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The Department of Law, Carleton University, Ottawa

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Notes and Comments

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I. Introduction

The purpose of this article is to describe how one undergraduate law program is operating, the objects of that program and the problems faced in offering law courses outside the professional schools. The extent of legal activity at Carleton will be outlined first, followed by an explanation of the reasons for the development of the particular calendar content. Different approaches to the teaching of law in the context of a general university program will be considered, discussing particularly the application of the techniques of the social sciences. The role of undergraduate law and the possible professional applications of a B.A. which includes law courses will then be assessed. Finally, the Department's situation relative to the position of law faculties will be noted.

I feel no special need to justify teaching law at the undergraduate level. The fundamental social importance of legal structures speaks plainly for extending understanding of the working of the legal process in every available way. The experience in teaching law in universities outside North America indicates that in many respects the undergraduate program is the normal place for legal education. The paper aims to inform about one law department's situation, with the hope of identifying questions and policies which may have to be considered in other universities proposing to institute undergraduate law. No suggestion is made that the Carleton program is a model for imitation in detail: its content is the result of slow evolution in response to needs unlikely to be entirely duplicated elsewhere.

This article is a personal account from one member of the Department, not an agreed, official departmental report. My hope is that some of the revelations will not slow down the growth of undergraduate law programs!

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II. Background

Carleton University is situated in the non-industrial city of Ottawa, seat of the Canadian federal government and of the Supreme Court of Canada. The population of Ottawa is 300,000 but the city is at the centre of other urban development which overall would include 500,000 people. The language of instruction at Carleton is English. Within the federal capital there is also the University of Ottawa where the predominant language is French. The University of Ottawa includes a professional law faculty divided into an English-speaking Common Law section and a French-speaking Civil Law section. In the former, students are prepared for the practice of law in the Common Law jurisdictions of Canada and in the latter for practice in Quebec. In Ottawa, post-secondary education is also conducted at a number of community colleges which give vocational and technical instruction.

Carleton University was founded in 1942 and moved in 1954 to a large and attractive campus between the Rideau River and the Rideau Canal in south-west Ottawa. The student population exceeds 16,000, including some 7,000 part-time students who usually take only one course in an academic session. For the benefit of part-time students many courses are offered in the evening. The university has five faculties each with its own Dean: Arts I (humanities), Arts II (social sciences), Science, Engineering, Graduate Studies. There are a further eight schools or institutes each headed by a Director: Commerce, Architecture, Industrial Design, Journalism, Canadian Studies, International Affairs, Soviet and East European Studies and Public Administration. The Department of Law belongs to the social sciences faculty, Arts II, and is headed by a chairman.¹ The Dean currently responsible for the law program within the university is a psychologist. Other recent incumbents have been a geographer, and a sociologist.

III. History of the Department

Courses in law were first offered at Carleton in the academic year 1946-47. From the first, law courses were listed separately in calendars rather than being shown as courses belonging to the various social science programs. The normal manner of presentation of the law teaching done elsewhere in Canada outside of the law

1. The present chairman is Professor K. G. McShane.

schools is to include law courses among the offerings of departments of psychology, political science, philosophy and sociology. The separate status given law courses at Carleton is probably the reason that they came to be administered by a nominally distinct department.

Until 1967 the Department of Law — originally the Department of Public Law — was scarcely distinguishable from the Department of Political Science. All law courses were also listed as political science courses and the Chairman of the Department of Law was a member of the Political Science Department. In 1967, the chairmanship of the Department of Law passed to the university's first full-time law appointee, Professor R. D. Abbott, and the Department achieved status and administrative facilities independent of the Department of Political Science. In 1969, the Department ceased to be the "Department of Public Law" and became the "Department of Law".

