LEGAL EDUCATION AT McGILL: SOME PROBLEMS AND PROPOSALS [1]

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Lawyers, with the possible exception of primary and secondary school teachers, have probably puzzled over the problems of how to prepare people for the practice of their profession more than any other vocational group. This concern is reflected by the fact that an entire journal is devoted to the problems of legal education, the Journal of Legal Education. This preoccupation, however, is not symptomatic of any professional neurosis, but instead reflects the difficulties of preparing people to meet the responsibilities which society imposes on lawyers. The public expects the profession to supply it, on the one hand, with expert technicians who are able to cope with an endless variety of details, and yet it also entrusts to certain members of the profession, e.g. judges, the responsibility of making some of the community's most important decisions. Lawyers are expected to be masters of the spoken word for purposes of litigation. In addition they are called upon to draft many of our most important documents such as statutes, regulations, by-laws, contracts, constitutions and judicial decisions. The legal practitioner is expected to be knowledgeable about business when dealing with commercial and corporate problems, understand the concepts and jargon of the economists when dealing with anti-trust problems, know something about medicine in damage cases, and be familiar with psychiatric concepts when practising criminal law. It is surely not surprising that there is endless controversy as to how, in three academic years, we are expected to begin preparing people for the difficult tasks they will have to discharge.

The primary purpose of this paper is to suggest how law schools, in general, but more particularly the McGill Law Faculty, can implement what the writer believes to be some of the primary aims of legal education. Before suggesting how at least some of these goals can be achieved here at McGill, it is necessary to try to understand some of the advantages and disadvantages of our immediate environment.

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[1] This paper was originally presented at a staff seminar of the McGill Law Faculty in February 1964. It is being published in the hope that it will stimulate further discussions of the subject of legal education in Canada.

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The Environment

It is important for the staff of every law faculty to ascertain whether it is utilizing to maximum advantage all the available human and material resources of the university, and the outside community. For example, here at McGill, because of considerable administrative decentralization and faculty autonomy, we often overlook the fact that we are part of a large and dynamic university with a substantial national and international reputation. Though there has been heightened interaction with the rest of the university recently, the general tendency has been for us to remain apart from the mainstream of local academic life. This problem is certainly not unique, as it appears even in more centrally administered universities. The result has been that this, and other Canadian law schools, have failed to exploit the potential of their immediate academic environment. For example, here at McGill, we are fortunate in having attached to the University the Allen Memorial Institute, one of the leading psychiatric training and research centres in the world. In addition there is within the complex of the psychiatry department, a forensic clinic headed by Dr. Bruno Cormier, dedicated to research and treatment in the criminological field. These facilities are of particular value to any law teacher interested in the problems of family law and criminology. Furthermore the new School of Business Administration has attracted to its staff a group of teachers with interesting and varied backgrounds as part of an attempt to provide something educationally different in this area. We should strive as soon as possible to ascertain whether some degree of co-operation with the personnel of this School might be of mutual advantage. Two members of the Arts and Science Faculty are now teaching regularly in the Law Faculty, but explorations might begin as to how we can contribute more effectively to each other's work.

The fact that the University is located in the center of Montreal is, in my opinion, very beneficial. A large city provides a living laboratory for a wide variety of legal and social science research. Perhaps even more important, a heavily populated area contains large numbers of people with a wide variety of skills. It is often possible to call upon these specialists to help in both instruction and research. For example, the co-operation obtained from the top legal and other personnel of the International Air Transport Association (I.A.T.A.) and International Civil Aviation Organization (I.C.A.O.) is vital to the work of our Air and Space Law Institute. In addition, Montreal's geographical location is a great advantage. The fact that we are only a hundred miles from Ottawa is very useful. It means that students can, with relatively little effort, attend sittings of Parliament and

the Supreme Court of Canada. Furthermore it means that government officials can come to the Faculty in order to participate in seminar and class discussions. We already have several senior government officials visit the faculty each year, but undoubtedly we could do more along these lines.

