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F. M. Fraser*

The Faculty of
Law at the
University of Victoria

In 1969, the Senate of the University of Victoria approved in principle the establishment of a Faculty of Law. The decision to create British Columbia's second law school came after years of planning by university officials, representatives of government and the legal profession. The Victoria Bar Association had approached the University in 1966, urging it to develop a programme of legal education. In 1973, the Provincial Government announced its intention to support the new faculty and the University established a committee to recommend the appointment of a Dean.

The University of Victoria offers an attractive setting for a law faculty. A college for more than half a century, it became a degree-granting institution in 1963 and by 1974 its enrolment had grown to 5500 full-time students, enrolled in the existing faculties of Arts and Science, Education and Fine Arts. In addition to the programme in Law, the University, with the support of the provincial government, approved new programmes in Social Welfare, Public Administration and Nursing to commence between 1973 and 1976.

The location of a law faculty in a provincial capital, with access to the legislature, the civil service, and several major government agencies, blended with the existence of a strong and sympathetic Bar to produce an inviting climate for the development of the new school. Those who had been responsible for the initial planning envisaged an enrolment of modest size in a relatively small university where interdisciplinary teaching, study and research would develop easily and the study of contemporary issues of public law and legislation would evolve as an area of major interest.

The Dean, F. Murray Fraser, formerly Associate Dean and Professor of Law at Dalhousie University, took office on July 1, 1974. Miss Diana M. Priestly was appointed Law Librarian and Professor. Miss Priestly had served previously at a number of Canadian universities including Osgoode Hall Law School of York University. Professor Ronald Cheffins, who, as a member of the

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Political Science Department at Victoria, had been a major force in the creation of the Law School, held a joint appointment in Law and Political Science until July 1, 1975 when he became a full-time member of the Faculty of Law. He had taught law at McGill University and is a specialist in Constitutional Law.

With the support of the senior academic officers of the university, it was decided that every effort should be made to attract as faculty members Canadian law teachers with established reputations in teaching and research. Appointed to the Faculty, as of July 1, 1975, were Keith B. Jobson, formerly Director of the Sentencing Project of the Law Reform Commission of Canada and a former faculty member at Dalhousie; Lyman R. Robinson, formerly Associate Dean and Professor of Law at Queens; T. J. Wuester, Professor of Law at the University of Saskatchewan; Frank S. Borowicz and Neil Gold, both of whom had served as Assistant Professors at the University of Windsor. The Law Foundation of British Columbia provided funds for a Visiting Professorship and Professor W. H. Charles of Dalhousie accepted that position for the academic year 1975-76.

For the 1976-77 academic year, three additional full-time appointments have been made. They are: Gerry Ferguson, Associate Professor, formerly of the Faculty of Law at Ottawa University; Mary Anne Waldron, Assistant Professor, a graduate in law from Manitoba, who completed her graduate work at the University of British Columbia, and practised in Vancouver for a period of time; and James C. MacPherson, Assistant Professor, a graduate in law from Dalhousie who has recently completed two years of graduate work at Cambridge. A number of advanced seminars are taught by practitioners from Victoria and Vancouver. Approximately five appointments will be made in each of the next three years to bring the number of full-time faculty to twenty-five.

During 1974-75, the major tasks were to recruit full-time faculty, develop and put into effect policies which would permit the orderly but rapid growth of the Law Library, design the basic curriculum with particular emphasis upon the first year programme, and attend to the many administrative and executive responsibilities including the task of developing communication with the legal profession in the province.

Under the outstanding leadership of Miss Priestly, the Library has taken shape both conceptually and physically. The years of planning and anticipation had produced a modest collection of several

thousand volumes, many of which were transferred to the Law Library from the University Library. The Law Foundation of British Columbia has provided \$600,000 over a four-year period as a development grant and additional funds have been forthcoming from the University budget. At the time of writing, approximately 65,000 volumes are housed in the Law School's temporary quarters, and a collection of 100,000 volumes should be available within three years. The new Law Building will include a Law Library with a capacity for 250,000 volumes.

For those involved in the process, the planning of the curriculum, particularly the first year programme, has been the most intellectually refreshing and exciting experience of the last two years. Located in six Canadian cities, removed from Victoria by up to 3500 miles, and operating under severe time constraints, faculty members tried to determine the strengths and weaknesses of the existing programmes of legal education and then attempted to apply the results of their analysis to the creation of a new programme. Apart from three major meetings, the ideas had to be developed, transmitted, dissected and transformed through memoranda and telephone conversations.

The nine original faculty members resisted the very strong temptation to "re-package" existing curricula and, instead, attempted to design a programme to take full advantage of the opportunity to build "from the ground up", seizing upon the expertise available within the faculty, the university and the community, and concentrating upon teaching methodologies as well as substance and content. What emerged was a commitment to fashion the study of law to permit the understanding of law as a process which affects human beings through various institutions and procedures, an emphasis on the public aspects of law, and a determination to pursue opportunities for academics of different disciplines to confront major social issues together, through the application of their knowledge and experience.