Before 1963, all law courses at Carleton were taught by sessional lecturers *i.e.* part-time faculty. The earliest course programs included elements of law and various public law offerings such as administrative law, constitutional law and international law. In 1965, commercial law began to be listed as a Public Law course having previously been non-departmental in status. In 1971 and 1972, a large number of new courses were added as further faculty were appointed and student demand increased. Since 1974, there has been no increase in the number of listed courses or in full-time faculty appointments, although student enrolment has continued to grow.²

IV. *Courses and Staffing in 1975-76 and Physical Facilities*

Table I lists the courses offered by the Department and indicates the strength of present enrolments. The total of 2350 student/course enrolments makes the Department's operation similar in size to that of a law school with 470 full-time students. Various other departments in the university also make offerings of their own of relevance to law. These include Psychology and the Law, Sociology of Deviance, The Police in Society, Conflict and Society, Law and Social Change, Criminology and Law of Public Authorities. The

2. A new course in the legal aspects of sport was offered on an experimental basis in the summer of 1976 and is now being taught during the 1976-77 session.

question of interrelation with other departments will be discussed later.

The Department each summer offers a small selection of its thirty-one full courses in the university's Summer School program. The courses usually offered are the foundation courses and those with high enrolment during the regular year. The Summer School is also occasionally used to introduce and test interest in new courses. Faculty receive additional remuneration when they undertake Summer School teaching.

The Department is currently (1975-76) staffed by eleven full-time faculty. Much teaching also continues to be done by part-time sessional lecturers. In the academic year 1975-76, fourteen were employed. These break down into: four practising lawyers; six government lawyers; one officer of the Law Reform Commission of Canada; one professor at another university and two other suitably qualified personnel. In previous years, the Department has enjoyed the services of a judge of the Provincial Court. Various federal and national institutions situated in Ottawa also make for a wide choice of eminent people when occasional guest speakers are sought.

Sessional lecturers bring to their courses the experience of day-to-day contact with different sections of the working legal system and many of them value the opportunity to work in an academic environment. But the Department's resort to part-time faculty is heavy and many would say excessive. The burden of the administration of all courses necessarily falls on the full-time faculty and often counselling in respect of courses taught by sessional lecturers has to be done by the professors since the outside commitments of the sessional lecturers make them unavailable to students. Also, part-time faculty gain very little sense of the overall program offered by the Department and may be unaware of the role their course is designed to fulfil in that program. Courses taught by sessional lecturers almost always have to be timetabled for the evenings as single weekly three hour classes which many students find inconvenient and compromising of their interests. However, the financial interest of the university is to continue extensive use of sessional lecturers since a number of these can discharge the teaching load of a professor at a fraction of the cost of a full-time appointment.

A number of courses with large enrolments have lectures supplemented by tuition by teaching assistants and discussion leaders. These are recruited mainly from the university's senior

students and from students at the Law Faculty of the University of Ottawa. No less than forty teaching assistants are employed overall.

The complement of teaching personnel is centred in the university's social science building. The Department maintains on its premises a small reading room to keep on hand a few basic legal materials. The university's general library contains an adequate collection of law reports, textbooks and legal periodicals. Research requiring more comprehensive sources can conveniently be done in one of Ottawa's specialist law libraries such as the library of the Supreme Court of Canada. Many instructors in the Department have compiled casebooks and sets of materials to meet the unique needs of their courses.

V. Degree Programs

Law courses at Carleton are open to all students who satisfy the prerequisites for admission. Law may also be studied in a Combined Major program or in a Combined Honours program, in conjunction with another discipline.

Combined Major students must complete at least four but not more than seven full courses in law according to the following prescribed pattern: (a) Introduction to Legal Studies, (b) The Legal Process, (c) One law course at the third year level or higher, and (d) at least one further law course.³ Students whose other discipline is not a social science must take at least one introductory course in a social science as may be approved by the Department of Law.

Combined Honours students must satisfy all the requirements of the Combined Major program and in addition take at least one other law course at the fourth year level and submit a law Honours Essay. In lieu of the law Honours Essay, students may complete an Honours Essay in the other combined discipline in which case they may be required to take Directed Studies in Law. These courses require students to engage in a major piece of supervised research and writing during their final year.

