

6-1-1985

Legal Education at Calgary: Blending Progress and Tradition

John P. S. McLaren

Follow this and additional works at: <https://digitalcommons.schulichlaw.dal.ca/dlj>



Part of the [Legal Education Commons](#)



This work is licensed under a [Creative Commons Attribution-Noncommercial-No Derivative Works 4.0 License](#).

Recommended Citation

John P. S. McLaren, "Legal Education at Calgary: Blending Progress and Tradition", Comment, (1984-1985) 9:2 DLJ 421.

This Commentary is brought to you for free and open access by the Journals at Schulich Law Scholars. It has been accepted for inclusion in Dalhousie Law Journal by an authorized editor of Schulich Law Scholars. For more information, please contact hannah.steeves@dal.ca.

I. Introduction

The gestation period of the Faculty of Law, University of Calgary was a long one. After a short lived attempt to operate the Calgary College of Law in 1912-14, the southern Alberta city had to await the founding of the University of Calgary in 1966 before the setting up of a law school would emerge again as a serious possibility.¹

In 1969, after positive recommendations from both the Law Society of Alberta and the Calgary Bar Association that a law school be established at the new university, the latter under the leadership of President Fred Carruthers formed a sub-committee of its Academic Policy Committee to consider the feasibility of setting up a second faculty of law in the province. The sub-committee was chaired by Professor Eugene Dais, then of the Department of Political Science.

In its final report in 1971 the sub-committee recommended that "social and educational benefits justify the need for a Law Faculty". Both the Academic Policy Committee and the General Faculties Council (the University's academic policy making body) approved of the establishment of the Faculty, indicating that it would be expected to complement the University's liberal arts program, to support courses relevant to other professional disciplines on campus and to develop a distinct focus in the area of natural resources law.

Despite the University's view that the law school should begin operation no later than 1974, both fiscal uncertainties and the reorganization of higher education approval processes in the province resulted in a postponement of a favourable decision by the Department of Advanced Education. The Calgary legal community not to be daunted by this delay then took a step which was to create a climate in which the government had little choice but to make a favourable decision. A campaign was launched to raise funds for a Faculty of Law library. With a further spur provided by the City of Calgary which undertook to match the amount raised by the

*Professor, Faculty of Law, University of Calgary.

1. A distinguished graduate of the Dalhousie Law School, L. H. Fenerty Q.C. who died in 1977 was a member of the faculty of the Calgary College of Law.

lawyers a total of \$500,000.00 was pledged.

II. *The Challenge*

Faced with this remarkable manifestation of community support the government gave approval in principle in 1973, and an ad hoc committee was appointed by the then Minister of Advanced Education, James Foster, early in 1974 to advise him as to both desirability and timing. The committee which was chaired by Bill Howard Q.C., a prominent Calgary lawyer, reported that, as program implementation would have to await the appointment of a qualified dean, it could only recommend in the most general terms that the planning objectives for the school “require a graduate level program”, and that therefore the program should be supported at the Master’s level of funding.

On the character of the program the ad hoc committee referred back to the report of its predecessor, stressing the need for a program which would emphasize professional competence and ethical sensitivity, the development of critical and creative judgement, the use of knowledge from cognate disciplines and the importance of lawyers acting as servants of the community at large. Reference was also made to the wider range of skills needed by lawyers to carry through their diverse roles and responsibilities effectively.

In an (urbanized) society, a law faculty has the awesome responsibility of educating lawyers today for tomorrow’s law. It is no longer sufficient for lawyers to be trained in the information about law as a closed, static system of rules and concepts to be found in books. That training is still required; professional competence will always include technical expertise in legal rules, legal forms and court procedures. But much more is needed. A good lawyer, who is professionally competent to satisfy the emergent needs of society for legal services, has to acquire a variety of skills. Not only is he legal adviser to clients and their advocate in court. He is also a planner for creating viable institutional arrangements, a negotiator for accommodating divergent interests, and mediator for facilitating mutual agreement. In addition, he has to be prepared for the role of judge, administrator and legislator. It is in these, as well as in other roles, such as educator, businessman, and community leader, that the lawyer will increasingly be expected to make his contribution to society.

The ad hoc committee concluded its remarks on program planning by suggesting that the general objectives set out would depend for their realization upon the appointment of a dean and faculty committed to “legal education as a socially responsive, improving

enterprise in providing legal services”, and “who could by precept and example guide students toward the skills of analytical rigour, critical analysis, responsible judgement and independent learning”. The sub-committee also noted that the climate of learning in the school and its commitment to public service would depend upon the process of admission of students.

On the matter of implementation the ad hoc committee set out what it felt should be the optimum size of and resource allocation to the school. The members were convinced, that, given the general educational vision for the Faculty, it should be small in size, allowing for a personalized approach to the teaching/learning process. Sixty was the entering class size recommended, at least in the formative stages. The committee, while recognizing that junior faculty members would probably predominate in numbers, were of the view that the University should strive to come close to parity between senior and junior members of faculty. This was, it was felt, important if the necessary academic leadership was to be provided. In any event the ratio of faculty to students should be in the order of 1:10, again with a view to ensuring a more individualized education experience than was possible at most Canadian law schools. Complementary to this latter concern was the committee's opinion that a program concentrating more openly on skill development would require more sophisticated and deliberative methods of evaluation of student performance. Finally, the committee felt that careful attention would have to be paid to the planning and implementation of the total degree program to ensure proper coordination of its various elements, and the logical progression of students through it.

The committee also directed its attention to several secondary programs which, it was hoped, the Faculty would address in its planning. These included the provision of survey courses in other disciplines, the development of joint degree programs, and the involvement of the school in both bar admission instruction and continuing legal education programs.

The committee concluded its report by recommending implementation, with the appointment of the dean in 1975, and the opening of the school in 1976, allowing one year for planning. It was also part of the recommendation that the program be funded at a level appropriate to a Master's Program.

The government accepted the report, including the recommendations on enrollment, but without a definitive commitment to the level of funding suggested. Approval was given to the University to start

the search for a dean and the necessary start up funding was put into place. Early in 1975 appointments were made of Professor John McLaren as Dean, and Professor Gail Starr as Law Librarian.² These individuals, together with Professor Dais, were to constitute the initial “core group”.

III. *Meeting the Challenge*

1. *The Context*

Obviously the ability to plan an academic program effectively to achieve the objectives set for a new faculty depends on more than the presence of bodies in the new unit. Support and encouragement from both government and university, and in the case of a professional school, the practising constituency is vital to the success of such a venture. The Faculty of Law at Calgary has been particularly fortunate in the cooperation and assistance it has received since its inception from a variety of sectors: a level of help and encouragement which has made possible the achievement of a significant part of the general objectives set for it.

The government, in addition to its general funding support, assisted greatly in the early days of the law school by matching the \$500,000.00 raised by the Bar and the City for the law library collection, thus guaranteeing a fund of one million dollars for collection development. The government of Alberta, as will become apparent later in this article, has also been generous in contributing to the operational budget of the Canadian Institute for Resources Law which is associated with the Faculty, and which to date represents its major institutional research focus.

For its part the University, consonant with its other obligations, has remained committed to the vision for the school set out in the report of the ad hoc committee. In particular it has worked with a funding formula which reflects the initial opinion that graduate level support was warranted for the school. Secondly, it has been reasonably responsive to the argument that in order to gain academic recognition within the Canadian law school community the proportion of senior to junior faculty should be close to that envisaged in the revised report of 1974. Finally it has been helpful in providing and specially developing space not only for the law school itself,

2. Professor McLaren had previously taught at Saskatchewan and Windsor, and served as Dean at the latter school. Professor Starr also came from Windsor where he had been in succession Assistant Law Librarian and Law Librarian.

but also for the Institute of Resources Law.

The goodwill of the legal profession, especially in Calgary, was already apparent when the planning process started. That early commitment to support of the school has not abated. Early on in the planning process both an advisory and a development committee, comprising members of the Bench and Bar, were established and have played an immensely important role in acting as a sounding board for the Faculty's academic planning, and in raising further funds for its enrichment respectively. Through the good offices of the development committee, chaired by Bill Howard, we have been able to partially endow the Chair of Natural Resources Law and to attract a series of valuable scholarships and bursaries. Moreover, we are currently working on the planning of a campaign for the establishment of an endowment fund. Over and above these efforts the school has benefited from the assistance of countless individuals from the Bench and Bar who have contributed to our program as sessional lecturers, tutors, evaluators and as occasional resource experts. Insofar as our program has endeavoured to concentrate on the skill development of students, this relationship with the practising profession has been crucial to any success we have achieved in that area. At an official level the Benchers of the Law Society have been supportive without being intrusive. Some of them must have wondered over the years about some of the at least mild heresies which we were perpetrating, but gave us the benefit of any doubts they might have had. This climate of understanding has been greatly assisted by the welcome which the Dean has received as an honorary Benchers and as a member of the Legal Education Committee of the Law Society.

