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Comments

Joost Blom*

The Faculty of Law, University of
British Columbia
1981-90

I. *Circumstances in the 1980s and responses to them*

It may be uninspiring to begin a sketch of the UBC Law Faculty since 1981 by talking about money, but the Faculty's financial circumstances during this period are the key to much of what follows. For about five years from 1982, the provincial government's fiscal watchword was "restraint", which so far as the universities were concerned meant, in the early years, actually cutting operating grants and, later on, keeping a fairly tight lid on them. UBC's budget fell in absolute terms for three successive years, and continued to slip in real terms for another year or two. The Law Faculty did not escape the general retrenchment, but since, as with any law school, there was little to cut except for faculty positions (one or two secretarial positions went by the boards fairly early on) the axe was wielded a little less forcefully here than in some other parts of the campus.

In 1981-82 the Faculty had 40 full-time faculty positions, all filled, plus a Director (with professorial rank) and two instructor-staff lawyers in the Legal Clinic. Eleven of the 40 have since retired or left. The positions of three of those were lost during the retrenchment years. Thanks to the Asian Law programme, to be outlined shortly, two new full-time positions were created with special funds, so the net loss of full-time positions currently stands at only one. It cannot be said with any confidence that the situation has stabilized; new budget crunches cannot be ruled out in the next couple of years. Even in recent years the operating grants from Victoria have fallen somewhat short of covering the annual increase in UBC's salary commitments and non-salary costs. And at the moment the economy is heading into a downswing.

There are only two ways to cope with shrinking resources, cut costs or find new resources. To start with the cost-cutting side, the deployment of

* Professor Joost Blom, Faculty of Law, University of British Columbia. Like Prof. A.J. McClean, who wrote the note on the Faculty of Law, University of British Columbia, 1970-81, in (1984), 8 Dalhousie L.J. 185, I stress that the impressions and the views in this note are entirely personal, and have no sanction from any of my colleagues at the Faculty either individually or collectively.

teaching staff was changed to a certain extent. The prime casualty was the first year legal writing programme, which was introduced only in 1980-81. It required that every student take one of the five major first year courses (Constitutional Law, Contracts, Criminal Law, Real Property and Torts) in a small section of 24 students, which effectively meant that each of those courses had to be taught in five sections, two of 24 and three of 64. (Two large sections of 96 would have been possible, but instructors found this most unattractive and it also would have been quite difficult to arrange for rooms big enough to hold the classes.) The legal writing was taught in conjunction with the substantive law by the full-time instructors teaching those ten small sections. The student's mark on the legal writing assignments counted as 60% of the mark for the course. Having five instructors teach each of the major first year courses proved simply too costly, and in 1985-86 it was decided to revert to four sections in each course. The legal writing programme continued to be taught, of course, but instead of an instructor teaching, say, criminal law and legal writing together to a class of 24, the criminal law was taught to a class of 60 and legal writing, with assignments set on criminal law problems, was taught by the same instructor to a group of about 16 who were part of the class of 60. This still permitted legal writing to be taught in conjunction with a particular substantive law subject, and the legal writing to be given credit as part (now 40%) of the mark for the substantive law course. These features had helped to make the Legal Writing course introduced in 1980 considerably more interesting and worthwhile for students than the course offered formerly.¹ The loss was having the legal writing programme become, from the student's point of view, an accessory to a major course rather than a fully integral part of it. There was also the disadvantage, from the instructors' point of view, that one had to deal with the legal writing in special sessions with a sub-group of one's class in Contracts, Constitutional Law, etc., rather than being able to refer to it continually throughout the course.

In 1989-90 the situation improved somewhat, because funding became available for the first time to employ teaching assistants for legal writing. Some of these were LL.M. students, and others were practising members of the Bar. This put the programme into the hands of instructors for whom it was a first priority, rather than leaving it as a side-line for full-time faculty whose energies were concentrated on teaching the substantive subject to the large classes. In 1989-90 ten of these instructors each taught about 24 students legal writing, linking the assignments with

1. See A.J. McClean, "The Faculty of Law, University of British Columbia, 1970-81" (1984), 8 *Dalhousie L.J.* 185, at pp. 191-192.

one of the five major first year subjects, and coordinating the legal writing course with the full-time faculty member teaching that first year subject to those students. Students could therefore still be given credit for the legal writing assignments as 40% of their mark for that subject. The experience with this set-up has been relatively happy, even with the teething problems that a new arrangement like this always brings, and it is to be continued. We have not abandoned the goal of returning to small groups in the substantive law courses as well, but this still awaits some improvement in the availability of teaching resources for first year.

