northern Ireland. Recently a series of lectures on "Understanding Law" has been mounted with the Extra-Mural Department of the University and this provides an introduction to the legal system for members of the public who attend a course of evening classes. One by-product of such ventures can be the stimulus to proceed to publications.

16. From the outset it was recognised that the need for information about the law could extend to all types of people to all categories of clientele. The need of the practitioner is for up-to-date, clear accounts of what the law in force is, how it

operates and where he can find it. Lay advisers and members of the general public have greater need for introductions to areas of the law and explanations as to how they may be affected, or how they should react, when they experience a problem. A couple of important publications have been prepared which, from their high volume of sales, obviously have met a felt need. A pamphlet on Small Claims Procedures has gone into a second edition already, and a publication on Industrial Tribunals (how they operate, what Tribunal Chairmen are looking for, and how parties should prepare for appearances) has also been successful. A booklet on The Cost of Going to Law has recently appeared and a variety of further pamphlets and brief publications for the general public are in preparation. (See Appendix B).

## Reflections

17. In the last two years a lot of work that probably would not have been done otherwise has been completed under the SLS Programme. It seems that most of those associated with the Programme, or familiar with its record, remain convinced of its merit, just as they appreciate that a great deal remains to be done - and will always remain to be done. So far the Programme has enjoyed the support of all the professional bodies, the University and the Faculty of Law, and there are no signs of the support withering away. One of the advantages of being a "small jurisdiction" is that those concerned in different aspects of the legal process may maintain fairly regular and informal contacts, and there is little doubt that in the organisation of the SLS Programme these contacts have been of value. So far work has proceeded on the basis as originally envisaged; it has covered its own costs and while some individual ventures may be loss-making, others are highly profitable and this allows cross-subsidisation. As yet these are early days, but the following points seem to us (one of us is involved in the daily operations of the Programme and the other is not) as summarising experience so far.

18. The initial thinking behind the proposal was sound. This is shown by the support provided by the sponsors, and the record of productivity since the scheme was established. There is as much a need for information about the law in a small jurisdiction as there is in a large one, and if market considerations do not allow the appearance of the information that is required some other means may deserve to be used to ensure that those who need information about the law get it. This follows from recognition of the importance of the law in regulating social and business affairs.

19. Within Northern Ireland the obvious way forward was to base the Programme in the Faculty of Law (the only such Faculty), and to expect it to accomplish such work as it could do and invite others to co-operate in other areas. It would appear that the Faculty has been diligent and effective in discharging its responsibilities. The Programme has got off to a solid start. The spectacular success has been the Bulletin of Northern Ireland Law. A failure has been in not sufficiently attracting or involving private practitioners - solicitors and barristers - or lawyers employed within local and central government. There is, undoubtedly, a wide range of expertise available that has not been tapped. Realisation of the need to involve others more closely (to promote the range of publications needed) is accepted; so far, however, the difficulties in engaging the busy practitioners in the necessarily time-consuming work of transforming their expertise into clear transcripts, have not been overcome.

20. One of the strengths of the SLS Programme is its base in the Faculty of Law in the University - the Faculty is committed to the Programme and the University provides valuable support. Thus, the University generously allowed word-processing technology to be made available and it is unlikely that the Bulletin (or other publications) could have been produced without such technology. Of course, the sense of proceeding in this way was realised at the outset and the "magnetic copy" of the Bulletins has been transferred on to the University's computer so that the beginnings of a Northern Ireland legal database are being produced at no extra cost really as a by-product of the Programme. This is likely to bring many benefits at low cost in the future.

21. Just as academics and university administrators are good at some things, they are not good at others. The business and marketing side of the SLS Programme would, from the point of view of a conventional legal publisher, probably seem thoroughly amateurish if not amusingly naive. Those responsible for the day to day operations of

the Programme would probably accept such an analysis - after all they are academics, not businessmen. Yet the success of the publications so far might indicate that even if there is no aggressive marketing nevertheless those responsible for the Programme must have some good idea of what they are doing! It may, again, be that in a "small jurisdiction", where there are relatively close and informal contacts, it is easier to learn and diagnose the needs which require to be met.

22. It seems that the flexibility of the Programme is a major advantage just now - but it may be that this will become circumscribed as time passes. In the first two years the reactions of most commentators have been relatively generous. In part this was because care was taken, at the outset, not to raise expectations to an inflated level, and, in part, it is because those responsible for the publications have produced high quality material that has met a need. Thus, subscribing to the Bulletin, buying an annotated statute, using a pamphlet, or attending a seminar or conference are now possibilities for lawyers in Northern Ireland in a way that they were not before. Of course human nature being as it is, there is a danger that expectations will grow and that the demands made on those running the Programme will become unrealistic. The publications so far produced could come to be taken for granted, and there could be a clamour for "more and better". Should this happen the Programme could be at risk since the resources available are, already, fully used. Cutbacks in University finances have been heavy in the United Kingdom and they could threaten the Programme.

