The Report of the Curriculum Review Committee on a New Curriculum*

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New Curriculum

Curriculum Review Committee
Faculty of Law
University of Manitoba
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I INTRODUCTION

Many Faculty members will remember that in 1978 an attempt was made to formulate an overall plan of curriculum reform and development. Two plans were placed before Faculty Council for consideration. Neither plan proved able to attract a sufficient consensus to form the philosophical underpinnings of curriculum development. Because the attempt was unsuccessful, many fundamental concerns that only a faculty consensus can settle (compulsory versus elective curriculum, and third semesterization, the proportion of the curriculum to be devoted to clinical or practical training, the aims and purposes of that clinical training, the relationship and weight in the curriculum between (a) hard-law doctrinal courses, (b) legal theory and perspective courses, and (c) clinical courses, to mention but a few) were left unresolved.

Since that time the Curriculum Review Committee has had to deal with perceived problems or deficiencies in the curriculum and recommending changes and additions to those problems. We believe that the Faculty Council has proceeded in much the same way, we believe that the Faculty Council has proceeded in much the same way, so much of the work has been done, but it has of necessity lacked an overall integration and co-ordination. Ad hoc decision-making in curriculum reform is particularly perilous because most issues impinge upon and affect other aspects of the curriculum.

Over the past year the Committee has confronted a number of issues and problems which defy individualized solution. In particular we have discussed at great length a number of issues and problems within the first year curriculum. The problems included the small group teaching in first year, the dominance of private law substantive courses, the perennial difficulties with LEGAL RESEARCH AND WRITING, the content of LEGAL DILEMMA, the structure of the first year curriculum, and the efficiency of the Workshop program. Our discussion is a three year program. We believe that the report is a testament to the curriculum and the disturbing findings of our Study of Student Selection of Second and Third Year Courses - The Graduatus of 1981 and 82. A copy of that report is attached as Appendix A. If you have not already read that report we urge you to do so because it was something of a catalyst in forging a consensus in the Curriculum Review Committee for a complete overhaul of the curriculum. The findings which caused most alarm was that a significant portion of the students graduated without registering in any perspective or paper course in either second or third year.

Student choice is to a large extent narrowly doctrinal and shows a significant bias toward examination evaluation.

Furthermore when this phenomenon is combined with the introduction of further popular clinical programs and the establishment of the compulsory course THE LEGAL PROFESSION AND PROFESSIONAL RESPONSIBILITY the very survival of some perspective courses is in doubt. A consideration of some enrollment numbers in perspective courses between 1982-83 and 1983-84 will underline the point.
<table>
<thead>
<tr>
<th>Course Description</th>
<th>1983-84 Enrolment</th>
<th>1982-83 Enrolment</th>
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<td>Problems in Contract &amp; Tort</td>
<td>8</td>
<td>16</td>
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<td>Civil Liberties</td>
<td>14</td>
<td>4</td>
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<tr>
<td>Native Peoples and the Law</td>
<td>10</td>
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<tr>
<td>International Law</td>
<td>6</td>
<td>13</td>
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<td>14</td>
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<tr>
<td>Canadian Charter of Rights and Freedoms</td>
<td>15</td>
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</table>

It should be remembered that the 1983-84 enrolments are in a year when Professor Sneideman who teaches two popular perspective courses is on sabatical. Because of this, the 1983-84 numbers in other perspective courses may in fact be artificially inflated. In any event, careful attention must be paid to whether any course with less than 15 students should be offered. Perspective courses are clearly threatened if current trends continue.

We will expand on these problems later in our report but the point we wish to make now is that these problems are so fundamental and interrelated that they are not amenable to ad hoc solutions. We believe that curriculum development will be inadequate and inconsistent unless we come to grips with the fundamental issues relating to the nature and direction of curriculum development and to thereby develop some kind of philosophical basis which will permit these seemingly divergent issues to be resolved in a rational, integrated and consistent manner.

To this end we have elucidated what we believe to be some fundamental guiding principles and on the basis of these we have developed a new curriculum which we place before Faculty Council for their consideration. We wish to set out with as much clarity as we can muster those underlying principles before setting out with commentary our proposals for a new curriculum.
11 THE GUIDING PRINCIPLES FOR CURRICULUM DEVELOPMENT

The primary principle underlying the new curriculum is that a curriculum should in all years and in each term of every year contain a balance of doctrinal, perspective and clinical courses. The Committee believes that a proper balance between these three kinds of courses will produce the humane and competent professional ready and able to embark either on the practice of law, a career in research or other vocational pursuits. It is believed that these different kinds of courses will develop the amalgam of legal skills and attributes important to a competent lawyer or anyone using legal training as an eclectic base. This idea of balance between kinds of courses is so fundamental to the proposed curriculum that we have attempted to define the terms, and to identify the different legal skills developed by each:

1. **Doctrinal Courses** - These courses are the courses teaching "black letter" law and making up most of the present curriculum. They teach rule systems and develop the skills of legal analysis and an ability to use rule systems.

   These courses are essential and in the proposed curriculum will continue to dominate.

2. **Perspective Courses** - These courses attempt to develop a more humane and broader understanding of legal institutions and legal phenomena generally. Some concentrate on a serious consideration of legal theory, others the relationship of law to society. Some are inter-disciplinary, and some are comparative. They all encourage reflection and thoughtful consideration of the legal system. Furthermore, since these courses also inevitably require the submission of written papers, additional skills are developed. They include research skills and the skills of written communication. Additionally the seminar format and presentation of papers assists the student to develop skills of oral communication and the defense of a prepared argument. Evaluation on the basis of class participation gives students encouragement and the incentive to think, discuss and argue with fellow students.