No account of the favourable climate in which the Faculty has developed would be complete without mention of the support received from the Law Foundation of Alberta. After a period in which both the Foundation and the two law schools felt each other out cautiously, there has developed a close and fruitful working relationship in recent years. For the Calgary Law School that has meant financial support for library collection development, for the Institute of Resources Law, for special programs such as computer assisted learning and professional responsibility, for conferences and for mootings, debating and skills competition. Particularly at a time of fiscal restraint on campus this assistance has helped enormously with both outreach and creative programming.

2. The Faculty and Administrative Staff

Since its inception the Faculty of Law at Calgary has been blessed with a talented and committed group of faculty members. While not all features of the academic program and methodologies utilized have met with universal approval, we have been able by a process of open discussion and airing of differences not only to develop, but to sustain a fair level of collegiality in academic matters. The establishment of a positive climate for planning and monitoring the program was achieved early on. The first group of faculty members to be hired, Professors David Cruickshank, Gene Dais, Connie Hunt, Chris Levy, Al Lucas, Gerry Nemiroff, Iwan Saunders and Gail Starr, all of whom had teaching or practice experience,³ were at one in accepting that involvement in the planning of the program of a new law school provided a unique opportunity to address perceived weaknesses in the traditional pattern and methods of Canadian legal education, and that new approaches were warranted.

This spirit of reflection, testing and critique has gone on, and benefitted greatly from the input of faculty members who joined the law school subsequently — those who are still on staff, Professors Nigel Bankes, Cathy Brown, Bob Francis, Kathleen Mahoney, Sheilah Martin, Peter Mercer, Diane Pask, Nick Rafferty, Jim Rendall, Kit Rigg, Ian Rounthwaite and Anne Stalker,⁴ as well as those who have

3. Professors Cruickshank and Lucas previously taught at U.B.C.; Professor Levy at Saskatchewan and Windsor; Professor Saunders at Saskatchewan (he had also worked for the Saskatchewan Law Reform Commission); and Professor Nemiroff at Manitoba. Professor Hunt had been counsel to the Inuit Taparisit. Both Professors Cruickshank and Hunt have served as Associate Dean at Calgary.

4. Professors Brown and Mercer formerly taught at Windsor; Professor Rendall at both Western Ontario and Dalhousie; Professor Rounthwaite at both Windsor and Saskatchewan; Professor Rafferty at Illinois and Manitoba and Professor Stalker at Osgoode Hall Law School. Both Professors Mahoney and Rigg practised in Vancouver. Professor Francis practised and was a provincial court judge in Saskatchewan. Professor Pask served with the Saskatchewan Law Reform Commission and Professors Martin and Banks were previously research fellows with the Canadian Institute of Resources Law. Professor Rendall has served as both Acting Dean and Associate Dean at Calgary.

gone on to other things.⁵ The academic planning process over the years has been one of give and take. The original group would, I think, admit to a certain degree of evangelical zeal, deriving from the experience of being in on the birth of the new child. Other colleagues, without denying the validity of many of the underlying values of the program, have been able to point out some of the defects in practice, and in certain instances the need to balance missionary fervour with more traditional wisdom. Overall the environment has been one in which experimentation has been encouraged, and in which all faculty members, whatever their initial predilections, have been challenged to think more carefully than is typically the case with legal educators about objectives and methods. Moreover, experimentation and vision has not been the exclusive preserve of the "originals".

No academic unit can function satisfactorily without a hard working and dedicated support staff. The Calgary law school has been blessed throughout its existence in having such a group under the capable leadership and guidance of our Administrative Officer, Ms. Bev Johnson. The result has been a well ordered and efficient administrative environment in which to work.

3. The Library

Any law school worthy of the name must be able to rely upon a good working library, and the services of committed professional librarians. The Calgary Faculty of Law has been most fortunate in having both the financial resources to build up a sound collection in a relatively short space of time, and the benefit of a first rate, service oriented library staff. The tone for the library was set very early on by the first law librarian, Professor Gail Starr. With a number of years behind him as a law librarian at the University of Windsor, and a degree in law from the same institution, he was well placed to undertake the important task of basic collection building and to respond sensitively to the particular teaching and research needs of faculty members. He also showed great wisdom in his choice of the

5. Among those who were associated with the school were: Peter Cumming, Geoff England, Brian Hansen, Roland Harrison, Byron Henderson, Ann Jayne, Vern Krishna, Bill Pepler, Sergio Pustogrodsky and Eric Steinberg. The school has also been fortunate in attracting a number of excellent visiting faculty, including George Curtis of U.B.C., John Wade of the University of Sydney, Bill Ellis of the University of New Mexico, Owen Anderson of the University of North Dakota and Terry Arnold of the firm of Chapman, Tripp, Wellington, New Zealand.

professional staff to assist him. Ms. Georgia Macrae who had previously been on the law library staff at the University of British Columbia joined the library as Assistant Librarian, and Umesh Vyas and Don Sanders, who had seen service at the law libraries at Queens and Osgoode Hall Law School respectively, were appointed as Reference Librarian and Head Cataloguer. Each of these individuals has proven to be a great asset to both the teaching and research programs of the school, and responsible for the speedy and orderly growth of a very respectable library collection.⁶

With the move of Professor Starr into full time teaching in 1981, Ms. Macrae took over as Law Librarian. Currently Mr. Vyas and Mr. Sanders share the reference function, and a relatively new appointee, Mrs. Jean Vermeulen is responsible for cataloguing. In the planning of the library facilities it was recognized that legal materials are not and will not be confined to the traditional forms of hard copy, and microfilm and fiche. Accordingly space was set aside for the use of other media including audio and video equipment and material, and computer hardware and programs.

4. The Physical Setting

As a small school in terms of numbers the university had not developed any plans for a separate building for the new unit. However, empty space was available in 1975 in the newly finished Biological Sciences building. Accordingly the top floor of that structure (the fifth floor) was developed with the help of the Dean and Law Librarian to serve as the law school quarters. Although the building is blessed with windows and services more in keeping with biology laboratories than a law faculty building, the architects were able to produce a livable and colourful collection of classrooms, seminar rooms, faculty offices and library and lounge space to accommodate a student body of 180, and 20 faculty members. Given the emphasis we expected to place on skill development, steps were taken to see that the area was wired and equipped for video recording. As space was at premium on the one hand, and we wanted the teaching to take place in the law school quarters on the other, the designers made sure that the classroom area in particular was multi-functional, usable for not only classes, but also for skills exercises, demonstrations and the like. Since the building was designed to take

6. The current hard copy volume count is 85,000, with a further 30,000 items in micro-form.

the stress of test tubes rather than library books, the library began to run out of shelf space in 1979. The response of the University was to open up space for library extension on the fourth floor of the Biological Sciences Building, and to tie construction in with the development of space for the fledgeling Canadian Institute of Resources Law. Both the Faculty of Law and the Biology Department look forward to the time when law no longer sits above the biological sciences. However, plans for a professional faculties building are currently in suspension, while the University gears up for the 1988 Winter Olympics. Boucher before Blackstone in other words!

5. The Academic Program

The establishment of a new law school provides the faculty with an admirable opportunity to work through its collective vision of the most appropriate purpose and form of a program of university legal education. Both committees which had reported favourably on the desirability of a law school at Calgary had set down a series of general challenges to the founding dean and the faculty. The faculty, especially the core group, were anxious to meet that challenge.

It will be recollected that the committees, while sensibly avoiding the temptation to set out a detailed blueprint for the program and its implementation, had emphasized certain directions in which a program at Calgary might develop. In brief the reports had favoured a small law school with a low faculty student ratio, allowing for a more intimate academic environment. Stress had been placed upon the need to plan the curriculum so that the various parts fit together logically, and involved a element of progression in the knowledge and experience of students. The reports had considered it important that the program emphasize legal method, process and skills development alongside the teaching of principle and technical procedure, and that this broader scope be reflected in the development of a sensitive and instructive evaluation process. It was also deemed important that students be trained not only for technical competence in practice but also for the application of creative and ethical judgement, and to recognize the responsibilities of public and community service which were felt to be a necessary part of the lawyer's role. At a more specific level the committees had advocated the creation of strength in natural resources law. Finally they had underlined the importance of the law school interacting positively with other disciplines, both to enrich the legal education experience, and to provide needed academic services to other units of the

University.

No planning for an educational program can take place in an intellectual vacuum, and considerable time and effort was dedicated by the original members of the Faculty to researching new ideas and trends in legal education, especially in Canada and the United States. Particular assistance was gained from dialogue with the Dean and Faculty at the University of Victoria which had entered the lists a year earlier. Visits were made to Osgoode Hall Law School, and the schools at Utah, South-Western in Los Angeles, Brigham Young, Denver, Colorado, and Stanford to look at features which were intriguing to us. Moreover, a symposium entitled "New Trends in Canadian Legal Education" was held in the fall of 1975 at which faculty members from Victoria, the University of British Columbia, Queens, Carleton, Osgoode Hall and the University of Toronto addressed new ventures at their schools in which process, interdisciplinary approaches, clinical experience, and practicums were being tried.⁷

The process of discussion and planning also benefitted from the wisdom and patience of Dr. Lawrence Fisher, an educational psychologist on the staff of the Faculty of Medicine at Calgary, who acted as an educational consultant to the new unit. Dr. Fisher proved to be an invaluable asset in advising us on trends in general educational theory and method, and in challenging us to think seriously about defining and stating our academic objectives.