Two members of faculty supervise the degree programs and advise students on requirements and standards and the most suitable options for their situation. In 1975-76, 177 students were enrolled in the Combined Major Program and thirty-one students in the Combined Honours Program. The most common subjects of

3. In 1975 the Department resolved to change this requirement for Combined Major students to "at least two further law course".

combination were political science (85), sociology (29), history (26), economics (22) and psychology (17).

The two courses which are compulsory in the combined law programs are Introduction to Legal Studies and The Legal Process. The former, which is taught by lectures and discussion groups, offers an historical introduction to the study of law and to the Canadian system. The material covered includes English and Canadian constitutional history and some legal history, problems in the relation of law and morality, the protection of civil liberties, the outline of the modern court structure in Ontario and of civil and criminal procedure, a study of the judicial process with particular reference to the use of precedent and a study of the legislative process with particular reference to statutory interpretation. The course offers an historical and institutional perspective to law and includes a bias towards public law. It is the prerequisite for most of the more advanced courses offered by the Department.

The Legal Process, which may only be taken when Introduction to Legal Studies has been completed by the student, offers a philosophical and sociological perspective to law. This course, which is taught in seminar form, aims to study the legal process in its broadest social context by investigating the actual functioning of legal institutions and enquiring what sorts of dispute the legal process is suited to solve. The course seeks to analyse at a more profound level certain aspects of trial procedure, of the judicial process and of the legislative process to which the student would have been introduced in Introduction to Legal Studies. The emphasis throughout is on reading, research and participation by the student. This is particularly stressed in the second term of the course where student groups must make classroom project presentations on selected topics of their choice in the sociology of law. These include: law reform, small claims courts, automobile accident compensation, discretion in the criminal process, plea bargaining, political trials, legal aid, legal education, the legal profession, the police force and problems of experts and amateurs in the legal process. This course, as the one most likely to be taken by students intending extensive study within the Department's program, includes instruction in legal writing and research.

VI. The Development of the Courses Offered by the Department

Three general factors have influenced the development of the

Department's course offerings: (a) need, (b) market, and (c) faculty interest.

(a) Introductory courses, such as the first year course Introduction to Legal Studies, or the second year courses The Legal Process and Introduction to Public Law, are clearly offered to satisfy the students' need for basic information about the legal system before they can usefully tackle more specialised subjects.

(b) The Department's offerings have also grown in response to market demands from three general sources: (i) demands from other departments and programs in the university, (ii) general student and public demand, (iii) the demands of certain professions. It cannot be said that a particular course is offered exclusively in response to one of these desires; the division is merely useful for explanatory purposes.

(i) This is what might be termed the "service" function. Thus a number of courses are offered in response to desires elsewhere in the university. This is not to suggest that the Department regards them as lacking legal academic interest or as being, but for the market, unworthy offerings. Thus courses in commercial law, taxation and company law cater for commerce students, communications law for journalism students, and various public law courses for students of political science and public administration. These are the more direct examples of "servicing". Related to this is the Department's contribution to general interdisciplinary studies: courses in criminal law (Law and Antisocial Behaviour), family law, and Women and the Legal Process may appeal to students of sociology and psychology; courses in commercial law, taxation, property law and labour law may be useful to economics students; environmental law and local government law for geographers; jurisprudence for philosophers; international law for students in Carleton's School of International Affairs; Socialist Legal Systems for students in the Institute of Soviet and East European Studies. The result is that a number of courses are crosslisted as credits or offerings in the allied department.⁴

(ii) General public interest and demand has prompted the offering of certain fundamental law courses. Commercial law, criminal law,

4. In the Fall of 1976, the Department began circulating a law journal to local high schools. This journal (*Just in Time*, ed. E. R. Myers) is designed to provide school teachers with a current source of legal comments written in a style appropriate for the school readership. It is proposed to extend the readership in 1977.

tax, torts, civil liberties and constitutional law seem to fall into this category. Topical popular interest no doubt prompted the introduction of women and the legal process and the law of native peoples.