   For these reasons we believe that these courses are essential to a balanced legal education.

3. **Clinical Courses** - The Report of the Association of American Law Schools and American Bar Association Committee on "Guidelines for Clinical Legal Studies" defines clinical legal studies as studies involving

   - law student performance, on live cases or problems or in simulation, of the lawyer's role, for the mastery of basic lawyering skills and the better understanding of professional responsibility, substantive and procedural law and the theory of legal practice.
In a presentation to the Committee, Professor David Deutscher expanded on this definition by outlining a theory of clinical teaching. The primary objective is "to attempt to develop a theory of lawyering upon which the student can develop a methodology to evaluate his or her own professional performance throughout his or her professional career". The secondary objective is to develop with the student "a definition of professional competence and provide a basis upon which the student can deal with the problems of professional responsibility in the lawyer-client relationship". In Professor Deutscher's view the tertiary objective is to teach lawyering skills such as interviewing, fact gathering and field investigation, identifying and applying law to case facts, diagnosing a clients' problems, developing case strategy, counseling, drafting legal instruments and writing legal briefs, negotiating and settling, and preparing and conducting trials.

The Committee believes that clinical courses are an essential component of the balanced legal education which is our goal. The presentation by Professor Deutscher to the Curriculum Review Committee has proved invaluable to the clinical area. The Committee has adopted many of his proposals and recommendations.

The classification of courses at present in the curriculum into each of these three categories is a difficult and contentious task. It was undertaken for the purposes of our Study of Student Selection of Second and Third Year Courses. Our categorization was to some extent intuitive and impressionistic but as a rough working guide it gained the acceptance of the Committee and we anticipate that it will gain a broad acceptance by the Faculty Council. Leaving aside first year, we classify the courses in the following manner:

A. DOCTRINAL COURSES

CONSTITUTIONAL LAW
BUSINESS ORGANISATIONS LAW
TRUSTS
FAMILY LAW
EVIDENCE
WILLS AND SUCCESSIONS
INSURANCE LAW I
DEBTORS' AND CREDITORS' RIGHTS
COMMERCIAL AND CONSUMER TRANSACTIONS
CRIMINAL PROCEDURE
REMEDIES
ADMINISTRATIVE LAW
LABOUR-MANAGEMENT RELATIONS

B. PERSPECTIVE COURSES

ISSUES IN LAW AND BIO-ETHICS
CIVIL LIBERTIES
PROBLEMS IN CONTRACT AND TORT
RESEARCH PAPER
ENVIRONMENTAL LAW
CURRENT LEGAL PROBLEMS (NATIVE PEOPLES AND THE LAW)

FEDERAL INCOME TAXATION I
CONFLICT OF LAWS
LAND TITLES
ESTATE PLANNING
RESTITUTION
TRANSPORTATION & COMMUNICATION LAW
LANDLORD AND TENANT
REAL ESTATE TRANSACTIONS
INTELLECTUAL PROPERTY
FEDERAL TAXATION II
BUSINESS PLANNING AND FINANCE LAW
MUNICIPAL AND PLANNING LAW
COMPETITION LAW
CORPORATE LAW AND POLICY
B. PERSPECTIVE COURSES (Continued)

CRIME AND SOCIAL POLICY
THE LEGAL PROFESSION AND PROFESSIONAL RESPONSIBILITY
INTERNATIONAL LAW
JURISPRUDENCE
CANADIAN CHARTER OF RIGHTS AND FREEDOMS
CONSUMER PROTECTION
COMPARATIVE LAW

C. CLINICAL COURSES

LITIGATION
CLINICAL ELECTIVE (Three Sections in 1983-84)
SOLICITORS TRANSACTIONS
PUBLIC LAW ADVOCACY (Not offered in 1983-84 - Superseded by the third
section of Clinical Elective)

D. OTHER COURSES

The second and third year curriculum also contains some offerings of a
more amorphous nature. They include LEGAL AID CLINIC, MANITOBA LAW
JOURNAL and CIVIL LAW/COMMON LAW SUMMER EXCHANGE PROGRAMME.

The first year curriculum is heavily doctrinal: CRIMINAL LAW,
CONTRACT, TORTS, PERSONAL PROPERTY, REAL PROPERTY, AGENCY and
INTRODUCTION TO CIVIL PROCEDURE. Two courses are more difficult to
categorize: LEGAL SYSTEMS and LEGAL RESEARCH AND WRITING. Indeed
this difficulty may flow from the fact that the objectives of those
courses have never been carefully defined. The PRACTICE SKILLS
WORKSHOPS are to some degree clinical.

The Committee believes that a balance between doctrinal perspective
and clinical courses is not only essential in the curriculum at large
but that it is also essential that each student's program of study in
each term of the three year program displays a balance among these
types of courses. The Committee is of the opinion that a balanced
program is essential to build in the students that amalgam of skills
necessary for the practice of law. In the opinion of the Committee,
a desirable balance is reached when a student's program in all years
contains approximately 60% doctrinal courses, 20% of perspective courses
and 20% of clinical courses. We believe such a balance to be so important
that a degree of compulsion in the curriculum is acceptable in order to
attain it. The acceptable balance is (as our attached Study of Student
Selection of Second and Third Year Courses indicates) not being reached
in the largely elective curriculum of the present. Thus our fundamental
principle is the achievement of a balanced program for all students.

Finally, it should be noted that the attainment of a balanced
curriculum and the recognition of clinical and perspective education as
integral components in legal education must be at the expense of
doctrine. Unless students are to be over-loaded with courses, there
must be some correlative de-emphasis of doctrine.
A secondary objective in re-working the curriculum was to attempt to find a better balance in the curriculum between private and public law. The ever increasing importance of public law rules, concepts and institutions does not find corresponding emphasis in the present curriculum. First year and second year are strongly biased towards private law. The Committee believes that first year students are exposed to a very narrow view of the legal system. We wish to redress that balance.