In the second and third year programme, major courses that until the early 80s were taught in four sections were almost all reduced to three. This was primarily a response to the slow erosion of the full-time faculty complement, but it was also related to a gradual increase in the number of courses and seminars being offered. This will be noted again when the curriculum is discussed. The same, or a slightly smaller, number of full-time faculty had to be spread around a larger array of subjects. In fact the expansion in courses and especially seminars has been made possible even more by the growing number of adjunct or part-time faculty, nearly all practising lawyers. Sometimes the new courses or seminars were created first, but often lawyers would approach the Dean with suggestions for a specialized course or seminar that complemented our existing offerings, and were invited to put it on. Thus the impetus for the large increase in the number of part-time faculty during the 1980s (the 1982-83 Calendar, for example, lists 30 adjunct professors whereas the 1990-91 Calendar lists over 80) has come as much from the Bar as from the Faculty's own initiatives, to the great benefit particularly of the specialized side of the curriculum. In terms of student contact hours the adjunct faculty taught about one-third of the second and third year curriculum in 1989-90.

Given the general sense that full-time teaching resources were eroding or at best static, whereas the needs of the academic programme were if anything getting greater, thoughts turned seriously on two occasions in the 1980s to cutting enrolment. The size of the undergraduate student body had not changed since around 1970, when in the face of a surge in demand for places it was decided to cap total undergraduate enrolment at 700 students.² It was then assumed the full-time faculty complement would rise to 50, which it never has, so there were historical as well as logistical arguments for reducing the student intake. The figure considered each time was a reduction of 50 students in first year, from

2. Over the last ten years the actual undergraduate enrolment has been slightly under 700, but with the graduate students the total student population has always been over 700.

about 240 to about 190, with the overall enrolment falling by about 140 to 150 in due course. Each time, informal meetings of the faculty led to the conclusion that there was not enough consensus in favour of reducing enrolment. Demand for places was still strong; graduates, by and large, seemed able to find jobs; and in the climate of the restraint years there seemed to be no guarantee that a reduced enrolment would not just lead to even larger budget reductions.

The 1980s, which might have been a rather discouraging phase in the school's existence, turned out to be completely the opposite because of, for this Faculty, unprecedented success in attracting resources from outside the university. The possibilities and new programmes that these funds opened up have enhanced the school in extremely important ways. Not every important development at the Faculty came from new funding; one of the most noteworthy was the Canadian Bar Review editorial offices moving to UBC when Prof. A.J. McClean was appointed Editor of the Review as of January 1984. Nevertheless, much of the new activity at the Faculty stems from specially funded projects. The most noteworthy parts of this story are the new endowed chairs; the Asian Legal Studies programme; the Computers and Law Programme; and the Native Law Students Programme. The wide-ranging support of the Law Foundation of British Columbia must also be emphasized.

1. *Endowed chairs*

In 1981 the Faculty had no endowed chairs; it now has three. These are not regular full-time faculty positions topped up with endowment income, but new positions entirely funded from outside sources. The Walter S. Owen Chair, named after a distinguished member of the B.C. Bar who was also a philanthropist and public servant, became fully endowed with approximately \$450,000 in 1982. Its purpose is to enable visiting faculty, who may be from a university, the Bar or the Bench, to be invited to teach and research at the Law School for substantial periods of time, usually half a year. The holders of the chair have been Prof. Jacob Ziegel (1983-84), Prof. R.F.V. Heuston (1984-85), Mr. Peter B. Carter (1986-87), Prof. Michael Crommelin (1987-88), former Chief Justice Nathan T. Nemetz (1989-90), and Prof. Christine Boyle (1990-91).

No sooner was the Owen Chair in place than work began on raising funds for a chair named in honour of the late Mr. Douglas McK. Brown, Q.C., one of the most eminent counsel British Columbia has had. This chair is also devoted to bringing visiting faculty to the School for extended stays. By 1986-87 the endowment was large enough to appoint the first Brown Professor, Prof. Alice E.-S. Tay. Her appointment

reflected one of the purposes of the endowment, which was to support the study of international, and particularly Asian, law. Succeeding holders of the chair have been Mr. Maurice Copithorne (1987-88) and Prof. Karl Klare (1990-91).

The retirement of Nathan T. Nemetz as Chief Justice of British Columbia in 1988 was the occasion for a gala fund-raising dinner at Canada Harbour Place in Vancouver, the proceeds of which went to endow both a chair in Legal History and a Centre for the study of Dispute Resolution at the Faculty. These projects also benefited from being part of a major general fundraising campaign by the University, which in turn had inspired a matching programme just announced by the government of the province. The success has been such that, from the funds raised from private donors and the government, there is a sufficient endowment for a full-time professorial chair in Legal History, and good progress is being made towards endowing the Nemetz Centre for the study of Dispute Resolution.