Looking back on the heady process of planning a curriculum and its implementation is a strange experience. On the one hand one is impressed that some, perhaps the greater part of the vision has been carried through to reality, on the other one is aware that some dreams were never or only imperfectly realized, or tried and dispensed with. It is in the nature of pioneer planners to allow enthusiasm to outstrip resources and energy to some extent, and we at Calgary certainly suffered from a degree of naivety in supposing that all our objectives could be fitted into three finite years, with a faculty-student ratio, which, while the envy of other schools, was still far short of the resources available in other professional disciplines. A particular problem of our own making was the fact that in planning a very

7. Among the participants were Professors Borowicz and Gold from Victoria, Professor MacDougall from U.B.C., Professor Price from Queens, Professors Grant and Zemans from Osgoode Hall, Professor Fitzgerald from Carlton and Professor Tom Macdonald from Toronto.

full and rich first year program, clearly our immediate priority, we were blinded to some extent to the reality that in time, a very short time, we would also have to service two other years of the curriculum. What became apparent quite quickly was that we would have to modulate more realistically the demands on both students and faculty between the first and the senior years, and to be more modest in our expectations of the level, mix and intensity of educational experiences possible in a three year law degree. It is a credit to the hard work and commitment of the Calgary faculty and those students involved over the years in the academic planning process that we have been able to do this successfully without sacrificing too much of the original vision.

The first step in the academic planning process at Calgary was to identify the features of the traditional pattern of legal education which were open to criticism. We made the assumption, perhaps too readily, that any program we developed would be a blend of the tried and tested, and progressive new ideas and techniques. It was hoped that this process of critique would allow us to focus on the areas in which new thinking was called for. The first weakness identified was the emphasis on a wide range of substantive coverage, to the almost total exclusion of concern with the legal process, and the whole range of skills which lawyers profess. We noted in particular that process was typically tackled with limited success in first year "legal process" courses and thereafter ignored, and that with the exception of case law analysis and the occasional foray into advocacy, other skills such as drafting, interviewing, planning, counselling and negotiation were largely neglected. The latter lacunae were typically justified by asserting that skills were learned in practice and did not have the intellectual content to be pursued in law school. Secondly, we noted that despite the wide array of substantive material few attempts were made to integrate and synthesize it. Subjects tended to be approached as water tight compartments, as if legal problems came so neatly divided. Moreover, even if attempts were made to fuse elements of the substantive law, none was made to relate substance and procedure. The third concern raised was that within the realm of substantive analysis, the medium was largely appellate cases. The students as a result came away with a very limited view of the actual extent and richness of the law making and law applying processes, and the notion that both statutes and administrative regulation were "an excrescence on the Common Law". This latter weakness was also manifest in the imbalance in most programs

between private and public law, with the former receiving the lion's share of the attention. Students as a result tended to look upon public law as arcane and irrelevant to private practice where most of them saw themselves as headed. Related to the undeveloped character of skills training in law school was a low level of concern with both the human and ethical dimensions of the role of the law in general, and the practice of law in particular. Again the human element in the profession of law was seen as something picked up by a process of osmosis in practice, and the matter of ethics adequately addressed in homilies delivered by visiting judges and practitioners, which were forgotten as quickly as they were delivered. A final criticism of the content of legal education was the almost total disregard of the relationship between law and other disciplines, not only at the level of theory, but also in the far more practical context of the extraneous knowledge which lawyers need to do their jobs properly. While there were at least the faint glimmerings of recognition of the importance of the interface between law and economics, little activity was evident in relating law to philosophy, history, sociology, and psychology, let alone the pure and applied sciences.

At a more logistical level we expressed concern about rigid adherence to the notion of one professor one course, and the failure to investigate and try different teaching modes, as well as the fixation with classes that extended for one hour, but no more nor less. Criticism was also levelled at the unimaginative system of student evaluation in law schools; in particular the almost exclusive emphasis on 100% final examinations as the arbiter of the students' fate, and the attendant absence of anything which could be described as helpful feedback.

Pervading all of the above concerns was the realization that legal educators had not even begun to come to terms with the need to communicate with students the philosophy and objectives of legal education in a university setting. The student was left to navigate a minimally structured and largely unintegrated program ignorant of its own purpose and integrity, let alone of its relationship to other segments of the legal education continuum. What was ordained must be done!

Few, if any of these criticisms were original. They had been exposed and debated to one degree or another by legal educators in both the United States and Canada. However, with the exception of one or two experimental schools or programs in the United States, for example Antioch and South-Western, and the efforts of Victoria to

develop new approaches we saw little evidence that the concerns were being addressed in any systematic way. We felt that we should try.

Following the critique of traditional legal education, we decided next to set out a series of objectives in terms of the positive attributes a graduate of the Calgary Faculty of Law should manifest on the completion of the law degree. Seven elements were identified:

1. An appreciation of the social and institutional settings of the law and the interaction of law and other social forces.
2. An appreciation of the potential of law as both the regulator and facilitator of human conduct, as well as the limitations of law as a social phenomenon.
3. A distinct sensitivity to the human element in legal problems.
4. A sound grasp of legal method and technique and a developing competence in a variety of legal skills.
5. The ability to apply legal methods and technique and skills to a variety of substantive and procedural problems.
6. A developed notion of the lawyer as a craftsman and an ability to evaluate and improve performance.
7. A growing sense of professional responsibility and the need to proceed in a highly ethical manner.

It was in the context of these objectives that we set about crafting the program. Crucial to the planning of the curriculum was the notion that the various parts should fit together and that the curriculum should involve a definite progression from basic elements to the more complex in a context which challenged the student to integrate those elements and their experiences within them. In short we were committing ourselves to a program which would require a high degree of collegiality in both planning and implementation.

(a) *The First Year*

The first year program was viewed as the vehicle not only for the imparting of basic substantive principle and legal method, but also for the introduction of the students to the legal process in general, the importance of both public and private law and the wide range of skills necessary to the practice of law. However, rather than having these various elements worked out and replicated in the context of each course, we felt that it was more desirable to organize them across the total first year program. This would allow for a more balanced approach and hopefully avoid the compartmentalization of

more traditional programs. Students would be able to see as a result that areas of substantive law and that substantive and procedural law do overlap and mesh, that legal process and method involves much more than the analysis of appellate cases, that policy considerations infuse legal analysis and problem solving, and that skills are transferable.

While on the surface the first year curriculum looked quite conventional it in fact included a number of novel features. In the first place it reflected a conscious decision to try and demonstrate the importance of both public and statutory law. The basic course in public law, Constitutional Law and Judicial Review, was designed to demonstrate the linkages between the two areas. Moreover by utilizing a particular functional focus related to the realities of the political, economic and social life of Alberta, namely energy development, management and conservation, it was hoped that students would begin to realize the value of developing and maintaining a public law perspective. Following the lead of Victoria we also included a course in Legislation and Policy designed to introduce students to statute law and administrative regulation, not only in the context of statutory interpretation, but also in that of policy formulation and drafting. In this way it was anticipated students would be exposed to the reality of the variety of modes of making and applying law. It was further agreed that the interface between public and private law would also be addressed in both the Property and Torts and Loss Compensation courses.

In terms of balancing the objectives of substantive analysis, legal process and social and institutional context, it was agreed that different elements would be emphasized in different courses. In Crime: Law and Procedure a process approach would be adopted, utilizing a single offence, with particular attention being paid to the historical and social underpinnings of the law, and the interaction of substance and procedure. In Torts and Loss Compensation a comparative approach would be taken in the sense that attention would be paid to compensation theory, and to comparing and contrasting both the methods and results of different compensation modes, private and statutory. It was also hoped that some basic elements of civil procedure could be woven in. The Property course which would focus almost exclusively on land would in addition to emphasizing the public as well as the private law contexts for defining and mediating property rights, expose students to the historical context of property law and its more modern institutional settings, in

particular the land registration system. Contracts was seen as the course which would focus most intensively on the analytical process, but as far as possible in the functional context of commercial and property contracts.

A conscious decision was made not to institute a separate Legal Process course in the first year program. While we had looked at and were impressed by the legal process introduction to the Victoria program, we were inclined to believe on balance that the importance of process was more likely to be driven home if treated in the context of mainline courses rather than in a separate unit. We did, however, recognize that it would be difficult to deal with certain elements of legal institutions and process within courses, especially the court structure, the processes of legal education, basic research and bibliographic method, the governance of the legal profession, and professional responsibility. Accordingly, it was determined that these would be treated in work shops which would allow for both intensive coverage and the optimum use of outside resource experts.