Our final objective proved more difficult to achieve. We wish to introduce a degree of progression into the curriculum. We believe it is desirable that a student develop a sense of achievement by moving year by year from the elementary to the complex, in graduated steps of difficulty, in essence a sense of continuing growth and achievement. We believe the present curriculum and the typical student choice in that curriculum provides no sense of development. Merely the collection of more and more doctrinal subject matters of similar complexity, taught in a similar style, evaluated in a similar manner and developing the same kind of skills.

The Committee believes that in the doctrinal, perspective and clinical components of the curriculum there should be an institutionalized progression of greater and greater difficulty. To take one example: clinical courses in first year should lay the basis for the development of lawyering skills; in second year the clinical courses should be more demanding and complex and in third year there should be an "intensive" course in the nature of clinical elective. As mentioned above, this proved to be very difficult to build into the curriculum, particularly with the continuing emphasis on doctrine and the broad scope of doctrinal courses necessarily offered in a single-law school province like Manitoba.

The curriculum that we propose does not always meet all these objectives but we believe it does make some progress in the right direction.
III THE PROPOSED FIRST YEAR CURRICULUM

1. The First Year Curriculum

<table>
<thead>
<tr>
<th>Course</th>
<th>Credit Hours</th>
<th>Sectioning</th>
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<tbody>
<tr>
<td>LEGAL METHODS</td>
<td>6</td>
<td>Five groups</td>
</tr>
<tr>
<td>LEGAL SYSTEM</td>
<td>6</td>
<td>Three groups</td>
</tr>
<tr>
<td>CONTRACT</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>TORTS AND COMPENSATION SYSTEMS</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>CRIMINAL LAW &amp; PROCEDURE</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>PROPERTY</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>CONSTITUTIONAL LAW</td>
<td>5</td>
<td></td>
</tr>
</tbody>
</table>

TOTAL CREDIT HOURS 38

As a general rule each class will be divided three ways. Nevertheless there will be five small groups spread among the substantive subjects. These five groups will correspond to the five groups in LEGAL METHODS. Thus students will be in the same small group for LEGAL METHODS and one substantive course.

2. A List of Changes Made in the First Year Curriculum

(a) LEGAL RESEARCH AND WRITING and PRACTICE SKILLS WORKSHOPS are amalgamated and modified and become the LEGAL METHODS course. The credit hours allocated to LEGAL METHODS is 6, two more than the present combined weighting of LEGAL RESEARCH AND WRITING and PRACTICE SKILLS WORKSHOPS.

(b) LEGAL SYSTEM increased by one credit hour to six and its objectives are clarified. (See below).

(c) PERSONAL PROPERTY, INTRODUCTION TO CIVIL PROCEDURE and AGENCY are removed from the curriculum.

(d) CONSTITUTIONAL LAW is moved from second year to first year.

(e) The scope of TORTS is extended to include other Compensation Systems such as Worker’s Compensation.

(f) The overall credit hours in first year are increased to 38 from 35.

3. Comment

It is the Committee’s opinion that the First Year Curriculum as presently constituted is unduly biased towards private law doctrine and case analysis. There is also continuing difficulty in defining the objectives of LEGAL RESEARCH AND WRITING and LEGAL SYSTEM. We believe that by modifying and redefining these two courses the sought-after balance among doctrine, perspective and clinical may be achieved. LEGAL METHODS is to be the first clinical course and will provide the basis on which the clinical program in second and third year will build. A description of the proposed course, prepared by Professor D. Deutscher is included here.
LEGAL METHOD

The course is one designed to both encompass the objectives of the present LEGAL RESEARCH AND WRITING course and to introduce students to clinical methodology.

The objectives of this course would be to teach the following:

1. Legal Research Skills
2. Legal Bibliography
3. Legal Writing
4. Identifying and Applying Law to Case Facts
5. Factual Investigation
6. Drafting of Legal Documents
7. Oral Advocacy Skills

The methodology used would be that of developing a case file that would incorporate problems or exercises designed to permit students to utilize the relevant skills.

The doctrinal area upon which the file is based is not of critical importance. However, if it is felt that the area should be one taught in first year curriculum, the subjects of CONTRACTS, Torts and Property best lend themselves to this approach.

Although the final outline at the course must be left to the instructors, the following is an example of the nature of the program.

Students would first be taught the essentials of Legal Bibliography (i.e. how to use the library) and be given an assignment designed to test their knowledge of the use and function of a law library. After this assignment, they would be given the case file. The file would contain interviews with the client and with witnesses plus any relevant documents. The students would be asked to prepare a memorandum of fact and law from this material. Their task would be to sift through the material, outline the relevant facts, and how those facts applied to the law. The student would be asked to outline what additional information, if any, they would need, and which additional persons, if any, they feel should be interviewed.

The next assignment would be to draft a legal document, e.g., a Statement of Claim, a Notice of Motion together with an affidavit. The drafting exercise would utilize the same facts upon which the original memo was based, plus any new facts provided as a result of the deficiencies pointed out in the memo. A motion and affidavit would then be required to argue that motion in a simulated court hearing.

If the instructor feels that there should be a greater writing component, the student might be required to provide a doctrinally based memo (e.g., a memo in depth of one of the legal issues dealt with in the first memo). The number and mix of writing, drafting and skills exercises must be carefully thought out in order to allow sufficient time for students to reflect on the skills they are using and to allow for intensive critical feedback by the instructor.
The above is only meant to be illustrative of the methodology. As the instructors begin to consider the construction of the case file, other types of writing or drafting exercises might be devised, a different oral advocacy exercise could be built in, and other skills e.g. negotiation and counselling might be added.

