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Legal Education in Saskatchewan 1982-1988

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My predecessor in the office of dean, Don Clark, in an article in this Journal approximately six years ago, described in his usual eloquent fashion the development of the little law school on the prairie from its genesis in 1910. In these pages I will attempt to outline some of the developments in the College of Law during my six years as dean. I intend to adopt an intuitive, first-person narrative which, I hope, will not be too self-serving in its description of the College of Law between 1982 and 1988.

On July 1st, 1982 I succeeded Don Clark as dean of the College of Law, University of Saskatchewan. It was not without trepidation that I took on the job, since under Professor Clark's tutelage the College had thrived both academically and financially. My goal was to continue and develop his many fine initiatives.

The law faculty at Saskatchewan in the '80s had developed into a school of slightly in excess of 300 undergraduate students; the annual intake being approximately 110 students. Our experience has been that the first year class averages approximately 40 percent women although we have not had an affirmative action program directed at women students. The teaching faculty numbers 23 members thereby allowing us a very favourable faculty/student ratio. The College has had a postgraduate programme dating back to the 1960's. Traditionally a very small number of students had been in residence in any given year until a concerted effort between 1982 and 1984 saw the numbers increase to nine or ten graduate students. A generous programme funded by CIDA allowed us to accept up to three students annually from the Sudan to do postgraduate work. Although the numbers from the Sudan slumped as a result of the fundamentalist revolution in that country, recently the CIDA programme has been renewed and qualified applicants have become available.

The College of Law is associated with two study centres. The Native Law Centre, formerly not officially part of the law faculty, is now directly part of its administrative structure. The Native Law Centre has two primary functions. First, it is a research centre directed at an indepth study of native law issues both nationally and internationally. Under the

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able direction of Professor Don Purich, the Centre has become likely the single most distinguished hallmark of the faculty of law at the University of Saskatchewan.

Secondly, in addition to having a research focus, the Native Law Centre operates a prelaw orientation programme which has three goals. First, it provides a vehicle by which law schools can test students prior to admission into their respective discretionary admission categories (the screening process). Second, the programme prepares students for the study of law (the orientation process); and third, by its very existence, the programme sends out the message to Canadian society generally, and to the native community in particular, that there is a place for native law students.

The emphasis of the prelaw orientation programme is on skills development. For instance, in the summer of 1988 the students studied three substantive courses (contracts, criminal law, and torts) but the emphasis was on skills, such as examination writing, outlining and brief writing, study skills and habits, and English composition. In addition to law teachers, the programme's faculty is composed of two non-lawyer writing consultants.

The summer orientation programme, is staffed by faculty members from law schools across the country. Students are accepted in the programme only if they have a conditional acceptance from a law school. Correspondingly, the condition attached to any acceptance is the successful completion of the programme.

As of 1988, 420 students have attended the programme, with 278 of those being recommended to law school. The graduates of the programme who have gone on to receive law degrees number 106. When the programme began in 1973 there were only five lawyers of Indian and Native ancestry in Canada.

The other institution associated with the law school, although less directly, is the Centre for the Study of Co-operatives. The Centre has been financed primarily from contributions by major cooperative and credit union organizations in the province; however, the University of Saskatchewan will be assuming a greater financial responsibility for the increasing activities of the Centre in future years. Including the director, the Centre has an academic staff of four with tenure stream appointments in the faculties of Law, Commerce, Agriculture, and Arts and Science.

The first director of the Co-op Centre, Chris Axworthy, a former Dalhousie professor, was appointed July 1st, 1984. Under his stewardship the research productivity of the Centre's faculty and research associates during its short 4½ years' existence can only be described in superlative terms. At the time of writing, the Centre is experiencing a

change, since Chris Axworthy has resigned as its director to pursue his duties as a Member of Parliament. The future of the Centre for the Study of Co-operatives looks very bright indeed. It is fully expected that it will continue to meet its multi-fold mandate, which includes the undertaking and publishing the results of research which focuses on co-operatives; the development of a program of studies at both graduate and undergraduate levels with a specific focus on co-operatives; and the ongoing reviewing and recommendation of changes in the law governing co-operatives.