The approach to skills development, like that towards substance, process and context was addressed on a systemic basis. It was agreed that the groundwork should be laid in first year for further skill development in the senior years. This should be done by spotting skills exercises across the curriculum in the main line courses, so that students would be aware of their transferability, and be able to relate them to concrete issues raised in first year courses. It was determined that advocacy skills could be addressed in both Crime: Law and Procedure and Torts and Loss Compensation: drafting in Legislation and Policy, Property and Contracts; negotiation in Property and Contracts; policy analysis in Constitutional Law and Judicial Review and Legislation and Policy; and opinion and memoranda writing in Crime: Law and Procedure; Torts, Contracts and Constitutional Law and Judicial Review. It was anticipated that graded exercises would be set to test these skills, and that workshop time would be used throughout the year to provide instruction and guidance in the various skills, again drawing upon outside expertise, where appropriate.

The desirable objective of demonstrating to students the reality that legal problems do not come neatly wrapped according to the classifications of the law school curriculum, which was already being addressed within the context of particular courses, was to be underlined by the development of a joint skills assignment between Property and Contracts. It was further hoped that it would be possible to organize an observational experience with a law firm for each

student, tied in with an ongoing group assignment which would allow students the opportunity of following a dead file through from inception to final disposition. At the level of pedagogy it was agreed that in certain courses it was important to introduce students to other teaching materials than the ubiquitous appellate cases, and that they should have the experience of working with statutory, regulatory, and policy materials, as well as opinions, transcripts and the like. One course, Constitutional Law and Judicial Review, was selected as the test bed for team teaching, with the instructors, Professors Cruickshank and Lucas, undertaking to use the technique as a way of focussing attention on federal-provincial positions and dialogue.

At the purely logistical level, the time table was organized in two hour blocks, so that within reason faculty members could organize their class contact hours in a way which suited their pedagogical purposes, and one day per week was left free for workshop sessions.

With evaluation we committed ourselves to a more frequent and intensive process than would be true of most Canadian law schools, and undertook to provide narrative assessments of the work which students did. Despite the fact that two professional faculties at Calgary, Medicine and Environmental Design, had gone the way of a pass/remedial system, we found it difficult to reach agreement on a similar move, opting instead for a five band letter system. We did hope, however, to provide each student with an integrated dossier for each year and for the program as a whole which would provide the student with an overall assessment of progress and achievement, and potential employers with data on performance.

If all this sounds impractical in the space of one year, it was! This was born out by the haggard faces of both faculty and students in the early years. As has been pointed out above we came to the realization that adjustments had to be made, and that we needed to think more sensibly of spreading our objectives manageably over the three years. Naturally enough too we found from experience that certain ideas and features did not work or needed rethinking. Moreover, the political, social and professional context of legal education changed during the period after 1976, particularly with the advent of the new constitution and the Charter, and the heightened sensitivity of the profession to ethical and competency issues, requiring some degree of curricular reform.⁸

8. The essence of the original program is set out in *Beyond Socrates*, ed. C. Hunt, 1977, Proceedings of a Symposium on Legal Education at Calgary, University of Calgary.

Several of the elements we planned for first year never proceeded to the stage of implementation. Thus we did not attempt to implement the observational experience, preferring to leave that to the senior years, and in particular to the practicum program which we planned for third year. Moreover, while we did narrative assessments of individual assignments, lack of resources and fatigue deflected us from the year and program end general evaluations.

The pattern of courses in first year has remained very much the same. It is fair to say, however, that some erosion of the planned approach to the balance of substance, process and context has taken place, reflecting both the need to be more realistic in terms of overall content and staff changes. That having been said, some of the original elements live on. Crime: Law and Procedure retains its emphasis on historical development and aspects of process; Torts and Loss Compensation continues to address compensation theory and to consider other systems alongside torts; Property which now includes a distinctive element of personal property law, especially possession and bailment, still maintains a focus on historical development and institutional settings. The course which focuses most intensively on analysis of case law remains Contracts.

The substantive element which has been preserved intact, if refined, is that of public law. The basic public law course has been revised, with the administrative law element transferred to what is now Legislation, Administration and Policy, with a significant Charter segment taking its place. The credit hours for Legislation have been expanded to accommodate the new administration portion which concentrates upon the administrative process rather than upon judicial review.

In the skills area the original overpowering number and intensity of assignments has been decreased without sacrifice of the basic philosophy. In addition to mid-year and final examinations students are challenged with five in-term exercises woven into the courses. In a joint assignment in Crime and Legislation they are tested in advocacy and statutory interpretation. This is followed by a joint drafting and opinion exercise in Property and Legislation. The coordination of this latter assignment is assisted by the fact that Professor Rounthwaite teaches in both areas. In the second semester they do a closed memorandum in Contracts, an open memorandum in Constitutional Law and an appellate factum and moot in Torts. The concern to impress upon students the need to integrate substantive principle has been retained, but the combination has changed from

Property/Contracts to Contracts/Torts. The exercises in the latter courses use a common fact situation which involves a “borderland” problem, and students follow the issue through from memo to factum to argument.

The character of the workshops has changed to some extent, with a greater emphasis now on legal research and communications techniques (the latter segment jointly handled by a law professor, Professor Stalker, and a creative writing expert, Professor Cragg), skills development and process simulations. Professional responsibility and ethics which used to be the focus of a first term workshop has now been expanded into a three day block at the beginning of the winter semester, with the stress placed upon simulation, video dramatizations and group discussion. Along with the latter block we have added an intensive legal history segment which embraces both the institutional history of the common law and an analysis of the history of a substantive concept which defies categorization in terms of the traditional map of legal education. Again this assists us in preaching the message of overlap and interaction. The latter theme is again underlined in a series of Agency workshops which are staged in the winter semester.

In the realm of pedagogy the team teaching experiment was suspended, not for reasons of its lack of success (it worked well), but because of changes in the members of faculty servicing it. The experiments in introducing students to a wide range of legal materials has perhaps been more modest than anticipated. However, there is no doubt that students at Calgary have a very clear notion coming out of first year of the importance of statute law. Moreover, they will have been introduced to a number of administrative decision making processes and their product in both Legislation and Torts and Loss Compensation.

While we have to some extent traded off substantive coverage for a more diverse set of experiences in first year, it is a trade off which we consider warranted in a program which places as much stress on method, process and professional judgment as on the storage of legal information. In particular we think that it provides a strong basis for the upper years in which these elements are both reaffirmed and treated in a more complex fashion, and assists in the general aim of providing a bridge between the inculcation of theory and the working out of it in practical settings.

(b) *The Senior Years*

Because of the relatively short time frame for planning the curriculum only the broad outlines of the second and third year programs were established during the planning year of 1975-6. It was agreed that the objectives for the senior years would be

1. To carry through the progression from simpler substance to more complex and integrated substantive issues, from the general legal process to its more specific aspects, and from the understanding of legal theory to its application to concrete problems and social issues, whether in simulated or real settings.
2. To strike a feasible balance between a generalist education and the desire on the part of a number of students to specialize to some degree.
3. To reflect areas of specialty which respond to the needs of the community at large and the legal community in particular.
4. To provide an educational experience which is incremental and climactic rather than one which is repetitious and static.
5. To achieve these ends in a framework which avoids curricular anarchy and uses the time available in a rational fashion.

A basic issue in devising a senior program was how much of it should be classified as “core”, that is areas to which every student should be exposed. To a very limited extent we had addressed this issue in devising the first year curriculum, by incorporating segments, such as landlord and tenant, land titles, insurance and judicial review which were designed to provide at least a modicum of awareness by students in those areas. Our conclusion was that, while we would be guided in a general way by the list of courses considered by the Federation of Law Societies as essential ingredients in a law degree, we would not feel constrained to treat as compulsory any areas outside the traditional core subjects of Contracts, Property, Torts, Criminal Law, Constitutional Law and Civil Procedure. Moreover, as our concern as legal educators was as much with method, process and skills as with substance we would follow our own priorities and preferences on what should be considered compulsory, and on the organization of the substantive elements of the curriculum.

(i) *The Second Year*

In second year we established two areas as core; Civil Process which integrated civil procedure and evidence on the civil side, and Interviewing, Negotiation and Counselling. The former contained the element of civil procedure which had traditionally been viewed as

core. Moreover, we felt it desirable that all students be introduced to litigation as a process, as well as to the skills, such as pleading and advocacy, which could be tied in to it. The second course, which undoubtedly constitutes our greatest “heresy”, was felt to be essential to extend the experience of all students to three important skills which are pervasive in the practice of law. We could have tried to integrate them into the second year substantive and procedural courses, in the way in which we had done so in first year. This approach was precluded by our decision not to treat the other subjects in second year as compulsory, which meant that there was no sure way of guaranteeing that all students were exposed to these skills.

Beyond the two compulsory courses a second year curriculum was devised which largely concentrated on “second order” basic subjects, such as Taxation, Business Organizations, Commercial Transactions, Administrative Process, Family Law, Criminal Process, Natural Resources Law, Environmental Law, Land Development and Labour Law. Although these were viewed as optional we were certain that the majority of students would select them. Moreover, it was agreed that, as far as possible, there should be an attempt to underline the importance of process and skills within them. The latter objective was assisted in particular by the general rule at the University of Calgary that no more than 50% of the final grade in a course shall be ascribed to a final examination. This meant that more than one assignment was necessary and faculty members were provided with the opportunity to use other forms of evaluation.