2. Asian Legal Studies Programme

The first initiatives for a Japanese Legal Studies Programme were taken by Dean K.M. Lysyk and Associate Dean D.M. McRae in 1980-81. One result was that the Faculty secured a grant of \$272,000 from the Max Bell Foundation to support a faculty position and research in Japanese Law for three years, 1982-85. The faculty position became part of the School's regular complement in 1985. Subsequent efforts to broaden the programme to include other Asian legal systems have borne fruit, particularly in attracting funds from a special provincial government programme to establish new areas of study at the universities. Two new faculty positions were made, one in Chinese Law, which has been filled since 1988, and one for a Director of Asian Legal Studies, which was filled in 1989.

The Asian Legal Studies Programme, together with an increasing interest in international trade law among other faculty, has given the Law School an important new dimension, and a Pacific Rim focus to complement the traditional Commonwealth and U.S. orientation that Canadian common law schools share. On the teaching side, the Faculty offers survey courses in both Japanese and Chinese law. The Japanese Law course has been offered for ten years and usually attracts between 20 and 40 students; the Chinese Law course is five years old and has had an enrolment of a dozen to a dozen and a half in most years. Two advanced courses of seminars, one in Comparative Constitutional Law, focusing on Japan, and the other in Chinese International Trade Law, are to be put on for the first time in 1990-91. All three faculty members in the Asian

Legal Studies programme teach courses in the more general programme as well, which helps indirectly to promote interest in the Asian subjects among the student body. A significant number of students every year tell us they chose to come to the Faculty because of its Asian Law programme, and every year there are at least one or two, sometimes more, who are fluent in Mandarin or Japanese. Over the last five years, the School has produced a small and highly sought-after crop of graduates who have specialized in Japanese or Chinese Law and are competent in the language. Nearly all of them now practise in that area in Vancouver, and most of them have had stints in Tokyo, Hong Kong, or Beijing.

Aside from the research of the faculty members specializing in Japanese and Chinese Law, the programme has stimulated a good deal of work on Asian law among other members of faculty. This has come about partly through a very active programme of cross-Pacific faculty visits. The UBC Law Faculty has formal or informal reciprocal arrangements with half a dozen law schools in Japan and with the University of Peking. Recently, every year one or more members of Japanese law faculties have made extended sabbatical visits to UBC, and at least several others have come for shorter stays as part of a North American research trip. One or two members of the Peking University Law Faculty have also come as visitors to our Faculty for at least a two month period every year under a regular exchange programme, with usually one member of this Faculty spending time in Beijing in return. The Faculty, with law schools in the other country, has organized Canada-Japan and Canada-P.R.C. conferences on particular legal areas, in 1983, 1984 and 1987, in Nagoya (twice), Osaka, Sapporo, Tokyo and Beijing. These conferences, as well as the personal contacts developed by faculty exchanges, have involved a good many of the UBC faculty and led to comparative work in fields such as labour law, constitutional law, international trade law and mental health law. An introduction to Canadian law, written mostly by U.B.C. faculty, was translated and is the first book on Canadian law published in Japanese. LL.M. students have come to UBC from the P.R.C. and from Japan, which has further enriched our contacts with their legal systems. The new Director of the Asian Legal Studies Programme is a specialist in international resources law, which has added a further dimension to the scope of the programme's research activity and extended the programme's geographical spread.

3. *Computers and Law*³

The genesis of UBC's involvement with Computers and Law was a small computer laboratory-classroom set up about 1982, with financial support from the Law Foundation of B.C. (\$34,000) and the University (\$30,000). When, a year or so later, it came to his notice that IBM Canada Ltd. was interested in engaging in a cooperative project with UBC under an ongoing programme of corporate giving, Dean Peter Burns asked Prof. Robert Franson, who was primarily involved with the Faculty's computer activities, and other colleagues to work on a proposal. This evolved into a very considerable series of negotiations, involving the Faculty, the University administration, the Bench, the provincial Attorney General's ministry, the Bar and the Continuing Legal Education Society of B.C., as well as IBM. The outcome was a three-year project announced in October 1985. IBM's contribution, including computing equipment, software, technical support and consulting services, based on its standard list prices, amounted to \$2.2 million. The University's contribution, consisting of space, administrative and secretarial support, was valued at \$1.6 million, and the Faculty contributed the time of the Project Director (practically full-time), two other faculty members (about one-third time) to head up two of the largest components of the Project, and the research time of eight other faculty members engaged in particular projects. As with many outside grants, the immediate priority was to find further funds to provide infrastructure and various forms of support that the main grant could not supply. By the end of the project, further outside funds had been contributed to a cash total of \$1,216,000. The Law Foundation of B.C. put in nearly half a million; the federal Department of Justice a quarter of a million; two other federal departments, Communications, and Supply and Services, another quarter of a million; the S.S.H.R.C. \$166,469; the Attorney General of B.C., \$55,000; and C.L.I.C., \$8,000. Many other contributions in kind helped to make the project possible.