We are also fortunate in being only two hours by air from the largest city in the United States, New York, and the second largest city in Canada, Toronto. Furthermore, within a distance of four hundred miles are a large number of the world's and Canada's most important and prestigious universities, such as Harvard, Yale, Columbia, Princeton and Toronto, to name only a few. This means that we can, if necessary, use their outstanding library facilities and invite, as we do each year, professors from these universities to deliver guest lectures. In addition to inviting American academicians to visit regularly with us, we implemented this year a policy of having a number of Canadian law teachers lecture to our students. This was done in the hope that, to our mutual advantage, it might stimulate reciprocal invitations from other Canadian law schools and thereby promote more contact between Canadian law teachers. Similarly any intellectual and social exchanges between students from different law schools should be encouraged. Unfortunately, insofar as the students of this faculty are concerned, the number of contacts with students from other law schools has apparently dwindled in the last two years.

Though our environment offers great benefits, and even greater potential, there are nevertheless a number of serious problems inherent in our immediate situation. McGill is an English-speaking University in a largely French-speaking Province and City. The Quebec population totals 5,259,211 out of whom only 697,402 list English as their mother tongue.[2] Almost all of the English speaking group are concentrated in Montreal. Though McGill has always served as the leading centre of higher education for the English speaking inhabitants of the Province, it has long served as a leading centre for the education of thousands of students from the rest of Canada and the world.[3] There are, however, within the Province, nationalist elements who have urged that provincial grants to McGill be reduced. Even more disturbing is the suggestion that in allocating funds to universities the province should exclude non-Quebec students from their calculations when deciding the amount which each univer-

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[2] *Canada Year Book, 1962*, p. 1204.

[3] According to the 1961-62 Annual Report of McGill University there were 9,562 full time students registered at the University. One thousand thirty-four came from provinces other than Quebec, and 1471 came from foreign countries. McGill University, *Annual Report, 1961-1962*, p. 2.

sity is allocated. If this proposal were implemented, McGill would be hard pressed, despite a substantial private endowment, to maintain the high proportion of non-Quebec students who now attend the University. Thus it must be recognized that local political factors will inevitably affect our destiny in a variety of ways. We must, however, never compromise with the ideals which a university is supposed to uphold. It is surely fundamental that a university, within the limits of its capacity, exists to seek knowledge and to disseminate it to those capable of benefiting from it, irrespective of their background.

Political tensions within the Province are going to make it increasingly difficult to predict, with any degree of accuracy, McGill's prospective financial position. Though McGill has the largest endowment of any university in Canada, it has grown more dependent upon financial grants from Quebec and, therefore, will be affected increasingly by the ebb and flow of the Province's political currents. Recent political developments dramatically improved the University's financial picture, with resultant benefit to the Law Faculty. Nevertheless long term planning will, in my view, be rather difficult for the University, and accordingly, its component parts.

Another inevitable element of uncertainty is how the University authorities will assess our economic demands in relation to those made by other faculties. Probably every faculty in every university throughout the world feels, in some degree, that it is not getting a fair share of its institution's revenues; nevertheless, there is considerable evidence that historically the Law Faculty, for a variety of reasons, many of them perhaps justifiable, was underprivileged in relation to other areas of the University. For example, until this year, we had a full time staff of eight, the same as the Department of Classics. Departments such as Bacteriology and Biochemistry, which are relatively small at most Canadian universities, numbered fifteen and sixteen respectively. Accordingly, it is not surprising that McGill granted one half of the Canadian doctorates in Biological and Medical Sciences during the period 1956-61,[4] indicative of the heavy investment which the University has in this area. The writer is not suggesting, even if it were possible, that any departments of the University be partially dismantled in order to help other areas. It is seemingly inevitable, and perhaps justifiable, that certain disciplines at most universities will be given priority over others, but

[4] In this same period the University granted almost one third of the Canadian doctorates in the physical sciences and engineering. The Law Faculty is one of the few at McGill that does not offer a doctoral programme. The figures mentioned above are to be found in McGill Univeersity, *Annual Report, 1961-1962*, p. 14.

surely the gap between rich and poor must never be permitted to become too pronounced.