The course will be sectioned five ways to maximize student-teacher interaction. Students in the LEGAL METHODS group will remain together as a small group for the teaching of one of the substantive areas of law. Furthermore their file will be based on that area of law. Thus it is hoped that there will be an improved integration and relationship between the substantive doctrinal courses and the clinical component.

The Committee also recommends that the LEGAL METHODS course be graded on a pass/fail basis and that no letter grade be awarded for the course or any segment of the course. We hope in this way to relieve some of the frantic pressure and anxiety which the grading of LEGAL RESEARCH & WRITING memos has generated in the past. We also propose that the work on the LEGAL METHODS course be controlled by severe time restraints so that students learn to allocate their time in a responsible manner and further that time and effort in excess of that appropriate for the credit weighting be avoided. The course will be taught in five small groups to permit optimum interaction and feedback between student and instructor. The Committee is also of the opinion that the Administration of the Faculty must be careful to ensure that those who have the responsibility for teaching LEGAL METHODS are capable of teaching the course in a way which will achieve the objectives for clinical education discussed earlier.

The LEGAL SYSTEM course is to be the first perspective course and will introduce students to the important taste of thinking critically about the legal system. A description of the course and its objectives has been prepared by Professors Alvin Beau and Norman Larsen and is set out here.

THE LEGAL SYSTEM: GOALS AND CONTENT

The course may be sub-titled "An Introduction to The Study of Law". A six credit course.

The objectives of this course are as follows:
- to provide an overview of legal institutions and the legal process;
- to provide factual information, including trends and issues;
- to provide a general background for mandatory courses in all three years;
- to provide a general background in areas of law which are later offered as electives (keeping in mind that this course may represent a student's sole exposure to some subjects);
- to expose students to at least some parts of classic books and articles, and to current materials of apparent significance.

The topics to be dealt with are as follows (with particular stress on Legal Reasoning):
1. **Orientation: An Introduction to Legal Study**
   - case briefing, nature of law, sources, limits, etc.

2. **Legal History**: English Historical Background

3. **Legal Reasoning**:
   a. **Common Law Reasoning** (precedent, hierarchy of the courts, basic civil and criminal procedure, etc.)
   b. **Statute Law Reasoning** (legislative process, interpretation, etc.)
   c. **Administrative Law and Constitutional Law Reasoning**.

4. **Legal Thought**: (jurisprudential schools, discretion, etc.)

5. **Legal Education**: (history, comparisons, critique, the future)

6. **Legal Process**: Perspectives on Dispute Settlement
   a. The Formal Court System (the pros and cons of the adversary system; fact finding, juries, contempt, judges, reforms, etc.)
   b. Alternatives (boards, conciliation, etc.)

7. **Legal Practice**: Perspectives On The Legal Profession
   - (delivery of legal services, L.S.K., ethics, legalese, skills, access, etc.)

8. **Law Reform**: (history, philosophy, methods, etc.)

9. **Perspectives On Other Legal Actors and Institutions**
    Attorney-General, Solicitor General, Minister of Justice, Police, Prisons, etc.

The credit weighting of six credit hours to each course is indicative of our desire to attain a 60-20-20 weighting among doctrine, clinical and perspective and to indicate immediately to students that clinical and perspective components of the curriculum are integral to legal education and that they will form a continuing and developing field of study in the later years.

The addition of **CONSTITUTIONAL LAW** is designed to rectify the balance in the first year curriculum between private and public law. It is believed that students will emerge from first year with a more balanced view of the legal system.
No change in the first year curriculum can be made without cost and the cost of establishing a balance to the first year curriculum has been the removal of AGENCY, PERSONAL PROPERTY and INTRODUCTION TO CIVIL PROCEDURE. Many faculty members may feel some misgivings about the exclusion of such long standing and traditional courses. However, if the curriculum is to be balanced, some doctrine must be sacrificed. The only other alternative is to increase total credit hours dramatically. However, there are some other points which may make the proposed step more palatable:

1. The Committee believes that there is benefit to the students in consolidating the number of course offerings from the present ten to the proposed seven. Students are able to concentrate their attention on fewer courses and address those in greater depth. In first year, when the primary objective is the teaching of the skills of legal analysis, this will be an advantage. Small one-term courses tend not to receive the same degree of attention from students. They nevertheless distract from other courses. We believe the best return is found in fewer full year courses.

2. The Faculty should not give the impression that all doctrine which is useful will be offered in the form of a course or a component of a course. It should be made clear to first year students that legal education is a life-long process and involves from the first year some self-instruction for which they must take personal responsibility. The Faculty might provide reading lists or monographs on the deleted subject matter, but students should, from the outset, understand that some self-learning is essential and normal. It may be useful for all Faculty to assess their courses in terms of material that may be usefully and fruitfully left to students, thereby allowing concentration on more complex or difficult areas.

3. It should be noted that PERSONAL and REAL PROPERTY has been replaced by the course PROPERTY. The Committee proposes that the course deal at the outset with some general notions of property both real and personal before duplicating most of the REAL PROPERTY course as presently constituted. Some exposure to personal property concepts will be gained in TORTS through the teaching of trespass to chattels, conversion, detinue, etc.

4. AGENCY is a subject in which it may be appropriate to provide students with a monograph of the subject for self-learning. In addition, instructors in BUSINESS ORGANIZATIONS and INSURANCE LAW may wish to deal with some Agency concepts. It might be noted that in some Western Canadian Law Schools AGENCY is not offered as a course at all.