A detailed description of the various components of the Project is beyond the scope of this note, and can be found in a retrospective assessment of the Project by its Director.⁴ The effect on the Faculty as a whole has been little short of dramatic. The fact that enough equipment was available for teaching and for independent student use has meant that the level of computer literacy among students has become very high. The

3. My description of this part of the School's activities draws heavily on Prof. Robert Franson's article, "IBM-UBC Cooperative Project on Law and Computers: A Tentative Evaluation" (1988), 23 U.B.C. L. Rev. 171.

4. *Ibid.*

same goes, in spades, for members of faculty. One of the more anxiously debated features of the project was the provision of PCs in most faculty offices. Worries that this might be seen as a personal benefit to professors were overcome by the conviction, which has proved completely true, that nothing would get members of faculty interested and involved in the Project like having a computer right at hand.

Aside from the teaching and literacy promotion aspects of the Project, which extended to Bar and Bench as well as the Law School, the research done under the aegis of the Project fell into four components. Computer assisted instruction modules were developed in the areas of contracts, criminal procedure and real property, and tested on first year students. The UBC Legal Clinic, located on campus and providing free legal services to the Vancouver area with a staff of fourteen students (during term) and three lawyers, was used as the location for a demonstration project on computerized file and office management. A database of sentencing law and statistics was developed. And an expert system for legal analysis was created, focused on tort law.

The last two projects were much the largest in terms of resources, and both have had important and lasting effects on the Faculty. The sentencing database has been developed to the point where it is an extremely valuable resource for the profession and the judiciary, and non-lawyers as well. It provides up-to-date statistical breakdowns of Canadian sentencing patterns, classified by reference to the facts and law in more than 60,000 individual cases since 1984. It also provides a large database of the relevant judicial decisions on the law of sentencing. It was first made available to judges and their clerks throughout British Columbia, and it can now be used on-line by lawyers and the public. When the IBM-UBC Cooperative Project ended in 1988, the technology developed for the sentencing database became the core for the activity of an independent foundation, currently headed by Prof. John Hogarth, who led the sentencing database project and is on half-time leave from the Faculty. The LIST (Legal Information Systems & Technologies) Foundation, which received substantial start-up financing from the federal Western Diversification Programme, aims to develop the database technology for commercial distribution. The foundation is not part of the University and is located in downtown Vancouver, but it is receiving certain support from UBC for the first few years, in return for a share of the eventual revenues. After one year of existence of the foundation, progress is reported to be excellent.

The expert system component of the UBC-IBM project was headed by Prof. J.C. Smith. After the project wound up, he and his team were able to secure a major grant from the Social Sciences and Humanities

Research Council for research into artificial intelligence and law, which has been under way since early 1990 and is doing path-breaking work. Owing to Prof. Smith's research, the second International Conference on Artificial Intelligence and Law was held at the Faculty in 1989.

The experience of this Faculty with the Computers and Law project since 1985 has taught us two things. One is never to underestimate the amount of legwork needed for this kind of venture. It is not simply that one has to cope with the obvious difficulties and minutiae of organizing a project that involves numerous individuals and several institutions both in and outside the university. It is that any major grant of this type puts new and to some extent unforeseeable demands on the Faculty's people and facilities, which as often as not require further resources to be found. This is true not only during the life of the project. It is, if anything, more acutely felt when the project comes to an end, because research capacity and research interests will have been built up that demand, or at least deserve, continuing support.

The other lesson from the project has been that, if a project is broadly enough based among the members of faculty and in the teaching programme, the payoff is so great that it amply justifies the investment. The benefits are not only in the high-profile research results, but also in a widely felt quickening of the research pulse of the faculty, an impetus towards renovation of the curriculum (new courses in Computers and Law, and Artificial Intelligence and Legal Reasoning), and a host of fruitful new contacts with other parts of the university, with other universities, and with the profession and the wider community.

4. Native Law Students Programme

The Faculty began a policy of admitting Native Canadians into first year on a "discretionary" basis, that is, on criteria in addition to the combination of pre-law marks and LSAT score applied to most students, in 1976. By 1984 thirty-eight Native students had been accepted into the Law School, of whom 21 had graduated, three had not completed, and 14 were then still at the Faculty. In that year, special funding from the Department of Indian and Northern Affairs made it possible to enhance both the recruitment efforts and the support offered to the students once they were in the School, by putting the programme on a more solid footing. A full-time Director, a recent Native graduate of the Faculty, was hired. The continuing success of the programme made it possible to secure annual renewals of the Department's funding until 1990. As of 1991 the Director's position will become part of the Faculty's permanent academic establishment, with enhanced responsibilities.