(iii) The Department has responded to the calls of certain professions found at strength in Ottawa by offering a number of additional courses. (The question, to what professions the Department's program is of use, rather than this question, what professions have moulded its content, will be discussed later.) The courses on staff relations in the public service and on the law of public authorities clearly cater to persons employed in the federal government service. In the academic year 1975-76, the course Elements of Law was redesigned to serve as a vehicle for training teachers proposing to teach law in High Schools.

(c) Clearly the strengths and interests of the particular faculty appointed have exercised their influence on what courses would be offered. More recently market demand has had to take pride of place and the strain of the existing program on resources has inhibited expansion based on personal faculty interest. But in earlier times the Department's various comparative and other specialist courses arose from the presence of suitably qualified staff.

Overall the Department's historical origins and location in Ottawa have caused a stress to be placed on public law subjects.

From the negative point of view a number of more or less obvious factors explain why certain courses do not appear in the Department's calendar: the Department's limited funding and scale of operation prevents the inclusion of certain advanced or specialist courses; courses tied to professional legal training such as trial court practice or law office accounting do not fall within the Department's self-perceived function; courses such as restitution or the conflict of laws which assume a broad basic familiarity with a number of areas of private law would not be suitable for inclusion as well as certainly enjoying no market demand. The absence of courses in evidence, poverty law and the sociology of law is simply to be regretted — at least by the author — but growth into these or other fields is impossible in the current economic situation.

VII. *The Approach to Law Teaching*

The Department teaches law in the context of the social sciences but is certainly not an "Institute of Socio-Legal Studies" or a "Department of the Sociology of Law". The approach to law

teaching in the Department represents a balancing of historical, philosophical, sociological, practical and “black letter” techniques. Individual instructors will stress one approach more than the other according to their experience and interest, and the constituency of many classes will make it apparent which approach is desired. (A commercial law class composed largely of engineering students is not likely to be responsive to extended analysis of the philosophical problems of promising in contracts or the history of pleading devices in *indebitatus assumpsit*.)

Courses are taught from multi-dimensional perspectives allowing for the contribution of various disciplines to the problems considered. Instruction simply in the content of legal rules and principles is avoided. The broad areas covered in courses are designed to be presented against the background of the functioning of government, of the economy or of society at large. Students at all times are encouraged to bring to bear on legal subjects the insights they are simultaneously gaining in their work in other disciplines. This contrasts with the process of conditioning attempted in the first year of law school — to make students “think like lawyers” — a process which then has to be undermined if profitable insight is to be achieved at an advanced level. The Department sets a higher value on imaginative thinking than on legal thinking.

The Department’s contribution to interdisciplinary studies occurs also at the level of supervision of honours and graduate theses presented in other departments. The assistance of the Department will be invited when a student engages in research into a subject which has clear legal associations.

VIII. *What’s the Use?*

Individual law courses offered by the Department are proving of use and of interest to persons working in many fields: police officers, teachers, marriage counsellors, legal translators and interpreters, local government officers, court and law office administrators, claims officers and many public servants. A clear destination pattern for the majority of persons who have completed the combined degree programs has emerged — intended or actual entry to law school. Others taking a law program have proceeded to graduate studies in public administration. No patterns of direct entry to paralegal occupations by persons holding a combined B.A. in law are to be seen. There are a few examples of such students securing research positions for government projects.

As public awareness of problems in the legal process increases, the demand for knowledge about the law will grow. The Department's expansion reflects the interest of students in legal problems and their valuing of law as a worthwhile subject for study. The fact that the Department's courses gain them no formal credit for professional legal education deters them not at all. Clearly an understanding of the legal process is finally being recognised as vital for all members of society. What astonishes is that this discovery should have taken so long in Canada.