5. The deletion of INTRODUCTION TO CIVIL PROCEDURE will require a more systemic approach to provide some instruction in this area, and there will have to be some greater explanation of procedure by the substantive law teachers in first year. This indeed may be just as effective, especially in socratically taught courses. Some further instruction may take place in LITIGATION and in the third year clinical courses. However, the primary reason for its deletion is that the content of the course is duplicated in the Bar Admission Course, which indeed
would probably be strengthened if less procedure was taught in the Faculty. The Committee believes that the curriculum must reflect the content of that fourth year.

6. The deletion of PERSONAL PROPERTY and INTRODUCTION TO CIVIL PROCEDURE removes two courses which now terminate at Christmas with examinations. Mid-year examinations provide students with a useful opportunity to practice exam-writing skills. However, the curriculum as presently constituted, offers the student the ominous opportunity to fail first year at Christmas. It takes many students longer to find their feet in law school and to develop some skills of legal analysis. The Committee believes that no one should fail law school in mid-year. However, practice at exam-writing skills is essential and the Committee suggests that mid-term tests, accounting for some portion of the final grade, be instituted in three substantive subjects.

7. The removal of these three courses will free up teaching resources to service the perspective and clinical components of the curriculum.

The proposed first year curriculum totals 38 credit hours. That is three credit hours in excess of the present 35. We do not, however, believe that student load will be increased greatly. The reduction and consolidation of courses will permit students to use their time more efficiently, and will reduce the anxiety and pressure of final exams at Christmas which may lead students to put an inordinate amount of time into those exams.

It should also be noted that the first year has had 35 rather than 36 credit hours only because AGENCY was recently reduced to one credit hour. The Faculty Council never accepted the view that it would be inappropriate to restore that hour in due course. Thus our proposals call for an increase of two credit hours beyond that already approved by Faculty Council.

Final note should be made that the small group teaching in first year is continued, but instead of all of CONTRACT being taught in small groups, the small groups will be spread among the substantive areas. This allows other teachers a chance to teach in this manner and in particular allows those teachers who are particularly committed to small-group teaching to undertake it. The Committee remains of the view that small groups are conducive to the teaching of the skills of legal analysis.
THE PROPOSED SECOND YEAR CURRICULUM

1. The Second Year Curriculum

TERM 1

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<tr>
<th>Course</th>
<th>Credit Hours</th>
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<td>BUSINESS ORGANIZATIONS</td>
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<td>EVIDENCE</td>
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<td>Two groups</td>
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<tr>
<td>ADMINISTRATIVE LAW</td>
<td>3</td>
<td>Two groups</td>
</tr>
<tr>
<td>ONE PERSPECTIVE COURSE</td>
<td>2 or 3</td>
<td>One group of no more than 25 in all perspective courses except CANADIAN CHARTER OF RIGHTS AND FREEDOM where student demand will be met in sections of no more than 25.</td>
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<td>CANADIAN CHARTER OF RIGHTS AND FREEDOM (3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CONSUMER PROTECTION (3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CANADIAN LEGAL HISTORY (3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>COMPARATIVE LAW (3)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total 16 or 17

* At least seventy-five percent of the final grade in perspective courses must be calculated on the basis of a written paper.
**TERM II**

<table>
<thead>
<tr>
<th>Course</th>
<th>Credit Hours</th>
<th>Sectioning</th>
</tr>
</thead>
<tbody>
<tr>
<td>INTERVIEWING COUNSELLING AND NEGOTIATION</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>TRUSTS</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>FAMILY LAW</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>FEDERAL INCOME TAXATION I</td>
<td>4</td>
<td>2</td>
</tr>
</tbody>
</table>

**ONE * PERSPECTIVE COURSE**  
chosen by each student from that number of the following courses offered in Second Term:

- ISSUES IN LAW AND BIO-ETHICS (2)
- CIVIL LIBERTIES (2)
- PROBLEMS IN CONTRACT AND TORT (2)
- RESEARCH PAPER (2)
- ENVIRONMENTAL LAW (3)
- CURRENT LEGAL PROBLEMS (NATIVE PEOPLES AND THE LAW) (3)
- CRIME AND SOCIAL POLICY (2)
- INTERNATIONAL LAW (3)
- JURISPRUDENCE (2)
- CANADIAN CHARTER OF RIGHTS AND FREEDOMS (3)
- CONSUMER PROTECTION (3)
- CANADIAN LEGAL HISTORY (3)
- COMPARATIVE LAW (3)

Total 16 or 17

**TOTAL CREDIT HOURS IN SECOND YEAR**  
32 or 34

* At least seventy-five percent of the final grade in perspective courses must be calculated on the basis of a written paper.
2. A List of Changes Made in the Second Year Curriculum

(a) Second Year is a compulsory program other than the choice provided to students in respect of the Perspective Courses.

(b) Second year is semesterized. No course will extend through both terms.

(c) ADMINISTRATIVE LAW is a compulsory subject.

(d) FEDERAL INCOME TAXATION I is a compulsory subject.

(e) LITIGATION is now labelled INTRODUCTION TO ADVOCACY and is taught in three groups.

(f) A course known as INTERVIEWING COUNSELLING AND NEGOTIATION is introduced.

(g) Student performance in Perspective Courses must be evaluated primarily by means of a written paper (that is at least 75% of the final grade).

(h) CANADIAN LEGAL HISTORY is introduced into the curriculum as a three credit hour perspective course.

(i) The overall credit hours are increased from 30 to 32 or 34.