Recent events indicate that the University is giving greater recognition to the Law Faculty's needs. The staff of the Faculty was increased this year by three men, and it now appears fairly certain that by 1966 it will number fourteen or more. This increase in personnel, combined with the construction of a one and a half million dollar addition to our present building, will assist substantially in achieving many of the goals proposed later in this paper. We must not, however, delude ourselves into thinking that staff numbers alone will produce the kind of Faculty we want. Nevertheless, a large staff helps to implement a curriculum which allows for more options, and better supervision of student work.

The Quebec Bar will be another important factor influencing the Faculty's development. Its main impact at present is through the curriculum regulations which are imposed on provincial law schools. It is inappropriate to discuss this problem in detail at this time, nevertheless there is the possibility that these regulations may prevent us from making important curriculum changes, particularly with respect to allowing a substantial number of optional subjects. We must, however, proceed upon the assumption that we can evolve certain changes within the framework of the present regulations, or that appropriate changes in the regulations can be negotiated. The long term goal of Quebec's law faculties should, in my opinion, be the withdrawal of effective Bar control over curriculum organization. In the meantime, we must, when contemplating revisions in course arrangements, presume that a change is permissible, unless specifically prohibited by the Bar regulations, rather than proceeding on the negative assumption that change is impossible unless specifically allowed.

Though as already indicated, the University draws about twenty-five per cent of its student population from outside the Province, these figures are misleading insofar as the undergraduate law population is concerned. Almost all of our undergraduates come from the Province of Quebec, with the overwhelming majority coming from the Montreal area.[5] This is due to the fact that the private law

[5] In 1961-62, out of a total of 202 students at the Faculty, 197 were from Canada and only 1 of that number was from outside Quebec. At that time there were 5 non-Canadian students in the Faculty presumably doing work at the Air and Space Law Institute. For the academic term 1963-64 the number of foreign students studying at the Institute has more than trebled, at least partially because of more scholarship aid being made available. The 1961-62 student totals mentioned above are to be found in McGill University, *Annual Report, 1961-1962*, pp. 193, 199.

of Quebec is civilian in origin, and as a result, the degree offered here is not accepted for the purpose of admission to the Profession in the common law provinces. It has long been my view that it would benefit all concerned, if a reasonable proportion of the students in each of our classes came from different parts of Canada. Later in this paper, certain proposals will be advanced as to how this objective might be achieved.

Enrolment, scholarships and the provision of continuing legal education

One of the first tasks we must begin is to try to find out what happens to our graduates. Surely in deciding on the kind of curriculum we wish to have, it would be valuable to know the kinds of responsibilities we are training our students for. Earlier it was suggested that we were mainly engaged in training students for practice at the Quebec Bar. Perhaps we are, in fact, turning out people who are involved in a much greater variety of activities than we all suspect. If any former class presidents could supply knowledge of this kind they would be contributing to the Faculty in a valuable way. It would be interesting to know what has happened to the classes of, say, 1950, 1955 and 1960. It has been suggested to me that every year a few members of each class leave the practice of law.

Another problem that must be weighed is the size of our enrolment. The physical facilities of the new building are going to keep our numbers probably in the range of 300-350 students. However, are we going to allow physical capacity to be the only factor in determining our student population? A variety of factors, however, must be considered, such as the fact that we are the only English speaking law school in the Province. This perhaps imposes greater responsibilities to accept people desirous of remaining in this jurisdiction. This view might conflict with the desire of those who prefer to have a small student body, presumably to allow greater interaction between Staff members and student. It is my view that we should have a student population of around three hundred in order to justify a larger staff, and accordingly more optional courses.

Another factor closely aligned with the problem of enrolment is the question of scholarship funds. In order to compete with the graduate schools for the top students it is essential that we offer more fellowship money. We must be prepared to make an all out effort to recruit potential entrants. For example this would involve visiting all Quebec universities as well as some outside the province. We should try to offer from five to ten entrance scholarships in amounts ranging from $500 to $1,000, in addition to a substantial number of

awards of lesser amounts. Through the Ford Foundation grant we have been able to award reasonably adequate fellowships to students in the Air Law Institute but scant funds are available for our potential undergraduate population.