As a way of increasing the range of choice and of allowing those students who wanted to do so to enrol in courses which addressed broader philosophical or social issues Jurisprudence and Social Welfare Law were added as options, and a list of law oriented courses in other faculties and departments was approved from which law students could select one. Among the courses approved were Philosophy of Law, Historical Foundations of the Common Law, Sociology of Law and the History of Canadian Criminal Justice. The value of independent research was also recognized, and a directed research option was included. The overall shape of the second year program had remained much the same since 1977-78. This reflects to some extent the feeling that on the whole it has worked well. It is also attributable perhaps to the fact that it has a less structured quality to it than first year, which has meant a greater degree of internal flexibility.

The two compulsory courses have had somewhat different histories. The Civil Process course which was designed to be team taught met with general acceptance fairly early on. Students welcomed the opportunity to take both evidence and procedure in a functional context, and to experience the dialectic produced by having an academic, Professor Levy, and a former practitioner, formerly Professor Francis, now Professor Rigg, interact with each other in the classroom. The course which originally had 75 credit hours and was taught exclusively in the fall semester, was extended to 90 hours in 1983, and now straddles the year. It has built into it in addition to examinations two major assignments: the drawing up of a statement of claim, and the making of a chambers application.

By contrast Interviewing, Counselling and Negotiation met with rather prolonged scepticism, and in some instances resistance. Students found it difficult to relate to the general pattern of courses in second year, were not convinced that the theory behind these skills was terribly compelling and resented the amount of time which was devoted to the various exercises. Unlike more standard subjects the emphasis in the course was less upon classroom teaching and discussion, and more on demonstration, simulation and critique of performance both by peers and instructors. Notwithstanding the criticisms, which we felt were in part at least the product of its novelty, and natural growing pains, we persevered. However, we did have an external evaluation done of the course by Professor David Binder, a leading American teacher in the field of clinical law from U.C.L.A. As a result of the recommendations in the report, which was generally favourable to the concept and of the work done by the faculty members associated with it, the course was restructured in 1983, with approximately one-third of it, in particular the interviewing segment, being handled in an intensive block week at the beginning of the winter semester. The remainder of the course then proceeds at a less intensive pace for the rest of the term. The response to this change, and others made on the basis of the Binder Report has been largely positive, with the result that the course is now more widely accepted as a worthwhile part of the total program. There is no doubt that it provides all of our students with a very unique combination of skills training, and is a valuable prelude for at least some of the work done subsequently in third year practicums. It is of particular credit to the vision, patience and tenacity of Professor Cruickshank that it has survived and ultimately prospered.

Other changes to the second year program reflect the need to readjust content and time frames in the light of experience. In planning the senior years we thought it important to try and carry on the process of integration of knowledge and experience modestly begun in first year. In some instances our assumptions about what was practical in terms of integration proved to be unrealistic. Thus in the case of Commercial Transactions we found that it was difficult to think in terms of the integration of material before the students had learned the basics of Sales Law, Personal Property Security and Bills and Notes. Moreover, we had been quite stingy on the time dedicated to each of these areas. As a result we subsequently increased the total number of hours to 90 from 60, and split the general topic area into two subject areas: Sales and Bills for 60 hours and Personal Property Security for 30 hours. With Corporations, which we had thought should be tied in with Partnership we found the assigned 45 hours too constraining, and subsequently extended the course to 60 hours and changed the designation to Business Organizations to reflect the coverage of agency and partnership as well as corporations.

Although our original thinking had been that the mix of courses in second year would be different from that in third year in order to carry through the notion of progression, there has been some overlap in practice. This has resulted from a desire to allow students more flexibility in organizing their programs in the senior years. Thus, without going so far as making the list of courses for the two years interchangeable, we do allow students in second year to include a limited number of third year courses in their course load. These are typically courses such as Trusts, Insurance, Public International Law and Canadian Legal History which are either “second order” basic courses or have no obvious association with one year rather than the other. We have always allowed third year students to “loop back” into at least a limited number of second year courses.

Despite the fact that the “core” curriculum in second year is limited, it has still been possible to provide students with continuing exposure to a combination of skills, process and context in the optional courses. A range of skill assignments are available. Advocacy assignments have, for example, been built into the courses in Family Law and Criminal Process. Wills and Business Organizations have incorporated drafting exercises, and Labour Law for some years provided students with the opportunity of participating in a simulation of an arbitration or certification hearing. Statutory and contractual interpretation have also been included in Taxation and Insurance. Process and context

are stressed in particular in Family Law, Criminal Process, Taxation, Insurance and Labour Law.

There has been a problem of overload of in-term assignments in one semester courses which are the norm in second year. Accordingly, to offset this and to provide students with some leeway in managing their own time and programs, if not sanity, every optional course in the senior years now has the option of a 100% final or research paper. The result has not been a dramatic movement back to the 100% evaluation, but a mixing of evaluative experiences. Most Calgary students, it seems, value the opportunity to test their knowledge and skills in ways other than the traditional three hour course end spectacular.

The concern to emphasize the human and ethical elements in the practice of law which is carried through to second year has been concentrated in particular in the course in Interviewing, Counselling and Negotiation. The course provides a good vehicle for testing students' values and judgements in a simulated setting which is subject to faculty critique. From its inception human relations and ethical issues have been built in to both the materials and the assignments in that course. Ethical issues in particular are also consciously raised and discussed in other courses, including Civil Process, Family Law, Criminal Process, Taxation and Wills.

The commitment to experimentation with teaching methodology has been largely confined to the two core courses. The team teaching approach has been maintained in Civil Process, and Interviewing, Counselling and Negotiation continues to use a combination of demonstration, class discussion, tutorial and one on one critique. In recent years, as a result of our faculty's association with the revised bar admission course in British Columbia teaching and learning plans have been developed for each of the skills areas.

(ii) The Third Year

In devising the third year program we were concerned to see that the notion of legal education as a progression of developing knowledge and skills was actually consummated with a unique and extensive integrative experience. However, we also recognized that students would have concerns to add to their substantive appreciation of the law. The attempt to balance these competing claims was embodied in the following objectives:

1. To supplement the substantive knowledge and perspectives of

students in areas in which they expressed interest in second year.

2. To allow students to extend their sights to new areas, for example Trusts and Conflicts.

3. To encourage students to reflect more profoundly upon law and legal institutions.

4. To provide students with the opportunity of moving into more extensive integrated experiences in the application of theory and doctrine to practice, using either simulation or clinical methodology.

the rather limited number of courses available meant that there was no opportunity for a student to specialize to any great extent, we were sure that by third year some students would have developed particular academic and practice interests. Accordingly, we felt it important to provide some leeway for those students to carry through those interests, within the limitations created by finite faculty resources. Without the economies of scale present in larger schools we determined that the best we could do was to provide some depth in four areas in which we felt we had some faculty strength, and which we anticipated would provide the focus for our integrative experiences. Consequently we agreed to include in the third year program a series of advanced courses which would accord with this objective. These included: Advanced Criminal Law; Advanced Taxation; Estate Planning; Corporate Finance; Energy Law; Advanced Oil and Gas Law; and Children and the Law.

It was also our concern to see that those who wished to pursue a more generalist pattern would be able to do so. It seemed to us that we should have three aims in mind in selecting courses to meet this objective. In the first place we should include courses not available in second year which might be described as second level basic courses, such as Trusts, Debtor-Creditor Relations and Insurance. Secondly, we should incorporate subjects, which, while not second order, would allow students to enrich their substantive knowledge and for which a foundation had been provided in first or second year. Thus we agreed on Land Use Planning, Advanced Labour Law and Legal Protection of Human Rights. A third grouping, we thought, should reflect the opportunity provided by the third year to take courses which cut across and allowed the relating of substantive and procedural material covered in courses in the previous two years. Included within this group would be Conflicts and Remedies.

In the same way that we considered it valuable that students have the opportunity to spend time in third year pulling together elements

of substance and procedure from more basic courses so we felt it imperative to provide options which allowed students to reflect on the theory and context of law. It was for this reason that we decided to offer courses in Canadian Legal History, Legal Process and Public International Law. It was also agreed that, as in second year, students might select a course from the approved group outside the school and opt as well for a directed research project.

In handling the courses the original thought was that we should emphasize depth in a limited number, rather than providing a smorgasbord of offerings. This would be achieved by limiting the number of courses taken by each student to five, and providing classroom experiences and assignments which would be especially demanding.

The last but not the least purpose was to provide an integrative experience which would hopefully pull together various elements already covered in the curriculum and to provide an opportunity to look forward to practice in a realistic but reflective vein. We were convinced that this combination of experiences would be unique, and not likely to be replicated in any articling program, or bar admission course then in existence.