3. Comment

The Committee was of the view that the second year curriculum is heavily loaded with doctrinal courses and that the most important step is to rectify the balance by mandating 20% perspective courses and 20% clinical courses. The former has been achieved by requiring students to choose one perspective/paper course in each term of second year and the latter has been achieved by requiring INTRODUCTION TO ADVOCACY and INTERVIEWING NEGOTIATING AND COUNSELLING. In respect to the perspective component, we have required that evaluation be primarily by paper to ensure that students will write two papers in second year and thereby develop the skills of research and writing we deem desirable. Our proposal to offer as many sections of CANADIAN CHARTER OF RIGHTS AND FREEDOMS as is necessary to satisfy student demand reflects the Committee’s belief that in the years to come this course will be regarded as an essential component of Canadian legal education.

In regard to the clinical courses, the Committee has adopted the proposals Professor David Deutscher made in a presentation to us. He proposed that LITIGATION be transformed into a course known as INTRODUCTION TO ADVOCACY. His proposal also called for greater sectioning of that course to permit teaching to be in greater depth and to allow for more individual student-instructor contact than is presently possible. Three sections seem to be within the bounds of possibility. He also proposed
that INTERVIEWING NEGOTIATION AND COUNSELLING be introduced because there was not enough time in CLINICAL ELECTIVE or any other course to allow these skills to be taught in the required depth. The course will focus on theories developed in other disciplines and the relation of that theory to the legal context. Simulations will also be a part of this course. It should be noted that Professor Deutscher did not recommend that these courses be compulsory.

The Second Year curriculum has been semesterized for reasons of administrative efficiency and to permit students to concentrate intensively on fewer courses than in the present curriculum. Furthermore, all doctrinal courses have been made obligatory, including two which are not obligatory in the curriculum now, namely FEDERAL TAXATION I and ADMINISTRATIVE LAW. The Committee has recommended that these courses be required for a number of reasons.

1. The doctrinal second year courses are, in our opinion, courses without which no student should graduate and enter legal practice in Manitoba. We take this view on the basis that these courses introduce different and essential legal concepts which are unlikely to be acquired in the four years of legal education and that the courses represent the most common areas of lawyers' work - the kind of problems most likely to arise day in and day out.

2. The list of compulsory doctrinal courses adds only two courses which are presently elective courses. These two courses are to a large extent de facto compulsory courses now. Nearly all students take them at some stage of their three year program. The 1982-83 enrolment numbers testify to this: Ninety-one students were enrolled in third year, of whom 87 took ADMINISTRATIVE LAW. In second year there were 84 students (two were in the half-time program and were ineligible to take FEDERAL INCOME TAXATION I); of the 85 remaining, 76 took the course. It should be noted that third year students are also eligible for FEDERAL INCOME TAXATION I and in 1982-83 five students enrolled.

3. The proposed curriculum will demand some resource re-allocation and will require us to operate as efficiently as possible. One way of maximizing that efficiency is by building a degree of compulsion into the curriculum. The greater the degree of compulsion, the greater the efficiency. The Committee is sensitive to divergent and strongly-held views of Faculty members on the compulsory/elective issue. It was on this issue that curriculum reform founded in 1978 and it is not likely that any consensus can be reached to-day. In such circumstances the only solution is a compromise. The second year is proposed to be compulsory but the third year will retain a high degree of student election.

ADMINISTRATIVE LAW has been moved to the second-year curriculum to provide some public law balance to the doctrinal courses. CANADIAN LEGAL HISTORY is proposed as one which on its merits should be part of a curriculum in a Canadian Law School, and to increase the perspective offering which will now receive a significantly greater number of registrations. By way of final note, the Committee recommends that steps be taken to ensure that COMPARATIVE LAW be offered each year. It can be more successful in bringing critical perspective to bear on the legal system.
## THE PROPOSED THIRD YEAR CURRICULUM

### 1. Third Year Curriculum

<table>
<thead>
<tr>
<th>Course</th>
<th>Credit Hours</th>
<th>Sectioning</th>
</tr>
</thead>
<tbody>
<tr>
<td>CLINICAL ELECTIVE (Compulsory)</td>
<td>8</td>
<td>4</td>
</tr>
<tr>
<td>THE LEGAL PROFESSION AND PROFESSIONAL RESPONSIBILITY (Compulsory)</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>ONE PERSPECTIVE COURSE (Compulsory)</td>
<td>2-3</td>
<td></td>
</tr>
<tr>
<td>Chosen by each student from the following courses offered in first or second term.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ISSUES IN BIO-ETHICS (2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CIVIL LIBERTIES (2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>PROBLEMS IN CONTRACT AND TORT (2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RESEARCH PAPER (2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ENVIRONMENTAL LAW (3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CURRENT LEGAL PROBLEMS (NATIVE PEOPLES AND THE LAW) (3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CRIME AND SOCIAL POLICY (2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>INTERNATIONAL LAW (3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>JURISPRUDENCE (2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CANADIAN CHARTER OF RIGHTS &amp; FREEDOMS (3)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Sub-Total:** 13 or 14

