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Developments

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The world of legal education—over 180 law schools, 6,000 law teachers, and 125,000 law students—is a large and varied one. The purpose of this department is to facilitate the exchange of information and ideas concerning noteworthy experiments, innovations, and developments in program, curriculum, teaching scholarship, administration, and the like. Contributions from readers are invited. Those of a longer nature may be published as authored pieces; others will be summarized by the Editor in this space.

Columbia's Committee on the '80s

Insiders and outsiders frequently exhort law schools to engage in a comprehensive and forward-looking review of program, curriculum, resources, and prospects. Although a self-study requirement is now built into the accreditation process, one suspects that compliance in many instances is a matter of form rather than substance. One of the exceptions to this gloomy prediction is the extensive and thoughtful report of Columbia University Law School's Committee on the '80s, which was chaired by Curtis J. Berger. Judge (formerly Professor) Ruth Bader Ginsburg, who served on the committee during the first of its two-year effort, summarized its work in a recent speech:

> Columbia's Committee made some forecasts about the general climate in which law schools will operate in the 1980s. The main prediction is that the '80s will be less sunny than the '70s in the following respects:
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> First, demographic trends, perhaps coupled with a decline in the demand for new attorneys, may shrink the applicant pool. Competition for well-qualified students may increase. Some law schools may not fill their classrooms, and some may not survive the decade.
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> Second, with inflation still unchecked and government support for education and research likely to be lean, university law schools will encounter increased pressure to help defray university costs that exceed the law schools' fair share. There will be pressure on alumni, too. Men and women who today place the law school first on their giving list will be urged to divert their contributions to other parts of the university more sorely in need. Another facet of the problem is that students burdened with loans will seek and overdo part-time employment perhaps even more than they do today.
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> Much has been said about the great sacrifices judges make to serve on the bench. A greater sacrifice is made by the bright, younger people who accept law-faculty posts. They may find, particularly in urban areas, that housing costs and the costs of securing a reasonably good basic education for their children drive them from the academy.
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> With those grave realities confronting law schools, they will surely need the full support of bar and bench in the 1980s.
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> Turning to curriculum, Columbia's Committee suggested encouraging, although not mandating (at least not until we have some experience with it), something akin to an undergraduate major: a concentration in one field, perhaps a total of fifteen to

twenty course hours spanning the second and third years with a progression from basic to more advanced courses. Each student would have a faculty adviser in the field of concentration. The adviser would assist in course and seminar selection and supervise a substantial writing component involving in-depth research. Successful completion of a major might be rewarded by a certificate in addition to the J.D.

On the traditional side, the Columbia Committee suggested imposing as a requirement a minimum of two perspective courses. One would examine another legal system. Comparative law, law in the Soviet Union, law in Japan might fit the bill. The other would look inward at our own system. Jurisprudence and American legal history are clear candidates.

Switching from perspective to conditions of American life in the closing decades of this century, law schools might do more to help students cope with the modern world. Students who have not had an adequate introduction as undergraduates to economics, statistics, computers, for example, might be given an opportunity to fill those gaps while in law school through cross-registration in other university departments.

Clinical education is also on the Columbia list of offerings that should be standard in the 1980s curriculum. At least one such experience should be afforded every student who wishes it. Clinics should not be forced into a single mold or set of molds, the Columbia report counsels. Rather, the programs should reflect the interests, experience, and wisdom of the instructors, both as to subject matter and method.

Experiential, problem-solving exercises can be provided to complement conventional courses even in the first year; examples are drafting problems in contracts, negotiation problems in property or torts, and counseling problems in criminal law and procedure. These could be designed by the teacher of the course in conjunction with clinical instructors. A team of third-year students could be enlisted to monitor the programs and evaluate the written products. One by-product might be improved social and intellectual interchange between clinical and traditionally academic members of the faculty.

A law student serving on the school's Committee on the '80s placed this comment at the top of his list: Law school should be a place where students can broaden and mature as people. Students should have a sense they are participating in a shared adventure with their peers and teachers, and the experience should sometimes even be fun. I agree and would include in addition to the students and teachers, the school's graduates, who can serve the school on visiting boards and advisory committees, and could return to be refreshed by courses developed especially for them. They could also refresh the school by serving on sabbaticals from their law firms as visiting professors from practice. What makes a good law school, in my eyes, is the opportunity for intellectual exchange among faculty members, law students, and alumni.