A good deal of discussion took place on how to actualize this general idea. It quickly became apparent that it was going to be difficult for us to accommodate all of the students in the traditional clinical program operating out of a store front. We simply lacked the Faculty resources to provide the necessary and sustained educational input. Moreover, the fact that there was already a legal services program in existence in Calgary, Calgary Legal Guidance, made it unlikely that the demand would exist to set up the sort of extensive program of clinical services which would be needed to satisfy the educational objectives of the program.

It seemed to us that the sensible way to approach this objective of an integrative experience was to map out the educational aims, and then to work out how they might be accommodated both within and outside the law school. We determined that the program which we had in mind should serve a number of purposes. In the first place it should allow students to integrate the range of experiences which they had so far undergone in law school; the learning of substantive principle, an appreciation of procedure and process, training in skills, the development of an awareness of the human and ethical elements in legal practice, and the relating of law and other disciplines and bodies of knowledge. Secondly, it should also

allow them to achieve a more sophisticated knowledge of the substantive law in areas providing the focus of the program. Thirdly, it should allow them the opportunity to experience as closely as possible the challenges to the skill and judgement of the lawyer in practice faced with a live problem; however to do so not merely for the sake of the experience but rather to learn from it by external critique and personal reflection and self-evaluation. Fourthly, students should be able to increase their knowledge and appreciation of how the legal system impacts on its practitioners, on its clients and on the community at large, and about its relationship and interaction with non-legal institutions. Part of the objective here would be to cause students to think seriously about the limits to law as a solution to human problems.

In devising a vehicle to carry through these aims it seemed to us that we should provide a choice of substantive focus to students, one which was manageable in terms of faculty resources. Given the character of our faculty, its perceived strengths, and our geographic location four areas were selected: Criminal Justice; Business Organizations; Family Law and Natural Resources. We then attempted to organize the objectives set out above within the four areas. In Criminal Justice it was decided that the program should involve a combination of seminar work in Criminology and Sentencing, a simulation component in trial advocacy and a series of "in service" placements in the community. The Business Organizations program was the one which was to rely most heavily on simulation techniques, with students organized in firms working through files, developing their planning and negotiation skills further with the assistance of practitioners and in the context of business realities. It would also through a series of seminars allow students to extend their knowledge in the more advanced areas of corporate law, and to appreciate more clearly the impact of a variety of fields, including taxation, commercial transactions, securities and corporate finance law upon the working life of the corporate structure. The Family Law Program, it was planned, would be the one to provide live clinical experience. In addition to advanced seminar work on children and the law students under close faculty supervision would represent clients in carefully selected live cases, the cases chosen as far as possible with their educational value firmly in mind. Students would also be able to spend time observing and working with practitioners, and would be required to do a major research paper with an emphasis on interdisciplinary context. In Natural Resources

the students would be able to extend their knowledge in oil and gas law and in government regulation, to spend time working with the legal department of a resource company, private law firm, government agency or a public interest group, to participate in simulated administrative hearings and complete a major research paper.

As it was not possible to provide all of the students with live clinical experience, it was decided to characterize these programs as practicums. In terms of timing, while it had been originally thought desirable to have students return to the school for a more conventional semester after the practicum experience, faculty workloads and logistical problems persuaded us to locate all of the practicums in the final semester. Apart from the possibility of taking one additional course the practicum would take up the whole semester.

The third year program as implemented has followed through the initial vision quite faithfully. However, some adjustments have occurred. One objective which did not work particularly well was the notion that we should concentrate on depth rather than coverage with the courses. It became clear that the course load in the fall semester was not as challenging as that during the equivalent period in the other two years. Moreover, we received understandable complaints from students that, with the significant slice taken out of the senior years by the practicums, they were presented with invidious choices in course selection. Our response was, without interfering with the integrity of the practicum experience, to vary the number of hours dedicated to the courses between 30 and 45 hours (they had formerly all been 45 hour courses) and to increase the maximum number which a student might enrol in to seven. The result has been at least a marginal increase in the number of courses which students take. Because of the presence of the practicums we have not been as self-conscious in third year courses about following through with the objectives woven into first and second year. As a result assignments have tended to be more conventional, in the form of examinations or research papers. One noble but obviously misplaced attempt to produce integration, a combination of Wills and Trusts, never really materialized, and was split into two courses in short order.

A modest number of courses has been added, each of which seems to fit one or other of the objectives set. They include a course in Comparative Legal Relations which investigates the important interface in modern times between Contract and Tort Law, and is

flexible enough to include other examples of overlap and interaction, and Law and Medicine which explores the legal ramifications of the dramatic advances in medical science in recent years.

One unanticipated, but welcome, development has been the inclusion of a compulsory, intensive Trial Advocacy Program in third year. This program began as a segment of the Criminal Justice Practicum. However, it was decided in 1980-1 to open it to other students who might be interested. The demand was sufficiently great that in 1982 it was detached from the practicum and is now given in a block week at the beginning of the winter semester. The program uses materials originally devised by the National Institute of Trial Advocacy in the United States and revised at Osgoode Hall Law School. It involves demonstrations, evaluated simulations of examination-in-chief and cross examination and concludes with a day long trial. Good use is made of practitioners as group leaders, demonstrators and judges. We have also been able to bring in the annual holder of the Milvain Chair of Advocacy set up by the Calgary Bar Association to participate in the program. Students as a consequence have had the unique experience of interacting with judges and lawyers of the stature of J. J. Robinette, Mike Goldie, Eddy Greenspan, Cal Tallis, Clay Powell and Joel Pink.⁹

Overall it can be said that the practicum program has worked well. As one might expect, there has been some resistance among students and indeed faculty to the program's mandatory character, the feeling being that it should be open to students to pursue a more conventional pattern of courses in the final semester of law school. Thus far we have stuck to our guns, emphasizing the underlying philosophy of the program and our concern to put other educational objectives before coverage. There is of course the pragmatic consideration that, with our resources, it would be difficult, if not impossible, to mount further courses in addition to the four practicums.

The clinical and internship elements are now firmly set in place and of obvious value to the students. In Criminal Justice placements have been arranged with the provincial court, the Calgary Remand Centre, the Spy Hill Provincial Jail, the Office of the Medical Examiner, the Forensic Psychiatry Unit at the Calgary General Hospital, the Provincial Psychiatric Hospital at Ponoka, the Calgary Police and the Alcohol and Drug Rehabilitation Centre at Oliver.

9. The Chair was established in 1979 in honour of the former Chief Justice of the Trial Division of the Supreme Court of Alberta, J. V. (Val) Milvain.

Special internships have been organized with leading defence counsel such as Eddy Greenspan, and with American law offices, in particular the Spokane Public Defender's Office. Typically with the ongoing internship programs special training is provided to the students by the particular institution or service. In Family Law the faculty members concerned, Professors Cruickshank and Pask, have worked closely with Calgary Legal Guidance and Alberta Legal Aid to produce the sort of cases which will provide the students handling them with a range of substantive and procedural experiences. We have also used the talents of a sessional instructor to assist with clinical supervision. Good observational experiences have been arranged with a number of Calgary practitioners specializing in family law, and special placements have been arranged further afield, in both Canada and the United States. The practicum which for a number of years was without an internship component was Business Planning, largely because of the difficulty of providing the necessary educational challenges in a live law office context. The focus was thus on simulation in the law school with supervision provided by visiting practitioners. In recent years, however, Professor Brown in collaboration with the Management Faculty has been able to provide students with the opportunity to render supervised advice to small businesses.

In the Natural Resources Practicum a range of internships have been set up with resource companies in Calgary, with private law firms specializing in oil and gas law, with the Energy Resources Conservation Board and with the Alberta Environmental Law Centre. It has also been possible to send a small number of students on assignment with the Public Interest Advocacy Centre in Ottawa. On the research side there have been some problems with differences in expectations between the various practicums. However, in Family Law and Natural Resources in particular some first rate work has been done by students, work of a standard to receive recognition in national competition.

The interdisciplinary and contextual elements of the practicums have been worked through in a number of ways. They have, of course, been emphasized in the internship and clinical experiences. In Family Law a special attempt has been made to encourage the development of interdisciplinary topics for the research papers. Furthermore, in the seminars use has been made of resource personnel to sharpen appreciation of the relationship between law and other disciplines, professions and businesses. In Criminal Justice the focus has been

criminology and corrections; in Family Law the interaction between law and social work; in Business Planning the relationship of law and economics and law and business realities; and in Natural Resources the interface between both law and economics and law and applied science.

Apart from the mandatory status of the practicums the other major complaints have been a perceived difference in workload across the practicums with the demands in Criminal Justice seen as lighter than those in the other three, and the fact that in some years a small number of students have not been able to get their first choice of practicum. Management of these labour intensive programs has required an upper limit of 16 students to be set for each, with a lottery system to resolve problems of oversubscription. These concerns have caused us to set up an ad hoc committee to examine the practicums and their place in the program, which should report in 1985.

The original vision of a progressive and incremental curriculum, begun in first year and extending over the three years has been largely realized in the senior years. Although it has been difficult because of the optional character of most of the courses in those years to plan and implement in a highly coordinated fashion, the general commitment of the members of faculty to the underlying philosophy and a relatively cohesive program has given the senior program a satisfactory degree of inner integrity.