The curriculum of the College of Law received extensive study and review resulting in a number of significant changes between 1982 and 1988. The impetus for the change, in addition to the typical cyclical curriculum review pressures, came from the *Charter of Rights* becoming law and the publication of the Arthurs Report. The combination of the two resulted in an in-depth "navel gaze" at the College of Law not unlike what simultaneously occurred at other law schools in the country. After two years of review, a committee chaired by Peter MacKinnon recommended changes, the hallmarks of which were an increased degree of compulsion in course selection, a progression from elementary to complex subject matter, and an emphasis on mid-range legal theory.

One manifestation of curriculum reform is the requirement that every law student take at least one legal theory course. To meet the demand that was created by the new requirement, a number of new courses were launched. Also, a second major writing requirement was added to the curriculum. Thus, students are required in effect to write a mini-thesis both in the second and the third year of their program. To facilitate the orderly development of courses to ensure progression from the elementary to the complex, a number of informal departments were created in the law faculty. These area groups, which are categorized according to subject matter, now take the primary responsibility for coordination and development of courses. For instance, it is only after the area groups have given approval to a new course that it arrives at Faculty Council for ultimate review.

In an attempt to further emphasize a legal theory perspective, our curriculum change saw the introduction of a "Bridging Week". The Bridging Week involves the suspension of all regular first year classes for one week in the fall term. During that week a conference style format is adopted to accommodate speakers and panels on a multiplicity of subjects having as a common theme the exposition of the principles of legal reasoning. In the two years of its operation, alternative vehicles have been used to convey the message. For instance, faculty have engaged in an "L.A. Law" skit. Additionally, one major guest speaker is invited to the College to participate in a substantial portion of Bridging Week. In

October 1988 we were fortunate to have Professor Duncan Kennedy of Harvard Law School spend three days with the faculty and students in the Bridging Week programme.

The University of Saskatchewan law school, or the little law school on the prairie as my predecessor has called it, has always enjoyed a reputation for scholarly excellence. The past six years have seen a further enhancement of the scholarly activities of faculty members at the College. The example set by senior colleagues, such as Eric Colvin, Ron Cuming and Peter MacKinnon has been emulated by several junior colleagues, such as Donna Greschner, Rob Flannigan and Tim Quigley, who are rapidly gaining national and international reputations. The contribution of colleagues to learned journals and national and international conferences has continued the reputation of the College as one of Canada's early academic law schools. The work in progress of the faculty, promises further significant contributions comparable to Eric Colvin's recently acclaimed book, *Principles of Criminal Law*.

Recent years have also seen a change in the management and operation of the *Saskatchewan Law Review*. After a careful study of the *Review's* activities, it was decided by Faculty Council to revert to a faculty-managed law review rather than an editorial board composed of students with a faculty adviser. There exists now a three-member faculty editorial board which supervises a larger student editorial board. The first edition of the new *Review* has now been published. It clearly fulfills the promise of a review with higher academic and production quality. The credit for the transition and the first year of operation of the new *Review* must go to its initial faculty editorial board composed of Eric Colvin, Donna Greschner, and Peter MacKinnon.

Clearly the biggest change that I experienced as the titular head of the College of Law for six years was the increasing importance of outside funding to the continued successful operation of the faculty. The days of sole reliance on government funding channelled through the central university administration are waning with increased rapidity. It was not many years ago that when new program funding was sought, the law faculty would look to the University in hopeful anticipation, if not expectation, that, subject to the program being wellfounded, financing would be forthcoming. These days the refrain from the university administration is more in the nature of a "good luck" wish with respect to the obtaining of external funds. As a result, over an incredibly short six years the activities of the dean of law shifted toward an increasing amount of time devoted to cultivating relationships with various bodies and groups, such as the legal profession and the judiciary, for the purpose of seeking financial support.