### BALANCE OF PROGRAM TOTALLY ELECTIVE FROM FOLLOWING COURSES

<table>
<thead>
<tr>
<th>Course</th>
<th>Credit Hours</th>
<th>Sectioning</th>
</tr>
</thead>
<tbody>
<tr>
<td>WILLS AND SUCCESSION</td>
<td>3</td>
<td>1 Group</td>
</tr>
<tr>
<td>INSURANCE I</td>
<td>3</td>
<td>1 Group</td>
</tr>
<tr>
<td>DEBTORS' AND CREDITORS' RIGHTS</td>
<td>2</td>
<td>1 Group</td>
</tr>
<tr>
<td>COMMERCIAL AND CONSUMER TRANSACTIONS</td>
<td>4</td>
<td>1 Group</td>
</tr>
<tr>
<td>CRIMINAL PROCEDURE</td>
<td>2</td>
<td>1 Group</td>
</tr>
<tr>
<td>REMEDIES</td>
<td>2</td>
<td>1 Group</td>
</tr>
<tr>
<td>CONFLICT OF LAWS</td>
<td>3</td>
<td>1 Group</td>
</tr>
<tr>
<td>LAND TITLES</td>
<td>3</td>
<td>1 Group</td>
</tr>
<tr>
<td>ESTATE PLANNING</td>
<td>2</td>
<td>1 Group</td>
</tr>
<tr>
<td>RESTITUTION</td>
<td>2</td>
<td>1 Group</td>
</tr>
<tr>
<td>TRANSPORTATION AND COMMUNICATION LAW</td>
<td>3</td>
<td>1 Group</td>
</tr>
<tr>
<td>LANDLORD AND TENANT</td>
<td>2</td>
<td>1 Group</td>
</tr>
<tr>
<td>REAL ESTATE TRANSACTIONS</td>
<td>3</td>
<td>1 Group</td>
</tr>
<tr>
<td>INTELLECTUAL PROPERTY</td>
<td>3</td>
<td>1 Group</td>
</tr>
<tr>
<td>TAX II</td>
<td>3</td>
<td>1 Group</td>
</tr>
<tr>
<td>LABOUR-MANAGEMENT RELATIONS</td>
<td>3</td>
<td>1 Group</td>
</tr>
<tr>
<td>INSURANCE LAW II</td>
<td>2</td>
<td>1 Group</td>
</tr>
<tr>
<td>BUSINESS PLANNING AND FINANCE LAW</td>
<td>2</td>
<td>1 Group</td>
</tr>
<tr>
<td>MUNICIPAL AND PLANNING LAW</td>
<td>3</td>
<td>1 Group</td>
</tr>
<tr>
<td>COMPETITION LAW</td>
<td>3</td>
<td>1 Group</td>
</tr>
</tbody>
</table>

**Balance:** 18 - 20
<table>
<thead>
<tr>
<th>Course</th>
<th>Credit Hours</th>
<th>Sectioning</th>
</tr>
</thead>
<tbody>
<tr>
<td>COMPARATIVE LAW</td>
<td>3</td>
<td>1 Group Max. 25</td>
</tr>
<tr>
<td>ISSUES IN LAW AND BIO-ETHICS</td>
<td>2</td>
<td>1 Group Max. 25</td>
</tr>
<tr>
<td>PROBLEMS IN CONTRACT AND TORT</td>
<td>2</td>
<td>1 Group Max. 25</td>
</tr>
<tr>
<td>CIVIL LIBERTIES</td>
<td>2</td>
<td>1 Group Max. 25</td>
</tr>
<tr>
<td>RESEARCH PAPER</td>
<td>2</td>
<td>1 Group Max. 25</td>
</tr>
<tr>
<td>ENVIRONMENTAL LAW</td>
<td>3</td>
<td>1 Group Max. 25</td>
</tr>
<tr>
<td>CURRENT LEGAL PROBLEMS (NATIVE PEOPLES AND THE LAW)</td>
<td>3</td>
<td>1 Group Max. 25</td>
</tr>
<tr>
<td>CRIME AND SOCIAL POLICY</td>
<td>2</td>
<td>1 Group Max. 25</td>
</tr>
<tr>
<td>THE LEGAL PROFESSION AND PROFESSIONAL RESPONSIBILITY</td>
<td>3</td>
<td>1 Group Max. 25</td>
</tr>
<tr>
<td>INTERNATIONAL LAW</td>
<td>3</td>
<td>1 Group Max. 25</td>
</tr>
<tr>
<td>JURISPRUDENCE</td>
<td>2</td>
<td>1 Group Max. 25</td>
</tr>
<tr>
<td>CANADIAN LEGAL HISTORY</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>CONSUMER PROTECTION</td>
<td>2</td>
<td>As many sections of 25 as is necessary to satisfy student demand</td>
</tr>
<tr>
<td>CANADIAN CHARTER OF RIGHTS AND FREEDOMS</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>POVERTY LAW ADVOCACY</td>
<td>3</td>
<td>Probably surtaxed by a section of CLINICAL ELECTIVE</td>
</tr>
<tr>
<td>SOLICITORS TRANSACTIONS</td>
<td>3</td>
<td>Probably surtaxed by a section of CLINICAL ELECTIVE</td>
</tr>
<tr>
<td>MANITOBA LAW JOURNAL</td>
<td>2</td>
<td>N/A</td>
</tr>
<tr>
<td>LEGAL AID CLINIC</td>
<td>2</td>
<td>N/A</td>
</tr>
<tr>
<td>CIVIL LAW COMMON LAW</td>
<td>2</td>
<td>N/A</td>
</tr>
<tr>
<td>EXCHANGE PROGRAM</td>
<td>2</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Total Credit Hours 31 – 34

2. A List of Changes Made in the Third Year Curriculum
   (a) CLINICAL ELECTIVE is made compulsory and extended to four sections.
   (b) Students are required to take a perspective course.
   (c) The overall credit hours are increased from 30 to 31 or 34.

3. Comment

The sought-for balance has been achieved in third year by making CLINICAL ELECTIVE compulsory and on the perspective side by supplementing THE LEGAL PROFESSION AND PROFESSIONAL RESPONSIBILITY with one compulsory perspective course. Professor Deutscher in his presentation to us stated that the course, CLINICAL ELECTIVE "is sufficient to meet the objectives of a clinical curriculum". However, the Committee - consistent with its philosophy - believes that the course should be required. Therefore a further section must be added to accommodate all students. The overall credit hours have been increased slightly to provide for a sufficient amount of selection. Students will be able to take approximately 7 courses to fill their program.
VI DOES THE PROPOSED CURRICULUM MEET OUR OBJECTIVES?