In March, 1975, the Senate of the University of Victoria accepted the curriculum presented by the Law Faculty and shortly thereafter the Law Society of British Columbia, the Law Society of Upper Canada and the governing bodies of all other common law provinces granted the faculty the status of "an approved law school", thus according the University of Victoria the status given to the established Canadian common law schools.

It is not appropriate to provide a detailed analysis of the

developing curriculum. That kind of critical commentary should take place but, obviously, it must emanate from an objective author! However, the first year programme reflects the major objectives of the curriculum and some comment upon the courses and their objectives may be helpful.

The first year programme is compulsory and, subject to the exceptions noted below, all courses are what are known as full year courses.

The first four weeks of law school are devoted exclusively to the Legal Process. Each basic teaching unit consists of fifteen students and two professors who are joined, from time to time, by members of the practising Bar, lawyers in the government service, members of boards, commissions and agencies, and participants from other disciplines and professions.

The course has a variety of components — historical, philosophical, institutional and procedural. It seeks to present a perspective of the processes of decision-making within the legal system by examining its major institutions and the function of substantive and procedural law within them. Students prepare for each seminar or discussion group with the assistance of a course book prepared by Professors Borowicz and Gold. Much of the material is considered in the first month although it is designed to encourage reflective consideration of the legal process as the student gains substantive knowledge through other courses during the year.

Students and faculty discuss the objectives of legal education: methodology, content and design. The curriculum is reviewed in this light. Consideration of the role of the lawyer in society provides an opportunity for participation by practitioners and the discussion is extended to include an examination of the purpose of law, the concept of the professional and his responsibilities, and the forces of change that are affecting society today.

On a more concrete level, the student gains an appreciation of the legislative, administrative and judicial functions through reading and discussion, and by visits to some of the courts and government agencies.

Through an intensive experience involving the study of selected materials in Tort law, the student is expected to develop skills of case-briefing, analysis, synthesis and an appreciation of the importance of facts in the legal process. Another objective is to reduce the amount of time that is devoted later in the term to the development of such skills and to permit the student to approach the

conceptual development of law with greater sophistication.

Representatives of other disciplines participate in the consideration of issues which illustrate the need for interdisciplinary research. What may at first appear to be narrow legal problems are developed to require the expertise of non-lawyers in their solution.

At the conclusion of the first month each student is placed with a practising lawyer for three consecutive mornings during which he or she is able to view the law in action.

Opportunities for evaluation of the course are provided at various times throughout the year. Evaluation of the student for academic purposes takes place through an assignment which seeks an analysis of the legal process by requiring the student to relate the first month's experience to a current issue, for example, the evolution of change in matrimonial property law. In addition, a major part of the Legal Process course is a compulsory programme in Legal Research and Writing, modelled primarily upon the programmes at Dalhousie and Windsor. Although the major concentration of time for the Legal Process course is the first month, the groups continue to meet throughout the academic year.

The four remaining first year courses commence in October, although the hours allotted to each vary from time to time to meet the objectives of the various components of the programme.

The Constitutional Law Process provides an introduction to the Canadian constitutional system and is intended to give students a foundation from which to proceed to more advanced public law courses during the second and third years. It is taught in one section.

The Criminal Law Process emphasizes the process of Criminal Law as a means of sanctioning prohibited conduct. The class is taught as a seminar, with each section limited to about twenty students. Field work and opportunities to observe the working of the criminal justice system are provided. The second and third year programme includes courses in Criminal Procedure, Advanced Criminal Law and Sentencing.

Law, Legislation and Policy is designed to emphasize at an early stage the importance of legislation in the legal process. Each student is required to prepare a paper in which are developed the policy issues relating to proposed legislation in a selected area. In addition, the student must prepare a draft bill in which the skills of draftsmanship are developed. The assistance of the office of the Legislative Counsel is an integral part of the course. An examination of the rules of interpretation and their use in the judicial

interpretation of statutes is intended to underline the problems faced by lawyers in translating general ideas to specific language. Consideration is also given to the ways in which the law may change through judicial interpretation and legislation, and the functions and responsibilities of law reform commissions.

The course is designed primarily as a vehicle to teach legislation. For the first few years, Family Law has been selected as the area of substantive law for consideration. In other words, statutes, cases, and materials in Family Law are used to achieve the objectives of the course in Legislation, although other areas of law such as Labour Law or Environmental Law could be just as effective.