Another problem still not resolved is the extent to which we want to provide continuing academic services for our graduates, other members of the Bar, and people from other disciplines. We should consider the feasibility of setting up a programme of continuing law studies for interested people in the community. The Meredith Memorial Lectures are a sound step in this direction, but they are inadequate in that they are limited to four or five formal evening lectures to an audience of several hundred people. What we need are series of seminars on different topics, where small groups under the chairmanship of a competent person discuss not only technical legal problems but also proposed changes in legal and administrative practice, for example, labour law lends itself particularly to this type of approach. We have here in Montreal the Canadian Labour College, sponsored by McGill and the University of Montreal. Perhaps the Law Faculty, during the summer while the College is in session, could sponsor a series of evening seminars on arbitration. We could call upon people from the College to serve on a panel, and then invite lawyers, businessmen and union leaders to participate in an exchange of ideas. The Faculty labour law professor could organize this series, and perhaps could act as a panel chairman. Teachers who assume these extracurricular duties should be given some recognition for performing this type of work by the University. This servicing of the community's needs is one of many ways of discharging the responsibility as a centre of legal, administrative and political reform.

The aims of legal education

At this point it is essential to think through what we consider to be the aims of legal education. During the course of this paper, the writer has already laid down the framework of what in his view are some of our major responsibilities. The writer concurs with the position taken by Professors Harold Lasswell and Myres S. McDougal who contend that:

> "If legal education in the contemporary world is adequately to serve the needs of a free and productive Commonwealth, it must be conscious, and efficient, systematic training for policy making. The proper function of our schools is, in short, to contribute to the training of policy makers for the evermore complete achievement of the democratic functions that constitute the professed ends of American (Canadian) polity." [6]

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[6] Harold Lasswell and Myres S. McDougal, *Legal Education and Public Policy: Professional Training in the Public Interest* (1943) 52 Yale L.J. 203 at p. 206.

This concept of legal education is being increasingly accepted by many Canadian and American law teachers. It is certainly reflected in the changing curricula of most leading law schools. The trend is increasingly towards the addition of courses dealing with public law questions.[7] Law schools are now providing instruction in areas that twenty or thirty years ago would have been considered well outside the limits of a law school's province. To illustrate this point I would like to detail a few of the courses and seminars offered by the University of Pennsylvania Law Faculty. Pennsylvania has been chosen because of the emotional identification of many people with the big two of American Law schools, Harvard and Yale. Furthermore, Pennsylvania is generally considered to be one of the top six or seven American law faculties and is gaining prestige. The following is a sample of the type of work being offered at Pennsylvania: Appellate Advocacy law, Prediction and Social Science, Legal Profession, Legislation, Administrative Agencies, American-Foreign Affairs Law, Current Developments in Constitutional Law, Current United States Supreme Court Decisions, Land Development and City Planning Law, Freedom and Mass Communications, Law and Psychiatry, Problems and Tort Litigation, Regulation of Business, and State and Local Government. In addition, a wide variety of other courses and seminars are offered. The above list illustrates the attempt being made to prepare lawyers to meet intelligently their responsibilities in an increasingly complex society. The writer fully realizes it will be many years before we have the kind of resources necessary to offer a curriculum like Pennsylvania's. However, it is imperative that we begin moving in this direction. Through the addition in recent years of more optional seminars and the broadening of the work in the Air Law Institute we have begun moving along these lines, although we must speed up the tempo of change. It is my intention later to expand on how, with our present resources, we can move more quickly towards this end.