6. Admissions Policy

It will be recollected that the ad hoc advisory committee in its 1974 report had pointed to the importance to the success of the educational venture proposed at Calgary of the qualities of the students selected. The Faculty was quick to recognize this too. In our early planning we decided that we should not feel bound by the essentially mathematical approach to law school admission used at most other Canadian law schools. We were persuaded that we should allow ourselves the flexibility to select students on the basis of a broader set of criteria than pre-law grades and aptitude test scores, and that there was some room for experimentation, to see whether the traditional assumptions about success in law school were valid.

Our initial admissions process involved selection within three groups. Thirty students of the sixty were selected using a combination of pre-law grades, L.S.A.T. score, extensive application data (including a statement of purpose in seeking admission), academic

references and an interview. In both the application data and the interview we looked for evidence of maturity, commitment to service and realistic self-perception as well as of impressive academic achievement. Given the broader base of criteria utilized we considered it justifiable to reject a student, who, while he or she might have strong academic credentials, was lacking in other respects. The second group of 15 students comprised mature (that is 25 years or older) and native students. These students were judged according to the same criteria as those in the first group, but a different and higher weighting was attached to factors other than pre-law grades and the L.S.A.T. score, especially work experience, community service and cultural factors. With mature applicants whose pre-law academic work was of some vintage allowance was made for a certain degree of intervening grade inflation. Acceptance of native students with modest academic qualifications was made contingent upon successful completion of the Summer Program for Native Law Students run by the Native Law Centre at the University of Saskatchewan. The third group of 15 students was chosen on a random selection basis. Fifteen combinations of pre-law average and L.S.A.T. score were established, with a set minimum for both elements, and one student was selected at random from each of the fifteen groupings. Other factors were ignored with this group.

This system of selection which obtained for three years was evaluated by Professor Starr, Dr. Fisher, and Dr. Katz, a statistician. While they were naturally cautious in their conclusions, considering the small numbers in the sample, it was clear that overall group one did better in law school than group two, and that both of these groups outshone group three.¹⁰

Both the logistical problems of this rather complicated system, and the feeling that the more we knew about students, the more satisfactory our decisions on admissions were likely to be, caused us to drop the random selection group. Thereafter, we used a less structured process, which involved a pre-screening on the basis of the paper record, and a fairly extensive interview program for those in the generally acceptable pool, whether they fell into the high achiever, mature or native categories. More recently, largely as a means of making this labour intensive process more manageable we

10. G. Starr, L. Fisher, L. Katz, "By Choice, By Birthright: The First Three Years of an Admissions Policy", in *Essays in Legal Education*, ed. Neil Gold, 1982, Toronto, 117-36.

have begun to admit more students, using the broad range of criteria, on their paper record, reserving interviews for those who, while they have impressive academic records, are doubtful in other respects, and for those with modest academic credentials, but with other interesting features about them. Moreover, members of faculty outside the Admissions Committee are now enlisted to help with interviews. Even with these changes the admissions process is for those involved (four faculty members, one student, a representative of the broader university community and a member of the legal profession) an arduous one.

The results of this more personalized admissions process have been gratifying. It has resulted in an older, maturer student body with a wide and rich range of human and work experience. Since the opening of the school the average age of the first year class has varied between 25 and 28 years. Many of our students who are mature in age are admitted with sterling academic records. Moreover, despite the fact that in most years the number of male applicants is three times greater than the number of females applying the number of women in each incoming class has ranged from a third to a half. This has been achieved without the employment of a conscious affirmative action approach. The range of life and work experience of students has meant an enhanced classroom environment in many instances, and by and large a receptiveness to the law school's attempts to relate legal doctrine and theory more closely to the realities of practice. Our one major failure with admissions has been the lack of success with native students. Clearly native students who have been admitted after taking the Summer Program have found the pressures of our program in first year hard to take. So far efforts which we have made through a special tutorial program to assist all first year students who are struggling has had minimal positive impact with the native members of the first year class.

7. The Research Output of the Faculty

With the pressures generated in a new and progressive law school to develop a curriculum, to try new teaching techniques and to establish almost instant credibility with the legal profession our primary role in the early years was felt to be to mount and sustain a strong teaching program, an objective which we were reasonably successful in attaining.

The price we paid for this heavy dedication of time and energy

to teaching was a relatively modest record of research and scholarly endeavour in the first three to four years of the school's existence. That reality did not, however, deflect our attention from the need to lay the foundations for a significant research output from the Faculty in time. Indeed, following through the suggestion of the two planning committees that we should establish some strength in natural resources law, we took early steps to ensure that we made not only made a serious commitment to teaching but also to researching that area. In 1977 with a grant from the Alberta Law Foundation a study was undertaken of the feasibility of setting up an Institute of Resources Law in conjunction with the Faculty to undertake major research in the natural resources sector. Examination of existing endeavours in the United States and the enthusiastic support we received from the natural resources bar persuaded us that there was an unmet need in this area, and that we were admirably placed to respond to it. Accordingly, the Canadian Institute of Resources Law was established in 1979 with Professor Roland Harrison as its first Executive Director. It was established as an independent institute associated with the law school and located on campus in physical proximity to the Faculty of Law. Funding was secured from both the government of Alberta and the Alberta Law Foundation, and the Institute was set the three objectives of establishing a capacity for mid and long range research in the law relating to natural resource development, management and conservation; the encouragement and sponsoring of publication in the field; and the development of a conference and education program directed towards both the profession and the community at large. A national board was also established with representation from the major resource development sectors, public policy interests, and environmental and conservation groups.

Under the able guidance of three executive directors, Roland Harrison, Al Lucas and Connie Hunt the Institute has developed an enviable reputation in all three areas of activity. Research projects have been carried out for both government and industry on subjects as diverse as the off-shore development of oil, surface rights, mining, forestry tenures and electricity exports. Recently, the Institute has received a major grant from the Donner Foundation to undertake a major study on water resources. The research program of the Institute has also benefitted from the contributions made by visiting holders of the Chair of Natural Resources Law, Professor Bill Ellis of the University of New Mexico, and Professor Owen Anderson of the University of North Dakota. In the area of publication a major

success has been the multi-volume Canadian Energy Law Service co-authored by Professors Hunt and Lucas. This has been complemented by a series of working papers and articles by the research staff, Professors Owen Saunders, Nigel Bankes, Sheilah Martin and Ian Townsend Gault.¹¹ On the conference and education front successful national conferences have been held or are planned on aspects of energy law and policy, attracting experts from the United States, Britain and Australia as well as Canada. A series of well received seminars on current issues for members of the profession in both Calgary and Nova Scotia have been mounted, and the first of a number of in-house educational programs for resource companies recently begun.

The federal government through the Department of Energy, Mines and Resources now contributes to the operating budget of the Institute which currently runs at approximately \$300,000 per annum.

Despite the significant drain of time and energy dedicated to teaching at Calgary, individual faculty members have also been active in research. Indeed, in recent years the pace and diversity of work has increased noticeably. The result is that a number of books either have been, or are in the process of being produced. These include a second edition of taxation essays and a third edition of cases on insurance law by Professor Rendall; cases and materials in business organizations co-edited by Professor Mercer; a text on estate planning co-authored by Professor Brown; a collection of essays on legal philosophy edited by Professor Dais; and upcoming texts on the interaction of tort and contract law by Professor Rafferty, and on the legal status of refugees by Professor Pask. Articles have been published in a wide range of legal subjects, criminal law, administrative law, constitutional law, insurance, environmental law, torts and contracts, to name only some, and there is evidence of a growing interest in Canadian legal history.

For a small school in its early years this by no means an unimpressive record.

8. The Law School and its Broader Mandate

(a) Interdisciplinary and Cross Disciplinary Initiatives

Despite the somewhat ambitious vision of the planning committees about inter and cross disciplinary initiatives by the Law School, the

11. Recently Barry Barton, a graduate in law of Auckland and U.B.C., and Christian Yoder, a Calgary law graduate, have joined the Institute as research fellows.

record in fact has been quite modest. It is nevertheless important and provides a base on which to build further in the future.

Limited initiatives have been taken in servicing courses in other disciplines, largely because this was felt to be a demand which we could not meet and mount a labour intensive program of our own. One worthwhile venture which we have undertaken has been to assist in servicing two law courses in the new Communications Studies Program, using the expertise of Professor Mercer. Law faculty members also act as resource personnel on a fairly regular basis in other faculties and departments, especially in Environmental Design, Social Welfare and Nursing.

The main area of progress has been in the development of close working relationships between individuals in the Law Faculty and elsewhere which have produced joint teaching ventures. Thus Professor Levy in the law school and Dr. Knafla in History have team taught a course in the Historical Foundations of the Common Law in the History Department for some seven years. A more recent example has been the pairing of Professor Starr from Law and Dr. Don Mills from Sociology who are teaching a course on the Canadian Legal Profession which is cross listed in the curriculum of both disciplines. Law school faculty have also participated in the interdisciplinary seminars offered as part of the Law and Liberal Arts minor in the Faculties of Social Science and Humanities.