The primary external benefactor of the College of Law has been the Law Foundation of Saskatchewan. Under the chairmanship of Donald K. MacPherson, Q.C. since its inception, the Foundation early on voted confidence in the law school by the establishment of an endowment fund. The initial grant of \$50,000 sought and received by Dean Doug Schmeiser in 1975 grew sixfold under the tutelage of Dean Don Clark. As a result of an annual continuing commitment of \$100,000, the Endowment fund has grown since 1982 from an amount of slightly under \$300,000 to a point where it is now threatening to break the \$1 million threshold.

To suggest that the support of the Saskatchewan Law Foundation for the law school has been limited to bolstering the endowment fund would be deceiving. In addition, the Foundation has established a \$300,000 fund to support small capital projects, has made a generous grant for the purchase of computers which, when matched by the University, resulted in a \$400,000 computer lab and system, has supported research projects and has provided some annual operating funds for the Native Law Centre.

Without the beneficence of the Law Foundation, life at the College of Law, University of Saskatchewan, would be stark indeed. The various contributions of the Foundation have supported faculty research in the form of travel grants and research assistantships; it has also supported a very ambitious speakers program enabling us to draw upon the very best in the legal and academic community for the benefit of our teaching program.

Two other matters pertaining to outside funding are worthy of mention. A Law Library Endowment Fund has been established for purposes of creating an annual supplemental budget for library acquisitions. The fund is a joint effort of the University of Saskatchewan, the Law Foundation of Saskatchewan, and law school faculty, students and alumni. The University Board of Governors and the Law Foundation each agreed to contribute up to \$200,000 on condition that the funds be matched by faculty, students and alumni. As a result, a fund-raising campaign with a \$200,000 goal (which would result in a total endowment fund of \$600,000) was embarked upon in 1987. The final stages of the campaign saw the goal well within reach.

In the late 1970s, Ariel F. Sallows, Q.C. of North Battleford, Saskatchewan, established a trust fund to support a Chair of Human Rights. Upon Mr. Sallows' death in 1984 the corpus of the fund crystallized, enabling the appointment of the first Sallows Professor of Human Rights in 1986. The initial holder of the Chair was Professor Virginia Leary, a well-known international human rights lawyer from

Buffalo, New York. Dr. Leary was succeeded by two equally distinguished scholars, Mr. Paul Mahoney of the European Court of Human Rights, and Dr. Abdullahi An-Na'im, former Head of the Department of Public Law at the University of Khartoum, former visiting scholar at U.C.L.A. and at the Smithsonian Institute in Washington, D.C.

Together with the Sallows Chair, the College has seen a commitment of library resources to human rights material. Also, under the tutelage of Professor Ken Norman, the Sallows Committee has established a relationship with the University of Ottawa to encourage the sharing of resources and personnel.

The challenge facing the College of Law in the future is not a profound one, but it is a difficult one if it is to maintain a high degree of quality in the teaching and research functions of the school in a time of diminishing resources. The very difficult situation that faces the economy of the province of Saskatchewan manifests itself in such mundane matters as the inability to increase our library space to accommodate an increasing volume of material. The bricks and mortar which house the resources of the law library cannot continue to provide an efficient library operation. Yet, relief in the form of increased space seems to be even a more remote possibility now than it was five or six years ago.

The anemic economy has also taken its toll on the most important resource we possess, our faculty members. The spring of 1988 saw a campus-wide faculty strike which effectively shut down the University. The provincial legislature saw fit to intervene to require the faculty to return to work on the eve of the beginning of the examination schedule. The legislation, however, did not settle the matter of a contract between the administration and the Faculty Association. In February 1989 the parties were still at the bargaining table with no resolution in sight.

There is much more that could be mentioned about the past six years in the life of the College of Law. However, the most important is that the College continues to thrive in meeting its fundamental goal. Under the capable and watchful eye of Dean Peter MacKinnon, the future promises a continued dynamism. The phrase 'little law school on the prairie' only describes its physical attributes: its vitality, promise, and contributions are indeed large.