IX. Students Intending to Go to Law School

The current heavy competition for entry to law schools exerts a strong influence on the Department's program. Many students take law courses in the hope that successful performance in them will increase their chances of being admitted to law school. Others, realising their slim chances of entering a professional program, take law courses to satisfy their interest while they have the opportunity to do so. There has been some debate within the Department on how much law a law school hopeful should take at the undergraduate level.

On one side it is claimed that the purpose of a first degree is to lay broad foundations in various disciplines so that extensive undergraduate legal study, which will be repeated in law school, will result necessarily in a narrowing of outlook and a loss of opportunity to explore a range of fields in an academic environment. On these principles, the law school hopeful would be advised to take only about three of the Department's courses.

Against this, the inherent variety of social situations dealt with in different legal subjects is pointed out. The person who studies law alone will not necessarily be "narrow" and the Carleton law degree program requires the student to combine his work with other disciplines. Since a measure of specialisation in some subjects is necessary to obtain the high marks required for admission to law school, then this subject might as well be undergraduate law which will also serve as useful background for the law school program. The possibility of gaining deeper insights from more detailed law school study will ensure that the student is not bored by repetition of work and there will be no repetition at all in respect of the many subjects unavailable for study of Carleton. The high chance of the student's not being admitted to law school speaks to his taking law courses while he has the chance.

The debate continues.

X. Relations with other Legal Institutions

Members of faculty in the Department naturally enjoy full membership in the Canadian Association of Law Teachers and the meetings of this Association and other law conferences afford opportunities for members of the Department to discuss their activities with the faculty of the professional schools. In the past, the attitude of members of law faculties towards the Department could accurately be described as one of bewildered encouragement — recognition that useful and interesting work was being accomplished but a lack of comprehension as to how it was being done or why anyone should want to do it. I hope that some clarification has been achieved by this article.

The Department has frequently drawn on members of faculty of law schools to teach courses and these teaching personnel have always valued the opportunity to give instruction in a different atmosphere and to the varied student clientele enrolled in the Department's program. Links are obviously particularly strong with the Faculty of Law of the University of Ottawa. Co-operative or reciprocal programs between this faculty and the Department may emerge. The direction of flow of teaching staff is not all one-way. Members of the Department have often been invited to offer courses in a number of the professional schools.

The Department enjoys various associations with different federal institutions. The educational function which the Law Reform Commission of Canada feels it must discharge has moulded a close alliance between the Commission and the Department. In 1974, a Jurisprudence Centre was established jointly between the Department and the members of the Commission to promote informal discussions of problems of law reform in the general context of the social sciences. The Director of the Centre is Professor P. J. Fitzgerald, member of the Department and consultant to the Law Reform Commission of Canada.

A number of members of the Department preserve direct links with the legal process by combining their academic duties with private practice, government work and acting as arbitrators.

XI. Some Problems and Some Advantages

Members of the Department are naturally envious of some of the

benefits enjoyed by their colleagues who teach in law faculties: the greater financial resources available, allowing more openings for research and for the development of new courses; higher pay scales and swifter rates of promotion; the greater maturity and (because of limited selection) greater excellence of students; lighter course teaching loads; the opportunity for automatic call to the Bar of the province and the availability within the university of comprehensive research facilities. Particularly the Department feels strongly its lack of academic autonomy within the university. The Department must enter the fray of inter-departmental rivalries — there are disadvantages to the multi-disciplinary setting. In promotion procedures, boards expecting to see numerous publications on the activities of demented rats are often ill-suited for assessing certain forms of legal scholarship. Pay differentials for the professionally qualified are not recognised. Inexplicably the attitude prevails in some quarters that undergraduate law is an unworthy academic pursuit.

It might be suggested that some of the foregoing observations display a desire to “have it both ways” — to be recognised as having a place within a general university program but also to claim the right to receive special treatment. The point is rather that law does occupy an unusual academic position in North America and has professional, governmental and business outlets as well as academic ones. This means that it will be difficult to attract properly qualified personnel to undergraduate law departments if the material rewards compare very unfavourably with positions elsewhere.