It is not sufficient in my view just to add new subjects, if the aims previously outlined are to be achieved. Too many lawyers and law teachers are dealing with problems as if they were in a social vacuum. There is a propensity on the part of all of us to try to make the world fit our legal framework rather than recognize the need for law to take into account the ever changing needs of society. Thus if law teachers are going to make their discussion of the legal process both more meaningful and more conducive to thinking in terms of policy, they must be more knowledgeable about the non-legal factors relating to their legal problems. For example, in the field of property law, it seems essential that a greater proportion of a teacher's time

[7] Kenneth H. York, *The Law School Curriculum 20 Years Hence*, 15 J.L.E. 160.

should be devoted to considering problems of our growing urban communities.[8] He should have ideas about the proper use of land. He must have a clear knowledge of current thinking in the field of community and regional planning. Once having decided what goals should be pursued in order to achieve better urban conditions he must set himself to thinking about what legal devices can be utilized in order to achieve these goals. The way we utilize land and organize cities affects incidental factors such as crime, health and employment, to list only a few. Existing course organization and present legal concepts often obscure the overlapping nature of many problems. Law teachers must convey to their students an understanding of technical concepts, but they must not become a slave to these concepts. They must be aware of their origin and the function which they purportedly serve. They must be prepared to recommend the abolition of concepts which prohibit the attainment of desirable social goals.

Teaching methods

The search for the best methods of teaching law has long stimulated sustained and heated discussion.[9] In my view we must ask ourselves what is the best way to permanently interest and equip a student to deal with legal issues. He must be permitted to probe into problems, rather than spend his time endlessly memorizing legal rules. Students spend too much time passively listening to formal lectures. It is my view that a person is rarely taught anything but rather, by one method or another, he is stimulated to learn. We must seek teaching methods which provide a maximum opportunity for the individual to develop intellectually. It seems inevitable that the classroom approach is going to remain with us for a considerable period of time. Therefore we must devote ourselves to analyzing how our classroom time can be used most effectively. It is not my inten-

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[8] Professor J. Milner, at the University of Toronto, has pioneered in this field in Canada. A number of other Canadian law faculties have already added courses to their curricula on land use control.

[9] Vaughn C. Ball, *"Objective" Questions in Law Examinations*, 12 J.L.E. 567; James J. Cavanaugh, *Some Thoughts on Legal Pedagogy*, 8 J.L.E. 195; Maxwell Cohen, *Objectives and Methods of Legal Education: An Outline*, (1954) 32 C.B.R. 762; Kenneth Culp Davis, *The Text-Problem Form of the Case Method as a Means of Mind Training for Advanced Law Students*, 12 J.L.E. 543; Paul Duke, *Rules for Success in Teaching and Examining*, 11 J.L.E. 386; Gerald E. Le Dain, *The Theory and Practice of Legal Education*, (1961), 7 McGill L.J. 192; J. B. Milner, *One Canadian View of the Case Method* (1955) 3 J. Soc. Pub. Teachers of Law 33; C. A. Peairs, *Essay on the Teaching of Law*, 12 J.L.E. 323; Allen M. Singer, *Harvard's New Course in the Legal Process — A Pattern for a More Comprehensive Legal Education*, 12 J.L.E. 251; Bernard J. Ward, *The Problem Method at Notre Dame*, 11 J.L.E. 100.

tion to review the various arguments for and against the use of a Socratic versus lecture method of instruction. Instead, the writer intends to merely state his preference, recognizing that every teacher must follow his own method.[10] Furthermore it might be desirable to use a different approach in teaching a first year class as compared to a third year class. My own view is that a teacher's major responsibility is to outline what he considers are the major questions and problems in his particular field and, accordingly, through student reading and classroom questioning, to try to evolve answers and ultimately formulate better questions. Surely the test of a true expert is the capacity to ask the right questions. Generally speaking, however, the writer supports the approach which encourages continual pre-class preparation and sustained analysis by the teacher and student of the material covered prior to class. In order to develop writing and analytical skills we have instituted at this Law Faculty a programme whereby young law practitioners supplement classroom instruction by breaking our classes down into smaller units and having the students prepare written material. This system is good insofar as it goes, but it is suggested that the tutors should meet their groups much more frequently than they do, with a view to developing the students' oral as well as writing abilities. These tutorials, however, must not allow the regular teacher to feel that he is free from the responsibility of intellectual engagement with students.