23. The SLS Programme has done a good deal for professional lawyers (particularly through the Bulletin) and it has done something (though not as much as many would have wished) for lay advisers and members of the general public. It is doubtful if it has done much of significance for the other professions and occupations in society that require recourse to specialised areas of the law. The difficulty, of course, is that those involved in the Programme have limited knowledge of the needs of such groups or the specialisms involved. To overcome this problem a more expansionist interpretation of the Programme - involving many more outsiders than has been achieved in the last two years - is probably required. That, however, will not be possible unless new resources come, somehow, to be made available.

### **Conclusion**

24. The prospects are that the Programme will continue to grow. It will, at the least, complete its initial five year term and discussions about its continuance will have to take place. If for any reason the Programme were not to continue, there is a reasonable chance that some of its enterprises might be "taken over" and continued by commercial publishers. The SLS Programme has proved, even in its first two years, that there is a thirst for information about the law in many areas of public and professional life in Northern Ireland, and the information is valued highly enough for people to pay for its provision.

## SLS Publications and Activities 1980-82

**Periodicals**

Bulletin of Northern Ireland Law: 10 issues per year, January 1981-  
Northern Ireland Legal Quarterly: 4 issues per year, continued January 1981-  
Northern Ireland Statutes Annotated: occasional

**Books and Pamphlets**

Allen, The Cost of Going to Law  
 Bateson & McKee, Industrial Tribunals in Northern Ireland (with supplement)  
 Gray, Limitation (Amendment) (NI) Order 1982  
 Greer, Small Claims: the New Procedure in Northern Ireland (1st and 2nd eds.)  
 Greer, The Admissibility of Confessions under the Northern Ireland (Emergency Provisions) Act  
 Greer, Legal Aid, Advice and Assistance (N.I.) Order 1981  
 Greer and Mitchell, Compensation for Criminal Damage to Property in Northern Ireland  
 Hadfield, Committees of the House of Commons and Northern Ireland Affairs  
 Kerr (ed.), Custody of Children on Breakdown of Marriage  
 Moore, Capital Transfer Tax  
 Wallace, Land Registry Practice in Northern Ireland (with supplement)

**Recent Development Booklets**

Bateson, Company Law: Receiverships and Liquidations  
 Eve, Domestic Proceedings in Magistrates' Courts  
 Greer, Negligence and Damages for Personal Injuries  
 Harkness, Sale of Goods  
 Harkness, Some Aspects of Building Contracts  
 Moore, Some Tax Implications of Marriage Breakdown  
 Steele, Individual Employment Law

**Conferences and Seminars**

Williams & Glyn's Bank v. Boland (for solicitors, estate agents, bankers, building societies)  
 Conveyancing and Housing Development (for staff of the Northern Ireland Housing Executive)  
 Consumer Law (for advisers at Citizens Advice Bureaux)  
 Consumer Credit (for Faculty staff, bankers, advisers, media representatives)  
 Employment Law (for the Institute of Personnel Management and for staff of the Northern Ireland Housing Executive)  
 Custody of Children on the Breakdown of Marriage (for solicitors, social workers, students)  
 Introduction to law and elementary contract, tort, family, land and employment law (for the staff of the Northern Ireland Housing Executive)  
 Understanding Law (evening course for students of the Department of Extra-Mural Studies)

## Projected SLS Publications and Activities 1982-83

## Periodicals

As listed in Appendix A

## Books and Pamphlets

Bateson and Steele, Labour Law in Northern Ireland  
 Blumental, Cross-Border Tax Issues in Ireland  
 Boyle and Allen, Sentencing Practice in Northern Ireland  
 Burns and Connolly, Judgments Enforcement (N.I.) Order 1981  
 Dickson, The Northern Ireland Legal System  
 Dinsmore, Till Divorce Us Do Part  
 Greer, A Handbook on Legal Aid in Northern Ireland  
 Hadden and Trimble, Housing Law in Northern Ireland  
 Jackson, Supplement to Cross, Evidence  
 Lavery, Road Traffic Law in Northern Ireland  
 Malcolm, Supplement to Bromley, Family Law  
 Maxwell and Toolan, Magistrates' Courts (N.I.) Order 1981  
 Moran, Road Traffic (N.I.) Order 1981  
 O'Higgins, Bibliography of Northern Ireland Law (supplement)  
 Paisley, A Guide to EEC Law  
 Stannard, Supplement to Smith and Hogan, Criminal Law  
 Valentine and Glass, County Court Practice in Northern Ireland

## Conferences and Seminars

In-Service teaching on many aspects of law for staff of the Northern Ireland Housing Executive  
 Conference on Small Claims Courts  
 Further courses for students of the Department of Extra-Mural Studies  
 In-Service teaching for accountants, bankers and other professions