The drawbacks of the Department’s situation are many but what of the benefits? The inter-disciplinary character of the law program must rank as the chief advantage enjoyed. Faculty also have freedom to develop courses without the requirement of satisfying the needs of professional training. Carleton’s proximity to the federal capital’s legal and governmental resources affords many advantages and Ottawa’s numerous cultural and recreational attractions are not to be discounted.

The Department has succeeded in hiring well qualified teaching staff and will continue to consolidate its valuable contribution to the university’s program. Many of the problems faced in offering undergraduate law courses could perhaps be avoided if the B.A. program were taught and administered as an extension of the functions of a professional school but such an arrangement would certainly give birth to difficulties of its own.

Table I
Courses Listed and/or Offered, 1975-76

Course	Year First Offered	Enrolment 1975-76	Taught by Faculty (F) or Sessional (S) 1975-76
51.100A ¹	1970	365	F
51.100B	1970	208	S
51.101* ²	1974	N/A	S
51.102*	1974	Not Offered	
51.200A	1969	68	F
51.200B	1969	44	F
51.200C	1969	26	F
51.201	1946	12	4F + 3S
51.205A	1969	71	F
51.205B	1969		
51.210	1974	17	F
51.220A	1965	158	F
51.220B	1965	209	F
51.220C	1965	193	S
51.221	1972	37	2S
51.234A	1970	101	F
51.234B	1970	69	S
51.284	1970	53	S
51.301*	1973	Not Offered ⁵	
51.310	1971	15	F ⁷
51.320	1974	30	F
51.321	1965	61	F
51.323	1970	26	F
51.324	1971	89	F
51.333	1972	41	F
51.351*	1973	125	F ⁸
51.352*	1973	N/A	S
51.353	1970	56	S
51.374	1969	17	S
51.380	1970	21	F
51.386*	1971	16	F

1. Letter indicates sectioning of class for teaching purposes

2. Asterisk indicates half-course, one term in duration

3. Law 51.101* is identical in content with the first half of Law 51.100 and is offered in the university's Spring Admissions Program which begins each year in February. The equivalent of Law 51.100 is completed by taking Law 51.102*, Introduction to the Canadian Legal System, during the summer. Law 51.102* is identical in content with the second half of Law 51.100. Law 51.101* is also offered in the summer school thereby enabling summer students to also complete the equivalent of Law 51.100

4. Crosslisted with St. Patrick's College, a liberal arts college within Carleton University

5. Offered in the summer, 1975

6. Crosslisted with the Department of Philosophy

7. Taught in 1975-76 by a member of faculty in the Department of Philosophy. Usually instruction in this course is shared between faculty in the Department of Law and the Department of Philosophy.

8. Crosslisted with the School of Journalism. Communications Law I is taught by a professor in the university's School of Journalism

9. Crosslisted with the Department of Geography

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51.387*	Quebec Law	1971	16	F
51.420*	International Economic Law I	1969	10	S
51.421*	International Economic Law II	1969	N/A	S
51.441	Labour Law	1968	47	F
51.445*	Staff Rel'ns in the Public Service	1971	23	2S
51.450	Canadian Constitutional Law	1946	24	F
51.453	Law and Native Peoples of Canada	1973	Not Offered ¹⁰	
51.455	Administrative Law I	1946	36	S
51.463	Public International Law	1946	11	F
51.488	Socialist Legal Systems	1971	17	S
51.490	Directed Studies	1971	19	F
51.491	Tutorial in Law	1969	—	F
51.498	Honours Essay	1971	13	F
51.555	Administrative Law II ¹¹	1971	16	F
51.567*	Advanced International Legal ¹¹ Problems	1971	N/A	F
TOTAL ENROLMENT			2350	

10. Offered in the summer, 1975

11. Graduate course open to undergraduates