With respect to seminars there is less justification for compromise with respect to teaching method. There is no point in instituting a seminar if it is merely a vehicle for lecturing to a smaller group. One of the main reasons for instituting seminars is that it allows the student to pursue a line of research and then present his conclusions to the group. One of the difficulties in this method is that the seminar often lacks punch in that it resolves itself into students reading long and sometimes uninspired papers. Students should be encouraged to make their presentations reasonably brief and to summarize their findings rather than reading their papers word by word. In this way the seminar helps develop the students' oral skills. There are a variety of other methods of enlivening seminar work such as discussion of pre-assigned reading, the invitation of guests, and field visits.

It is surely incumbent on the writer to illustrate how he attempts to implement his own suggestions. The first half of my criminology seminar is devoted to the administration of criminal justice in

[10] See "Appendix to Report of Curriculum Committee", Association of American Law Schools, *1963 Annual Meeting: Program and Reports of Committees*, p. 99. In this appendix a number of leading American Law teachers describe their philosophies of legal eduction and the teaching techniques which they use.

Canada and Quebec. This is a topic which admittedly lends itself very well to firsthand observation and talk with persons assuming daily responsibilities in this field. We visit Montreal police headquarters and the criminal courts. The visits are followed up by asking persons like senior police officials, crown counsel, defence counsel, judges from various criminal courts, and a newspaper man to come and discuss their work, their responsibilities and their concept of their function in society. Guests are encouraged to keep their formal presentation to a minimum but instead are warned to be ready for a free wheeling discussion. These discussions have proved unusually interesting and have, it appears, been stimulating for the instructor, the visitor, and the students. In the second term we begin to study some of the causes of deviant behaviour, its prevention and correction. The first five weeks are devoted to visits by two psychiatrists, two social workers from the criminological field, and the Commissioner of Penitentiaries. The remainder of the seminar is devoted to the presentation by students of their term papers. Students are not allowed to read formally their papers and must devote at least half of their time to answering questions on their presentations. The writer insists, as far as possible, that every student do a fair amount of field research in preparing his paper. Field work is valuable in that it allows the student to learn more about what is happening in his society, and also meet people doing important and relevant work. Furthermore, students are encouraged when writing their papers to compare what is happening locally with developments in other jurisdictions. This ultimately encourages the critical policy minded approach to problems previously advocated. A sample of the papers written last year include "The Social Welfare Court", the "Court of Sessions of the Peace", the "Classification system in Canada's Penitentiaries", "Role of the John Howard Society of Quebec", and "Probation in Quebec". The following are a sample of the papers being prepared this year: "The role of the school in preventing juvenile delinquency", "The Psychology Testing Clinic attached to the Social Welfare Court", "The Medium Security Institutions of Quebec", "A critical appraisal of the Administration of Criminal Justice in Quebec", "Juvenile Delinquency, — A Study of the Shawbridge Boys Farm and Training School". It was especially gratifying to discuss with one of my students his experiences in preparing a paper on the causes of juvenile delinquency. He contacted the casework supervisor of the Catholic Boys Services, Mr. Rod Manson, for information about delinquency in Montreal. He established such a good relationship with Mr. Manson that after graduation and some training by the Agency, he is going to serve as a volunteer worker. This student indicated to me that he enjoyed preparing his seminar

paper more than any other work he had done in seven years of University. It is my view that this was true for a number of reasons which throw light on the need for a new approach to legal education. First he was working on a topic of interest to him. Secondly, he was able to examine problems of immediate vital concern to everyone in the community. Thirdly, he was able to assess some of those problems in the light of his research findings. Fourthly, he will have the opportunity to expand on his research and ideas before some of his classmates.