One of the most important functions of the programme has been to try to attract enough Native students to the Faculty that they will not feel isolated and will experience a supportive environment. The recruitment of Native law students, through the programme and the efforts of the Director, has succeeded to the point where in the last few years the number of Native students admitted to first year has been about ten a year. Most are required to attend the two-month summer programme for Native Legal Studies at the University of Saskatchewan before entering. Another high priority has been to provide readily available counselling for Native law students, and arrange tutorial assistance wherever it could be done and was wanted. The teaching of Native Law subjects in the School has also gained from the programme. In addition to the basic Native Law course that has been offered for nearly twenty years, courses or seminars are now taught every year or in alternate years on Aboriginal Title and Rights, Native Self-Government, Land Claims and an international and comparative legal study of Indigenous Peoples Law. The presence of a substantial group of Native students in the Faculty has helped greatly to draw non-Native students to these subjects as well.

The Native Law Students Programme has also had a considerable role in developing the knowledge and awareness of Native legal issues more widely in the Native and non-Native communities. A two-year research project on self-government, including six conferences dealing with various aspects of the topic such as land ownership, self-government structures, taxation and membership, was supported by the H.R. MacMillan Trust. Other projects have been concerned with customary law, and cross-cultural training for the judiciary.

To this point, so far as we know, close to half the Native law graduates in Canada are from this Faculty. A substantial number have gone on to be called to the Bar in B.C. and in other provinces. A significant number, especially in the later years, have returned to their Native communities to work there. The University's decision to fund the programme on a continuing basis as of 1991 is a tribute to these graduates, to Mr. Sam Stevens, the Director from 1984 to 1990, and to the faculty colleagues who have worked for the success of the programme.

5. Law Foundation of British Columbia

Throughout the 1980s one of the indispensable sources of support for the Faculty has been the Law Foundation of B.C. Their seed money was partly responsible, as has already been noted, for getting the Law and Computers programme started, and the Foundation supported it steadfastly after that. Other one-time projects they have made possible range from transferring the editorial offices of the Canadian Journal of

Family Law to the Faculty (1981-82), to sponsoring an eighteen-month residency in Legal History to set up that subject in the curriculum (1982-83), to supporting the archival assembly and organization of the Faculty's records (1988-89). A series of annual \$20,000 grants helped the Law Library to fend off budget cuts imposed throughout the U.B.C. Library system, and preserve its outstanding serials collection. In addition to such special-purpose grants, the Foundation has been one of the most generous annual sources of financial support for students. There are Law Foundation of B.C. entrance scholarships, scholarships to outstanding students proceeding to second and third year, bursaries for undergraduates, and fellowships for LL.M. students. These last have been largely instrumental in consolidating our graduate programme. Finally, the Foundation's support has been a mainstay of the Law Students' Legal Advice Programme, which is not part of the Faculty but is housed here, and provides legal experience in community-based clinics for a very large body of student volunteers.

II. *Student body and Faculty*

In size the student body has not varied during the period being discussed, but its composition has shown some changes, especially in the last few years. The ratio of the sexes has modified gradually, the percentage of women rising from about 40% in the early 1980s to about 50% now. The 1988-89 entering class was the first to have more female than male students (the males regained the majority, only just, in the 1989-90 first year class). The students also come more from the top (as measured by pre-law marks and LSAT score) of the applicant pool. The number of applications has more than doubled from 1986 to 1990, but we still go down the list about the same number of students in order to get the 240 or so acceptances to fill the first year class. So, in theory, half the class that qualified for offers until the mid-80s would not rank well enough to receive offers of a place now.

One change that has come as something of a surprise has also happened in the last four years, and that is the increasingly "national" composition of the student body. Our admissions policy takes no account of the applicant's residence. For obvious geographic reasons we have tended to draw our students predominantly from B.C. Until 1985 it was rare for more than ten or fifteen per cent of the first year class to be residents of provinces other than B.C., and the highest the ratio had ever been until then was about 25 per cent. Since 1986 the ratio has been rising steadily and is now close to 40 per cent. In 1989-90 about 20% of the class came from Ontario, 14% from the prairie provinces, and about 5% from Quebec. (There were no Maritime students that year, which

there usually are.) We like to think that it is the lure of the Faculty's reputation that draws all these students across the Rockies, although we cannot rule out that one or two of them may have felt the lure of the location too.

Employment opportunities for graduates seemed to contract with the depressed economy in the early to mid-1980s, but brightened considerably in the late 80s. A downturn may be happening in 1990. Hard information is difficult to come by because we lose sight of students once they enter articles, and so we have to rely on downtown street talk and graduates' anecdotes for an impression of the job situation once students have been called to the Bar. Finding articles does not seem to have been a major hurdle for many students in recent years. In 1989, 203 of the 416 who were newly called to the Bar in British Columbia were U.B.C. graduates.⁵ This is over 90% of the previous year's graduating class, of whom at least some will have taken articles in other provinces, so very few can have failed to get articles at all. Twenty per cent of that class were residents of other provinces when they entered Law School, so the siren song of the Pacific coast does seem to have persuaded a few of them to stay.