The Committee feels that the proposed curriculum, while not being without imperfection, does move the curriculum in the right direction. However, perhaps more importantly, it provides a sense of direction and vision about legal education in the 1980's. If accepted, it commits us to a much more balanced view of legal education and provides a framework within which further fine tuning and modification can take place. Curriculum decision making will be facilitated by a faculty consensus of objectives.

It may perhaps be useful to restate our objectives in the light of the proposals.

Primarily we desired a balance between doctrinal/clinical and perspective courses in all three years and a sense of sequencing and progression through the three year program.

If our proposals are accepted, students will have a steady diet of perspective courses moving from the first general perspective course - LEGAL SYSTEM - through the two second year perspective electives, to THE LEGAL PROFESSION AND PROFESSIONAL RESPONSIBILITY and one perspective elective. The concept of progression is not institutionalized in the perspective courses between second and third years but hopefully faculty expectations of the content and sophistication of third year papers will be greater than for second year students. Some indication of the greater emphasis on perspective courses can be gained by comparing 1982-83 enrollments in perspective courses with projected enrollments under the proposed curriculum. In 1982-83 registrations in perspective courses numbered 154 (see page 6 of A Study of Student Selection of Second and Third Year Courses). If we assume class sizes of 90, that number will rise. In second year each student will take two courses, giving 180 registrations. In third year there will be a further 90 registrations in perspective courses for a total of 270. It would seem likely that students would choose primarily doctrinal courses in the elective portion of the third year curriculum and 270 could be close to the total registrations in any one year.

The proposed curriculum also establishes a balance in clinical education. In all three years, students will be engaged in clinical courses. There is also an institutionalized progression, from the elementary LEGAL METHODS through INTRODUCTION TO ADVOCACY and INTERVIEWING NEGOTIATION AND CONCILIATION to a more sophisticated and demanding CLINICAL ELECTIVE.

Quality control is of overwhelming importance in Clinical courses. It is important that the various courses achieve the objectives of clinical education as set out by Professor Deutsch. The Committee is sympathetic to the view that one Faculty member should have general oversight of all clinical programs to assist in course development, to maintain quality and to maximize integration of the various components of the clinical program.
Doctrinal courses continue to form the major part of the curriculum in all three years. Sequencing is more difficult but the elective program in third year will allow students to specialize in a particular subject area if that is their desire.

The proposed curriculum also makes progress towards balancing public and private law components of the curriculum. We believe the introduction of CONSTITUTIONAL LAW to the first year curriculum, and ADMINISTRATIVE LAW to the second year curriculum is a step in the right direction.

The proposed curriculum is not a panacea. It is a proposal which, we believe, will improve the education of our students. We are reluctant to overstate the advantages of mere curriculum change but there may be to some small degree other benefits. The curriculum change may go some way to lessen student apathy and boredom in the final eighteen months of law school. The steady diet of doctrinal examination courses which most students now subject themselves to in the second and third years is almost guaranteed to produce ennui. It may be that the greater involvement of students and faculty in perspective courses and their related writing requirements will engender greater interest and support for research and writing in the school as a whole. The Law Journal may benefit directly and indirectly. Finally, a commitment to clinical education may bring to the school an innovative program which we hope will develop into a unique and successful clinical program. This school has the advantage of having an abundance of professors with significant and successful backgrounds in legal practice. It is, therefore, in a position to develop a leadership role in the development of clinical legal education.
VII CONCLUSION

Before curriculum proposals become a reality, an enormous amount of careful and thoughtful work must be done. That work must take place even before we seek Faculty Council’s formal approval. Careful calculations must be made to determine if implementation is possible by re-allocating present resources; course descriptions must be carefully considered; we must be assured that time-tableing is possible; we must consider how the half-time program will be implemented, and so on.

Members of Faculty Council will understand that the committee is reluctant to embark on these lengthy and tedious tasks unless we have the support and encouragement of the Faculty Council. Only if there is a consensus within Faculty Council in favour of the proposed curriculum will we proceed. In order to assist us in gauging the sense of Faculty Council we request that each member of the Faculty Council respond, in writing, with his or her comments, criticisms, or own proposals for curriculum change.

We believe this to be more advantageous than an immediate Faculty Council meeting. Many members are unable to attend any one Council meeting and meetings can be dominated by a few. Written submissions allow each and every Faculty Council member to carefully and thoughtfully consider the proposals made and to provide a reasoned response. The committee will consider the replies and if there appears to be a consensus in favour of our approach we will correct oversights, make appropriate amendments and bring the proposal before a meeting of Faculty Council some time in the early Fall.

WE, THEREFORE, REQUEST THAT WRITTEN SUBMISSIONS BE SUBMITTED BY AUGUST 15, 1983.

A Final Note:
It should be noted by members of Faculty Council that if these proposals are accepted implementation will be phased in over a period of two to three years. This would be necessary in order (a) to deal with course shifts from one year to another which require double teaching in the year that the change is made (b) to raise any added necessary financial resources and (c) to allow for negotiations for course load changes of faculty members.

Respectfully submitted by the Curriculum Review Committee

Curriculum Review Committee
Dean J.R. London
Professors A. Emanu
D. Gibson
N. Larson
F. Osborne (Chairperson)
E. Schwartz
Students Ms. E. Andres
Mr. S. Vincent

PHO: bjb