Undoubtedly criminology is a subject which lends itself particularly to a variety of teaching methods. It is my contention that a great many other subjects also lend themselves to a diversity of approach, for example, the administration of civil justice, trial and appellate practice, land use planning, anti-trust law and administrative tribunals. The main point is that we must seek methods which broaden the student's approach to his subject, while at the same time precipitating greater involvement by him in his legal education. The introduction of moot court work at McGill has been a very important step in this direction. Ideally, a moot court should not only involve an analysis of the student's legal reasoning, but also should serve as an opportunity to evaluate his overall performance. He should be advised about the standard of his presentation and given some hints about how it could be improved. Students might be encouraged to comment on each other's performance, as a way of improving their own self-awareness.

Canadian law schools have devoted very little time to studying the actual operation of the courts. This perhaps may partially explain why changes in the administration of justice are often more badly needed than changes in the substantive rules themselves. Admittedly, a course in advocacy and judicial administration would be difficult to institute but it would fill a long time void in legal education.[11] A course of this type would involve not only the study of existing trial and appeal practices but also the study and perhaps drafting of pre-trial documents. Judge Jerome Frank argued that the so-called case method was a misnomer in that it only involved a study of final judgments and totally ignored all the steps preceding the trial and the trial itself.[12] At least one optional course along these lines for students particularly interested in litigation would be a substantial step in meeting this criticism. Many law teachers may retort that this is a return to the trade school approach and that it would be

[11] A. L. Stein, *Practical Training for Trial of Civil Cases*, (1961) McGill L.J. 207.

[12] Jerome Frank, *Courts on Trial*, (1949), p. 233.

inconsistent with the views previously outlined in this paper. My answer is that it is important that the Course not degenerate into teaching the tricks of the trade, but that it remain basically a critical survey of existing procedures used in our court system. It would be hoped that the current Canadian practices would be examined critically and that students and teacher would contemplate improvements in both the trial and administrative methods used by the courts of this Country.

A course on the legislative process would, it is submitted, be a valuable addition to our curriculum. It would give the students some insight into the legislative process and would ideally involve having each student do some legislative drafting. A course along these lines has been developed at Dalhousie law school. Each student is required to prepare a report on a topic, and then draft legislation to deal with this issue.[13] This method not only serves to promote the policy-orientated approach previously advocated, but also helps to familiarize students with the problems of legal drafting.

A Summary

It is now appropriate to summarize some of the preceding proposals, and at the same time submit additional suggestions. First, we should try to make a fresh assessment of our total resources both material and human. This involves trying to assess at least our short term financial picture in order to ascertain which proposals can be implemented immediately and what will have to be delayed. It is my contention that we have within the Faculty and the University untapped academic potential. For example within the Institute of Air and Space law there are men who are trained in both Europe and the United States who could contribute significantly to our undergraduate programme. In particular their experience in transnational law could be effectively used to give our students a better understanding of significant legal changes throughout the world. We have already begun utilizing the services of teachers from other parts of the University, but more can still be done.[14] Our ultimate goal should be the making of some joint appointments with other departments. This is necessary in order that persons from other disciplines spend at least part of their week in the law school collaborating on

[13] The above information was supplied to the writer by Professor W. Charles, of Dalhousie University, in the course of discussions at the McGill Law Faculty in December, 1963.

[14] At present Professor Irving Brecher of the Economics Department gives a joint seminar with Professor Cohen in Anti-Trust law. Professor Mladenovic, last year, started an optional seminar on Russian law.

a sustaining basis in both teaching and research with members of the law faculty.[15]

Secondly, it is my view that we should begin offering a far greater number of options to our second and third year students. At the present time a law undergraduate of this Faculty is only allowed to opt one seminar from amongst four offered in the third year. Surely it would be desirable for every student to have the opportunity of taking at least one seminar in second year. Furthermore it should be possible for him to make at least some choice with respect to courses in both the second and third year. It is, of course, assumed that more optional seminar work should be done in the third year. This plea for options is based on the theory that people work harder, and learn more when they have the opportunity of studying material in which they have an interest. Furthermore the use of options and seminars breaks down the number of students in each class, thereby allowing the reading of more papers and fuller class participation. Also, some degree of specialization at the undergraduate level is necessitated by the increasing tendency and need for specialization in our society. Finally the development of options allows teachers to give courses in fields where they have a particular interest. Teachers are more likely to write and do research in areas where they teach, which means that law teachers would be contributing ideas on a far wider variety of subjects than previously. The trend towards options in undergraduate law studies has been very pronounced in the United States, and a number of Canadian law faculties have begun to follow suit.