The Private Law Process concentrates upon some of the basic rules of processes which regulate the relationships between private citizens. The course concerns itself primarily with the subject areas of Contract, Property and Tort. An attempt is made to integrate and interrelate some of the concepts covered normally in each of these areas although the lack of teaching materials and the difficulties inherent in coordinating the development of an integrated approach to these areas of substantive law are major problems. One of the basic objectives which seems to have been achieved, at least partially, is to have the student appreciate the existence of underlying concepts which are common to these areas of the law rather than, for example, approaching a problem as being one of Contract without the realization that it may include issues of Tort as well. The course is taught on a team basis by several professors who participate together regularly in the classroom, with each professor bringing to bear upon a specific problem the expertise gained through teaching and research in one or more of Tort, Contract or Property.

In the Private Law Process students are involved in exercises designed to develop the skills of interviewing, counselling and negotiating through the use of audio-visual facilities and role-playing.

It is much too early to judge the strengths and weaknesses of the first year programme. Materials must be developed and refined; teachers require more time in which to become comfortable in the new courses. However, the opportunity to design a full year's programme has enabled those involved in the planning to build in, at least initially, a variety of approaches to learning and a number of innovations designed to commence the study of law in an integrated manner with an underlying emphasis on the law as a process rather

than a collection of rules.

The curriculum for the second and third years will not be complete for some time. However, certain preliminary decisions have been taken and the broad outline of the programme may be described briefly. All students are required to take the basic courses in Administrative Law, Commercial Transactions, Real Property Transactions, Evidence, Civil Procedure and Business Associations. A student must also select a "legal perspectives" seminar, such as Jurisprudence, during the final two years of study. The Faculty is committed to the provision of a clinical experience for students, elective at present but possibly compulsory when a variety of clinical teaching models can be developed. A full semester programme for the summer months is under active consideration.

A major innovation is the offering of "semesters". A limited number of students, approximately twelve, will be permitted to enrol in an intensive semester programme offered for fifteen weeks during which the student will take only the "semester". One faculty member is assigned on a full-time basis to each semester and he receives assistance from several other faculty members and practising lawyers. Semester programmes in Criminal Law, Family Law, and Civil Process have been approved and the Criminal Law semester will be offered during the 1976-77 academic year. Planning is now underway for a Corporate/Commercial Law semester. A major objective is to provide each student with an opportunity to concentrate upon the study of a major area of law for an uninterrupted and extended period of time. Classes will be scheduled according to academic needs; for example, the discussion of a major paper may require several days or the presentation of certain basic information may take place through audio-visual simulations which require extended class-room sessions. In the Criminal Law semester, a student examines specific crimes and defences, procedure, trial and appellate practice, evidence, and the theories and practice of sentencing. The "semester" concept builds upon the strengths found in certain clinical programmes but directs itself to a concentration upon a selected subject area of law and the processes applicable thereto.

In the area of public law, it is expected that major emphasis will be placed upon legislation, its development from the policy and technical perspectives, and the skills of draftsmanship required in the lawyering process.

In September, 1975, seventy-two students, selected from more than 900 applicants from all provinces, were admitted as the first class. Twenty-nine universities and colleges were represented in the academic programmes of the successful applicants, many of whom had completed graduate work. The average age of the class is twenty-six and approximately forty per cent are women. A faculty objective is to have approximately fifteen per cent of the student body from other provinces; in the first class, approximately ten per cent came from outside British Columbia.

In April, 1976, a Special Programme and Convocation marked the establishment of the Faculty of Law at Victoria. Honorary degrees were conferred upon the Right Honourable Bora Laskin, P.C., Chief Justice of Canada; the Honourable Nathaniel Nemetz, Chief Justice of the Supreme Court of British Columbia; W. R. Lederman, Q.C., Professor and founding Dean of Law at Queen's; and D. M. Gordon, Q.C., a scholar of international reputation who practises law in Victoria.

The Faculty of Law is housed in an extension to the University Library. Planning for a new building is proceeding and a Law Centre of approximately 60,000 net assignable square feet is contemplated. The academic plan provides for the growth of the Law School to approximately three hundred students as the total enrolment, with twenty-five faculty and the necessary support staff. Although serious thought has not yet been given to graduate work, one possibility may be a programme conducted jointly with the School of Public Administration and the Department of Political Science.

In its two years of operation, the Faculty of Law has sponsored a number of conferences and seminars including the National Conference on Legal Aid, a seminar on recent changes in labour legislation in British Columbia, a symposium on the changing roles of the professions, and a workshop on interdisciplinary aspects of child abuse. In cooperation with the Faculty of Education, the Faculty of Law has offered summer programmes for high school teachers of law, successful completion of which produces credit towards the degree of Master of Education.

In the summer of 1976, the Legal Services Commission provided a grant to enable the Faculty of Law to sponsor a pilot project for the delivery of legal services in the northern part of the province. For three months, law students, supervised jointly by faculty members and lawyers in Dawson Creek, travelled by mobile van to remote

areas to give assistance and advice in communities where legal services were unavailable.

The next few years represent the second phase of curriculum development and general academic planning at Victoria — opportunities to assess experiments already undertaken and, hopefully, to build upon the programme of legal education as the faculty matures and the period of rapid growth comes to an end.