One of these contacts, that between Professor Starr and Dr. Mills, has also resulted in an important research initiative. Both are collaborating with Dr. Fisher of the Medical School on a major study of the attitudes towards legal education of the first three graduating classes in the law school.

Positive relations with the Department of History, which have already been commented on, have also born fruit in the form of a successful conference on Western Canadian Legal History which was organized by Dr. Knafla and the writer in the spring of 1984, and which should result in the publication in 1985 of the first collection of essays on the legal development of this part of Canada.

One further interdisciplinary context which is worth mentioning is the Socio-Legal Studies Unit set up in the Faculty of Social Science. This body, of which the writer is a member, is committed to fostering socio-legal research and cooperation within the University, and is currently working on the organization of a law and society association at a national level, and the publishing of a law and society journal.

(b) Professional and Community Outreach

The law school has taken seriously its potential for applying its expertise, and especially in assisting with the development of legal education and the dissemination of legal knowledge, outside its four walls.

Within the academic wing of the legal profession it has made a major contribution to the establishment of the Canadian Law Teaching Clinic which is designed to encourage law teachers to improve their teaching sensitivity and methods. The Calgary Faculty of Law hosted the clinic at Banff for the first three years of its existence, and played an important part in its organization and structure.¹² The law school continues to play an operational role in the Clinic through the work of Professor Starr as Associate Director.

Within the practising profession the most significant contribution of the school has been to apply its particular expertise in skills training to the continuing legal education program of the Bar, and more recently to those of individual law firms. Through the efforts of Professor Francis, and more recently Professor Rigg, the trial advocacy program tried so successfully in the law school has been offered as part of the program of the Continuing Legal Education Society of Alberta. Moreover, faculty members have also been retained to conduct trial advocacy and interviewing, counselling and negotiation workshops for large law firms which are beginning to see the value of structured in-house programs in skills training.

The substantive and procedural expertise of faculty members has also been drawn upon both in the bar admission course and in a series of seminars on the Charter for both judges and lawyers. In the context of the law and its application to the community at large the school has been represented on, and contributed to the ongoing work of the Institute of Law Research and Reform (Alberta's law reform commission).¹³ At a local level the school participated in the organization of and continues to support the public education series, "Saturday Morning at the Law School", and has recently taken the initiative in adding a similar program relating specifically to legal issues affecting women. The students in the Faculty of Law have

12. Both Professors McLaren and Rendall have served on the Advisory Committee to the Clinic, and Dean Hughes currently serves on it; Professor Fisher of the Medical School has acted as Consultant; and Professor Iwan Saunders, now of the Faculty of Continuing Education, as Technical Coordinator.

13. The Calgary representatives have been Professors Hunt, Levy and McLaren.

established a successful legal services program operating out of the school which provides advice to both the campus and off-campus community, and which has spawned a satellite in Banff during the summer months.

Over the years the school has mounted two important conferences with law reform or the law in the community as a focus. In 1978 a conference on Personal Injury Compensation was mounted with presentations from experts from the United States and New Zealand as well as Canada. In 1983 under the able direction of Professor Mahoney the school organized and hosted an important national conference on "Women, the Law, and the Economy" at Banff which was attended by four hundred delegates from across the country, and addressed a variety of legal and economic issues affecting women. The proceedings of the Conference are being published in a book which will be out in 1985.

Over and above this institutional commitment individual faculty members have been extremely generous in giving of their time and expertise to community and public interest groups, including the Canadian Arctic Resources Committee, the Canadian Council on Children and Youth, the Alberta Environmental Law Centre, Calgary Legal Guidance, and the Calgary Sexual Assault Centre to name but a few.

9. Achievements and the Future

Obviously an assessment of the overall record by the writer will be biased. However, that having been said, it is perhaps not too presumptuous to claim that the school has been reasonably successful in meeting both the goals set for it and those which it has developed, and in the process to have produced a workable blend of progressive and traditional elements. It is my feeling that by and large both the faculty and the students view the attempts to diversify the range of experiences in law school, in particular by emphasizing skills development and process, as a welcome change. Student feelings on this have been documented in an extensive survey carried out of the opinions of the first three graduating classes. This survey which had a response rate of close to 80% suggests general satisfaction on the part of those graduates with what we have attempted.¹⁴

14. The questionnaire drew upon previous models used in both Canada and the United States, in particular the Queens Law School and Chicago Bar Study questionnaires.

These internal views receive some external affirmation from three sources. In the first place interest has been expressed by other schools in certain elements of what we have done, and some changes have been made in their programs as a result of considering our experiences. Secondly, our approach to skills training has received recognition in the appointment of Professor Cruickshank as the second director of the new skills oriented British Columbia Bar Admission course, and the use of two Calgary faculty members as group leaders in the pilot year of that course. Thirdly, the Faculty of Law at its own request was evaluated by a University appointed review committee comprising three external experts: Mr. Justice Bud Estey; Professor Murray Fraser; and Mr. Ernie Hutchison, Q.C., then President of the Law Society of Alberta; and three internal representatives from other academic units in the University.¹⁵ The review committee reported that it was in general favourably impressed by the progress of the law school and its success in working through its objectives. While certain recommendations were made for fine tuning of elements of the curriculum, on the need to extend the research potential of the school and to review the practicum program, the message was clear, that the school is on the right track.

Insofar as subsequent success in further academic work is a gauge, a modest but increasing number of our students have gone on to do graduate work in law and done well in the process.

In terms of reaction from the profession it is difficult to get a general picture of whether a law school program is considered credible or not. What can be said is that our graduates at Calgary have experienced little or no difficulty in securing articling positions, and have established themselves in firms of varying size, as well as in government and corporate law offices, and in public interest organizations. Moreover, representatives of some firms and offices, as well as of the judiciary, have commented and continue to comment favourably on the initiative and professionalism of Calgary graduates in carrying out tasks and roles assigned to them.

Unlike disciplines, such as Medicine, which have national examinations, Canadian law schools have no formal gauge of how they match up against each other. However, there are various national competitions in both skills, research and deliberative writing which

15. The other members of the Review Committee were Dr. Jim Black, Chairman (English); Dr. Frank MacKinnon (Political Science) and Dr. Dick Stein (Engineering).

provide at least an impression of relative worth. The Calgary record in international debating and counselling competitions, in national and regional mootings, and in competitions such as the Lief Essay Competition in Family Law suggests that it is a match for its sister schools in these areas of endeavour.¹⁶

One area in which we may be lacking is the development of contexts and experiences which are challenging to those students, typically with graduate experience in other disciplines, who want to blend that interest with legal studies. Here it is likely that the theory/practice focus of our program has deflected our attention from developing sufficient options for those whose interest in the law is purely intellectual.¹⁷ I am reasonably sanguine that we can. Clearly interest is developing among some faculty members in both theoretical and interdisciplinary research, and it is likely that this will produce increased opportunities for specialized work by students interested in those areas.

Now to the future! The Calgary Faculty of Law has successfully navigated its formative years, and under a new Dean, Professor Margaret Hughes, looks to the future. Given the reality of fiscal restraint which has hit the University of Calgary like other universities, and the frequent bouts of depression which afflict senior university administrators, time and energy will have been dedicated to preserving the gains already made. However, any academic unit which considers itself as irrefutably on the defensive cannot hope to prosper. Indeed, it is likely to become the victim of its own dire prophecies. Accordingly, the school has to look ahead and to new challenges. The most obvious challenge is the establishment of a graduate program. This has been vaunted for a number of years. However, only recently has it been recognized that the one area in which at the moment we have the resources and expertise to mount a successful program is in the field of Natural Resources Law. Both the presence of the Institute and support from the resource law community makes this a feasible area of graduate specialty.

The other main challenges will be to increase the opportunities

16. In the 1984 Lief Essay Competition in Family Law Calgary students secured two of the four top positions, with Gwen Benjamin as the winner, and Joanne MacClure equal third.

17. See J. Dicken McGinnis, "Thoughts on the Law and Learning Report by a Former History Professor and Current Law Student", to appear in the *Dalhousie Review*, March 1985.

for both individual and group research, and to broaden the overall focus of the research done in the school along the lines suggested by the Report on the Consultative Group on "Law and Learning" (the Arthurs Report)¹⁸; to develop greater opportunities for those students who want to pursue law as an academic discipline without developing a parallel curriculum; and to explore new ways of improving the teaching/learning process. In the latter context it is most encouraging to note that two computer assisted learning programs have recently been devised at the school; one in Estate Planning by Professor Brown, and the other in legal research and bibliography by Professors Starr and Iwan Saunders, in collaboration with the Windsor Law School. Both these steps forward and the preservation of the strengths of the existing program depend on the continuation of the spirit and practice of collegial discussion and decision making which has marked the formative years of the Calgary Faculty of Law. Given our achievements this far the omens look favourable!

18. *Law and Learning*, Report to the Social Sciences and Humanities Research Council of Canada by the Consultative Group on Research and Education in Law, 1983, Ottawa.