Putting this all altogether, I suppose I rank more as a traditionalist than as a changer, but I was struck by a line two law teachers penned in the *Virginia Law Review* in a moving tribute to their former dean, Monrad Paulsen. They wrote in support of the idea of the university law school, a place that seeks to develop among students theoretical understanding, critical judgment, and discipline to apply those qualities rigorously to a variety of situations. They point out that in our rapidly changing legal environment with so many of today's rules obsolete tomorrow, theoretical education becomes remarkably practical.

Further information about the Columbia Committee on the '80s and copies of its report (while supplies last) may be obtained from Professor

Curtis J. Berger, Columbia University School of Law, 435 West 116th Street, New York, New York, 10027.

Teaching Lawyer Skills in First-Year Civil Procedure

The emphasis in recent years on teaching lawyer skills has contributed to the establishment of special courses on interviewing and counseling, negotiation, and trial advocacy. In addition to separate skills courses, however, a number of law teachers are experimenting with the "pervasive" approach: adding a skills component to one of the traditional courses. Professor Gene R. Shreve of the Vermont Law School reports on two experiments of this kind in an article, *Bringing the Educational Reforms of the* Cramton Report *into the Case Method Classroom—Two Models,* 59 Wash. U. L. Q. 793 (1981). Shreve has utilized a litigation workshop, in which law students prepare and file a simulated federal lawsuit, conduct discovery, brief and argue several pretrial motions, and try the case before a jury, in the first-year civil procedure course; and he has utilized a choice-of-law trial to enliven the standard course in conflict of laws. He judges both experiments a success in this careful description and assessment.

Similarly, Professor Francis J. Conte of the Detroit College of Law has developed a detailed series of writing exercises for use in conjunction with the first-year civil procedure course. Students draft pleadings and handle a series of pretrial motions in a simulated case as these matters are discussed in the course. He believes that this experience enlivens the course, contributes to analytical and other lawyer skills, and implants concepts more firmly in the students' minds. A detailed memorandum describing his fusion of legal writing and civil procedure may be obtained from Professor Conte by writing him at the Detroit College of Law, 130 East Elizabeth Street, Detroit, Michigan, 48201.

Client Interviews in First-Year Legal Writing

First-year legal writing exercises are typically introduced with a memorandum setting forth a hypothetical set of facts. Valparaiso Law School has abandoned this approach in favor of a less conventional one wherein students obtain the facts through interviews of mock clients. The fact-finding interview offers a number of advantages over the traditional approach: the critical importance of facts emerges; students focus their writing on specific facts and avoid lengthy exposition of legal issues; they sharpen their interviewing skills; and they are exposed at an early stage to some of the ethical dilemmas of the lawyer-client relationship. For details about the Valparaiso approach, write Professor Marcia L. Gienapp at the Valparaiso University School of Law, Valparaiso, Indiana, 46383.

Teaching Legal-Research Skills

Over 50 percent of USC's entering law-school class now participates in an accelerated legal-research course conducted before the beginning of the regular fall semester. The course aims to equip students with basic research skills before they are confronted with other, more substantial coursework.

Materials normally covered over a five-week period are condensed into five days of readings, lectures, and exercises, with one final quiz. To meet the special needs of a short course, instructors use an inexpensive, condensed text which they supplement with a syllabus covering California materials. The library staff prepares course exercises, drawn from intuitive areas of the law and designed to focus on one subject at a time, taking the student through all the basic legal sources in search of relevant information. Readings and lectures also introduce students to nonbook materials, including techniques of computer-assisted research. One component of the course which draws particular praise is the fourth-day session devoted to methodology. Students discuss a detailed hypothetical that they have prepared the evening before, identify one or two salient legal issues in class, quickly search out relevant information in the library, and then share their findings. The concluding quiz is structured so as not to be overly specific, although several "control" questions are asked which require careful analysis and application of the learned skills.

Students, teachers, and librarians alike find the course rewarding for a variety of reasons. Enhanced accessibility of library resources during the summer months, combined with the relatively small class size, accounts for much of its success. As in many other law schools, the first-year writing course incorporates research tasks with memo and brief assignments so that basic bibliographic skills are reinforced through the year.

Those interested in obtaining more information about USC's course in Accelerated Legal Research should contact Albert Brecht, Director of the Law Library and Professor of Law, University of Southern California Law Center, University Park, Los Angeles, California, 90007.

Lawyers and the Energy Crisis

Most people have difficulty articulating the nature of the energy crisis and what ought to be done about it. A lack of understanding by lawyers and legislators about the existing legal interventions and their effects on energy use and research may lead to inefficient or even counterproductive measures or, more likely, to a withdrawal in favor of control by formalized technology assessment. This outcome is an unhealthy admission that our society has reached a level of complexity in which political choices can be made only by the technically trained. In response to this perceived need for lawyers to address energy-crisis issues, the West Virginia College of Law

has introduced an Energy, Society, and Technology course into its curriculum.