Thirdly, we should consider dividing our programme into six terms, consisting of two terms each academic year. This system would involve the writing of as many finals as possible at the end of each term, though of necessity some courses would have to be given throughout the academic year. The object of this system is to reduce the number of examinations written at the end of the year. We should strive for the goal of never requiring a student to write more than five, or at most six, examinations at any one time. A load of more than six subjects does not allow him sufficient time to explore problems in depth. Furthermore, the number of examinations could be reduced by the addition of more seminars and courses like "legislation", where the preparation of assignments would be substituted for a final examination.

Fourthly, this Faculty might give consideration to promoting extra work in certain areas of the law. Perhaps some form of co-

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[15] Jack Ladinsky, *What the Lawyer Can Learn from Social Science*, 16 J.L.E. 127.

operation might be devised with other law schools, whereby different faculties would undertake to specialize in different areas. Through this joint co-operation we would begin to provide better post graduate programmes in law in this country. A student interested in post graduate work in a certain field would be advised of the appropriate Canadian law faculty which is concentrating on his area of interest. Perhaps we might develop as a specialty at McGill along with our Air and Space programme, advanced study in the fields of commercial and corporation law. Without going into detail it is sufficient to say that we have on this Faculty at the present time at least five or six men with qualifications and interest in those areas. Furthermore we are part of a large commercial centre with all the advantages which that provides, such as a large number of outstanding practitioners who specialize in tax and corporation law. We are already fortunate in having an annual McGill conference on the closely related problems of anti-trust law.

In the fifth place, we must consider whether we are adequately preparing our graduates for the ethical and emotional problems of law practice. Dr. Andrew Watson, a psychiatrist attached to the School of Law at the University of Michigan, argues that law faculties have failed in this task.[16] Medical schools attempt to deal with this problem while their students are doing clinical work. Dr. Watson suggests that since legal education is of a non-clinical nature, consideration should be given to introducing students to the problems of professional responsibility in the context of teaching interview technique. In most provinces it would perhaps be more appropriate to include this type of material in the various bar preparation courses. In Quebec, however, where each faculty is responsible for organizing its own post graduation practical year, a course along the lines suggested by Dr. Watson could be included by McGill as part of the fourth year programme.

Finally, consideration must be given to the problem of how we can induce students from all parts of Canada to attend this Faculty. Due to Bar regulations it is impossible to recruit students from other provinces if it is their intention to practise law in their own jurisdiction. Perhaps we might try to attract persons who would like a legal education but are not interested in the practice of law. Also we might devise a system whereby these students would be excused from a number of the more technical and procedural courses and instead they would be allowed to substitute courses in political science, history, economics, etc. Arrangements might be made for

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[16] Andrew S. Watson, *Some Psychological Aspects of Teaching Professional Responsibility*, 16 J.L.E. 1.

them to begin working on M.A. degrees while pursuing their legal studies. This course would be particularly useful for people interested in a career in public administration, business or politics. A course of this type would provide people from outside the Province with an opportunity to study political and social developments in Quebec, obtain a background in law, and at the same time take some of the excellent courses offered in other departments of the University. However, in order, to implement a course of this kind, it would be necessary to offer some form of financial help to prospective students.

It is mainly during the course of his formal legal training that the prospective lawyer is given some understanding of the interaction between law and social change. His legal education should also imbue him with an awareness of the responsibility vested in the legal profession by society. It is one of the law school's main tasks to prepare students adequately for the proper discharge of their professional responsibilities. This means not only equipping him with adequate technical skills, but also giving him some understanding of when and how he should influence social development. It is therefore imperative that we resist any pressure tending to convert our law faculties to conveyer belts, merely passing on legal technicalities to the student population. Instead, everyone connected with legal education must, as a primary obligation, try to understand the decision making processes and to consider ways of improving them within our legal system.