The LL.M. programme has strengthened considerably in the 1980s. Partly thanks to the fellowship support from the Law Foundation of B.C., which we can usually offer to four students a year, the annual enrolment of new LL.M students in the late 1980s has been much more constant than before. It is currently a steady ten to twelve new enrolments a year, compared with probably an average of about half that number, with wide annual ups and downs, a decade ago. Their larger numbers, somewhat better physical facilities for them in the building, and their extremely broad range of backgrounds and nationalities have given the graduate students a much more noticeable group dynamic than they had in earlier years. Typically about a third of the LL.M. students are Canadian, with the rest — taking just the last two years — coming from all five other continents. Their research concentrations are in a wide range of fields, but international law, human rights, criminal law and constitutional law come up frequently. The Asian Legal Studies Programme and the

5. Law Society of B.C., *1989 Annual Report*, p. 9. Previous years' annual reports show an identical number of UBC graduates, 203, being called in 1984 (entered articles in 1983), followed by a sharp drop to 175 in 1985, then rising year by year to the 1989 level. These numbers may reflect the fact that, for a time, articling prospects in B.C. were poorer than elsewhere in Canada. The 1983-85 period was one when the B.C. economy stayed in a depression while elsewhere, particularly in Ontario, employment prospects were already getting brighter.

Computers and Law Programme have also drawn students, Canadian as well as foreign, to study in these areas.

It was mentioned above that only about a quarter of the teaching faculty retired or left the Faculty over the last ten years, and not all of them could be replaced, owing to financial exigencies. The make-up of the teaching faculty has therefore changed only gradually. It is impossible to quantify these things, but the effect on the institution seems more pronounced than the numerical change. I think the main reason is that the young members of faculty who have come in the last few years have tended, for various reasons, to come with specialties rather more fully developed than their predecessors, and in fields that quite quickly attracted the enthusiasm and the collaborative efforts of senior colleagues. As it happens, over the last five years the newly hired faculty's primary academic interests have almost always been in the constitutional or other public law area. So the impact that these members of faculty have had is not only somewhat stronger than usual, but has also given a decided new spin to the overall mix of teaching and research for the faculty as a whole.

III. *Curriculum*

So far as its basic features are concerned the UBC curriculum received its present form in 1969, although it was revised comprehensively in 1979-81⁶ and is undergoing another, probably more far-reaching, revision at the present time. (The decennial cycle is by coincidence rather than design.) The structure given to the curriculum twenty years ago is probably still typical of those across Canada. First year consists almost entirely of compulsory subjects, most of which are taught over the full year; second and third year consist almost entirely of elective subjects, nearly all of which are taught for one semester.

The dominant themes in each of the major revisions of the curriculum since the 1960s have been similar. Broadly speaking two types of concern have been addressed on each occasion. One has been to enhance students' choice and enable them to pursue their particular interests more fully and in greater depth. This was done by enriching the subjects offered through new courses and seminars, usually as electives added to rather than substituted for the existing ones. This has brought greater variety and range to our curriculum, but at the price of needing more resources if all of it was to be taught. Those resources have not always been forthcoming, especially in the 1980s, so that the curriculum on paper has sometimes marched a little ahead of what could actually be mounted in

6. See McClean, *supra*, footnote 1, at pp. 189-192.

the classroom. Nevertheless, the curriculum now is more diverse than it was. In 1980-81 the second and third year students could choose from 76 different courses and seminars (including the two compulsory ones, the second year Moot Court and Evidence). In 1989-90 the menu had increased to 91, including 33 seminars.

Courses and seminars have been added and, to a lesser extent, deleted continually between the major revisions. In some cases this was the result of the developing interests of members of Faculty. Examples are courses on Economic Analysis of Law (introduced in 1983-84), International Business Transactions (1986-87), Chinese Law (1985-86), and Artificial Intelligence and Legal Reasoning (1987-88). As already mentioned, the last two are direct products of the Asian Legal Studies Programme and the IBM-UBC Computers and Law Programme, respectively. In the area of constitutional law, curriculum change has obviously been driven by the adoption of the 1982 amendments to the constitution and the burgeoning case law on the *Charter*. By 1986-87 it was clear to those who taught the course that first year Constitutional Law could not deal adequately with its traditional subject matter, mainly the division of powers, as well as the *Charter*. In that year a new second and third year elective, Constitutional Law II (three hours a week, one term), was set up to cover the *Charter*.