In selecting this title for the course, Thomas Barton deliberately omitted any reference to law, in order to emphasize the interdisciplinary nature of the energy problem and to encourage students to evaluate the appropriate role of law in resolving energy issues.

The course begins with a general discussion of the alternative means of making social decisions (the free market, the legal system, centralized government, and expert technological assessment), then examines the many aspects of the energy problem itself, including its historical, economic, technical, and moral dimensions. The issue of technological determinism—whether the choice of alternative solutions is illusory as applied to technological problems—is then explored, and, finally, the initial question of choosing among decision-making systems is revisited. Readings for the course range from F. A. Hayek's *Road to Serfdom* (Chicago: Univ. of Chicago Press, 1944) to law review articles to the Ford Foundation's conclusions about energy policy, *A Time to Choose: America's Energy Future* (Cambridge, Mass.: Ballinger Publishing Co., 1974).

Those interested in more detailed information should contact Professor Thomas Barton, West Virginia University College of Law, Morgantown, West Virginia, 26505.

Health-Law Courses

A recent survey of law-school courses on health-care topics indicates that health law is becoming an established part of the law-school curriculum. The range of interest in the subject appears to be wide, and the extent of study, varied. The researchers conclude that health law is an area ripe for interdisciplinary scholarship.

The courses most commonly offered focus on legal medicine and legal aspects of psychiatry, psychology, and mental health. Health-policy courses are the next most likely to be offered, with professional conduct, scientific litigation, and social legislation among the more unusual offerings. Several institutions have undertaken major efforts at instruction in health-care law. Programs of this sort are generally either a sequence of health-related courses offered within the law school, leading to an informal concentration in health-care law, or a joint degree program administered by the law school in conjunction with another degree-granting school. Those interested in the specifics of the survey are encouraged to contact Carl J. Schramm, Director, The Center for Hospital Finance & Management, The Johns Hopkins Medical Institutions, 615 Wolfe Street, Baltimore, Maryland, 21201.

A Duty to Teach Trust Accounting

Nearly every law student knows that commingling of a client's and

attorney's funds is highly unethical. Many students have read D.R. 9–102, relating to the keeping of trust accounts. Few, however, are familiar with the actual operation of a trust account. Yet, as attorneys, many will be disciplined, suspended, or disbarred for commingling of funds.

Professor James R. Devine has set out to alleviate this problem by giving students at the University of Missouri-Columbia a dose of preventive medicine in his Professional Responsibility course. Students are required to keep an ongoing trust account throughout the semester. They consider ten separate problems, designed to build upon one another, concerning fictitious clients. Of course, trust-account issues give rise to other ethical concerns such as conflicts of interest and the attorney-client relationship. Throughout the experience, students also gain an introduction to office management, record keeping, and billing. A detailed report of his experience, including the text of the problems used, is available from Professor Devine, University of Missouri-Columbia School of Law, Columbia, Missouri, 65211.

The MPRE and Law-School Performance

Are results on the Multistate Professional Responsibility Examination (MPRE) consistent with performance in a law-school course in the subject, law-school performance generally (i.e., cumulative grade-point average), or general predictors of law-school performance? Professor Robert L. Mennell conducted a study with a small group of thirty students at Hamline University School of Law in order to answer this question. The students were enrolled in his Professional Responsibility course. Each student's MPRE score was correlated with the adjusted score he obtained in (1) the final examination in the course; (2) a portion of the same examination; (3) the Law School Admission Test (LSAT); (4) cumulative grade-point average in law school; and (5) undergraduate grade-point average.

Using standard correlation techniques, Mennell reports that the students' law-school grade-point average had the highest correlation with the MPRE (+.38) (1.00, positive or negative, is a perfect correlation, and .00 is a perfect non-correlation), followed by their final examination grade in the Professional Responsibility course (+.35). The Law School Admission Test had a slightly negative correlation of (-.14), and undergraduate grade-point averages had no correlation at all (.00). Since correlations of .90 or above are necessary to predict results for individuals, and scores of .50 or more are necessary for accurate group predictions, Mennell concludes that none of the factors compared in this study showed a correlation which would be useful as a predicting factor. Those interested in further details of this study should contact Robert L. Mennell, Hamline University School of Law, St. Paul, Minnesota, 55104.