The other major thrust of curriculum reform, particularly in the full-scale revisions of 1969 and again currently, has been to adjust what was seen as an over-reliance on traditional, largely practice-related, largely private law subjects, taught for the most part by the case method. The direction and means of adjustment have not been quite the same each time. In the late 1960s attention was mainly focused on creating new upper year electives that would enable neglected social and political issues to be addressed and give opportunities for drawing on the other social sciences. In the current (1988-date) round of curriculum revision a more pervasive approach is envisioned and has been adopted for first year. A "statement of philosophy" the curriculum committee put before Faculty Council in September 1988 laid emphasis on the goal that students should be enabled to "understand the relationship of history, philosophy, sociology, political theory, economics and anthropology *in* law in order to describe, explain and evaluate law — in short, to understand law in its fullest sense".⁷ These legal perspectives should be integrated into the substantive courses, including first year, so that students would be exposed to a wide range of perspectives on law. "In doing so, the curriculum would express the idea of law and legal

7. Emphasis in the original.

institutions as a social process and as social institutions.” In addition to the desire to add these new dimensions to the curriculum, an important goal was to give more prominence to law and legal processes outside the courts — in government, the bureaucracy, administrative agencies, professional societies and other parts of Canadian legal life.

After lengthy gestation, first year proposals emerged from the Curriculum Committee and were adopted by Faculty Council for implementation from 1990-91. The concerns just mentioned were felt to apply especially to first year, because that year lays the groundwork and sets the pattern for the rest of the law school experience. Two major changes were made to the first year programme. For many years it had consisted of the full-year courses Constitutional Law, Contracts, Criminal Law, Real Property and Torts; a Legal Writing programme, mentioned above, given credit as part of the course in conjunction with which the student took Legal Writing; and a one-term course, Introduction to Legal Process. The last was an unhappy conglomeration of introductory topics that had nothing in common except that they had no home in any other first year course.

It was decided to delete Introduction to Legal Process altogether and shift Constitutional Law, to second or third year, in the form of a new course on the division of powers. The room this created was used for two new courses, each to be offered two hours a week all year. One is Perspectives on Law, which is to deal expansively with the application of political and social theory to law. Since instructors would be unlikely to feel at home in a wide range of theories, each of the four or five who would be teaching the course at any one time would be free to set the focus for the course for his or her class. The only stipulation relating to range of coverage was that at least two major perspectives should be covered in the course of the year. Both could be done by a single instructor, or two (or more, for that matter) instructors could divide the course between them. Students will choose their section by a preferential ballot. In 1990-91 four instructors will be offering the course, under the broad rubrics of the Western Idea of Law, Law and Society, the Law and Racism, and Critical Legal Studies.

The other new course has been dubbed, for want of a more revealing title, Legal Institutions of Canadian Government. Its aim is to take several areas of law and public policy as case studies and to examine how, in those areas, governments, legislatures, administrative agencies, professional bodies and others, as well as the courts, address the legal problems and contribute to their solution in different ways. The different strengths and limitations of the various institutions in solving the legal problems will be scrutinized. To give an example, in 1990-91 the first of

three case studies will be on street prostitution in Vancouver. This will be used to take students through diverse, but interrelated topics such as statutory interpretation; municipal regulation and its constitutional limitations; the enforcement practices of police; use of civil process, as by the Attorney General's public nuisance action and other actions by affected individuals; the standing of groups to challenge the measures being taken; law reform (the Fraser Committee's report); the legislative process; and Charter challenges to the criminal law.

Parts of the defunct Introduction to Legal Process course, like statutory interpretation, will be absorbed into this course and into the other first year courses. In addition, an expanded, six-day introductory programme at the start of first year will be used to develop a large number of introductory topics (the courts, *stare decisis*, the profession, and so forth) at least to the point where they can be employed in the main courses.

Second and third year are still under discussion at the time of writing. High on the list of priorities so far are an enhanced upper-year legal writing and research component; a reorganization of the opportunities for advanced study, including the seminar programme, to give each student better experience in indepth research and analysis; a reassessment of the relative time and resources given to standard "core" and practice subjects as compared with more philosophical, theoretical or advanced subjects; the possible diversification of the second year moot programme into a more varied skills-oriented component; and the role of the clinical programme. Some attention will also be devoted to whether and how far we should encourage or require students to take upper year courses in particular sequences or combinations. Aside from the second year moot and Evidence, which are currently compulsory, all upper year courses are electives and may be taken in any order and in any combination or degree of specialization.

To round out this survey of the curriculum it may be of some interest to look briefly at the subjects our students have elected to take in the upper years. The pattern has modified somewhat over the period from 1980-81 to 1989-90, during which, as already mentioned, the range of options has tended to increase significantly. The changes, as one might expect, come from students' diversifying their choice of courses a little more. The nuts-and-bolts "core" electives, which with a few exceptions are commercial or corporate, still attract by far the heaviest enrolment⁸

8. The instructions that students going into second and third year receive with their pre-registration materials include a list of recommended courses that students should consider seriously. The list, which has been there for years with little change, may well be dropped in future because of criticisms about what is, and is not, on it. For 1990-91 it included Canadian

but, on the whole, slightly less than they did. Two courses seem to have kept their drawing power, Business Associations I and Trusts, both of which still got on average 96% of the students over the last five years.⁹ In descending order of the proportion of the class that takes them, the other offerings that a majority of the students tend to take are Family Law (93%), Real Estate Transactions (90%), Secured Transactions (88%), Civil Litigation (85%), Commercial Transactions (85%), Taxation I (85%), Administrative Law (81%), Creditors' Remedies (74%), Constitutional Law II (the Charter) (71%), Succession (68%), Conflict of Laws (64%), and Labour Law (52%). A good many of these tended to enjoy somewhat higher enrolments in the early 1980s, so that students' programmes seem to be less uniform than they were. Probably one should not read too much into such statistics. The larger number of options that became available over the period has probably played some role, but students' preferences are the product of a wide range of factors. Their choice of subject is heavily (perhaps too heavily, for an undergraduate programme) influenced by who happens to be teaching courses in a given year, and also to some extent by timetabling considerations and perceptions as to what will look attractive on the transcript to potential employers. Whether this nearly free market in upper year courses should be subject to more regulation is, as already noted, one of the matters up for discussion in the current curriculum review; but if any further restraints are ultimately put on student choice, it seems likely that they will be few, and relatively gentle.

Mention should be made of an important new element in the B.C. Bar Admission course, which was introduced during the 1980s. The Professional Legal Training Course (PLTC) is a ten-week skills training programme that must be taken during the articling year. It began in 1985 and has attracted the attention of, and in some cases been a model for, law societies across Canada and in the Commonwealth countries. It is based upon a modular concept by which each of an extensive list of legal practice skills is built into one or more modules of the course, which are a combination of instruction, simulation exercises, evaluation and feedback. Thus, as students progress through the modules they develop a wide range of capabilities to the point, at least in principle, where no one

Constitutional Law II (the Charter); Administrative Law; Commercial Transactions; Secured Transactions; Real Estate Transactions; Business Associations I; Taxation I; Trusts; Succession; Family Law; Civil Litigation or other civil procedure course; and at least one "theoretical" or "perspective" course.

9. The percentage given for the enrolment in the various courses mentioned is based on the average enrolment over the years 1985-86 through 1989-90.

can be called to the Bar without being aware of the types of skills that are demanded in the practice of law, and having at least some acquaintance with their exercise.

The PLTC is operated by the Continuing Legal Education Society of B.C. for the Law Society. When it was established there were some worries that the existence of PLTC might indirectly put pressure on the Law School's curriculum by channeling students' choices towards practice-oriented subjects, because they would be seen as useful for doing PLTC. This has not happened. Such trends as there are point, if anywhere, in the other direction, since enrolment in bread-and-butter courses has either held steady or declined a bit. Moreover, PLTC and the Faculty keep in close touch about each other's curriculum. There seems to be a good awareness of what each is expecting the other to do, and PLTC's suggestions have been extremely useful in the current round of curriculum reform.

IV. *Conclusion*

The life of an institution like a law faculty is hard to see in clear outlines. Changes are even harder to describe, because they usually happen gradually and by the time they have happened one can no longer remember very clearly the shape that things had before. I do not suppose that the U.B.C. Law Faculty is unusual in leaving an impression, over the ten years being described, that the business of being a law school has grown more complicated but also more interesting. A wider range of demands, financial, personal and academic, has pressed in on the administration and the teaching staff. Fund-raising has assumed an importance it never had in the 1970s. Projects that successfully attracted funding proceeded to create their own demands on people and resources, as well as providing rewards in teaching and research by moving the Faculty into new areas like Asian Law and Computers and Law. The student body is now more diverse, in important respects, and has a wider range of expectations and interests. The faculty, too, has had a strong infusion of new members whose interests, and assumptions about the institution, have modified the Faculty's collective views on many issues. The direction taken in the curriculum revisions reflects an aspiration, putting it simply, to teach a wider range of subject-matter and to do it in more depth and more effectively, but to do it with resources that seem to be more or less fixed, at least for the moment. This also will call for some creative thinking.

At the same time this greater diversity, the shifts in focus in research and teaching, and just the greater number of things the Faculty finds itself wanting or having to do, provide a sense of lively change and newly

opened possibilities. Almost all through the period dealt with in this note the Faculty has had one Dean, Peter Burns, who took office in 1982 and whose once-extended term ends in 1991. Dean Burns can take satisfaction in that, during a decade when the winds were not always fair, the Faculty still moved along at a reasonable clip in some rewarding new directions.