

# A New Curriculum for the College of Law of Ohio State University

## PRELIMINARY STATEMENT

A law school program should not be static. New developments in the organization and presentation of materials for the study of law, changes in the practice of law, and changes in our social system require the re-shaping of a program of legal instruction. A significant adaptation to these changes is being continuously made by individual instructors through the use of new materials and new techniques of study and by their efforts to adjust their courses to new conditions. Although this effort by individual instructors is excellent, it is not enough. The efficient and effective training of law students requires an intelligent coordinating of the work of those who participate in the training. This means that periodically the law school program as a whole should be examined and such changes made as seem calculated to contribute to a more effective realization of the objectives which the law school is seeking to accomplish.

In recent years a number of law schools have subjected their curricula to critical examination and revision. At some schools this revision has taken the form of a four year curriculum;<sup>1</sup> at others the three year curriculum has been retained with a re-arrangement of material.<sup>2</sup> Probably all of these schools have the same broad objective, that is, to develop lawyers who will have not only professional competency but also an intelligent appreciation of the relation of law to other social institutions. Unfortunately more specific objectives have not been enumerated.

<sup>1</sup> See Harsch, *The Four-Year Law Course in American Universities*, 17 N. Car. L. Rev. 242 (1939); Katz, *A Four-Year Program for Legal Education*, 4 U. of Chi. L. Rev. 527 (1937); Bordwell, *Experimentation and Continuity in Legal Education*, 23 Ia. L. Rev. 297 (1938).

<sup>2</sup> See Simpson, *The New Harvard Curriculum*, 51 Harv. L. Rev. 965 (1938).

Those schools which have adopted the four year curriculum have assumed that their objectives cannot be satisfactorily attained with a three year program. For the Ohio State University College of Law, however, such an assumption would be premature because there has been no experience which indicates in any persuasive manner that the objectives which it has set for itself cannot be realized by means of a three year program. Failure to achieve more fully our objectives in the past may have been due to such causes as: the absence of a pre-law program; overemphasis on the classroom-casebook method of instruction; lack of individualized instruction for third year students; too rigid adherence to subject matter categories which are shaped for pedagogical purposes. These and other possible deficiencies, which are indicated in the report which follows, are capable of correction without the addition of a fourth year to the law school program. It is expected that the objectives of legal education as outlined in the report will be realized through the general program which is proposed. As to many details the program is sufficiently flexible to encourage changes as experience directs and resources permit.

This Curriculum Committee Report is the product of more than a year of study, consultation and deliberation. In March 1938 the Curriculum Committee was appointed by Dean Arant.<sup>3</sup> In November 1938, that Committee submitted to the law faculty a report which contained a proposal for a new curriculum. During the following months every phase of the proposed new curriculum was discussed in a series of weekly faculty meetings. Certain recommendations which were made by the faculty were incorporated in the final report which the Curriculum Committee submitted on April 21, 1939. This report received the unanimous approval of the faculty of the College of Law. It has since been approved by the Council on Instruction of the University, and the program which is outlined will

<sup>3</sup> The members of this committee were S. A. Harris, F. R. Strong, and A. T. Martin, Chairman.

go into effect in the fall of 1939. A special curriculum has been prepared for the interim year 1939-40. Students who have completed two years of law study will continue under the present curriculum for another year, inasmuch as they have not had courses which are prerequisite to third year study under the new program. The third year portion of the new curriculum will not go into effect until 1940-41.

## THE REPORT OF THE CURRICULUM COMMITTEE

### *Objectives of Legal Education*

#### I. To Develop Attitudes

##### (a) Professional

Awareness of law as a profession and not a business and a responsiveness to the obligations and opportunities of the profession

##### (b) Social

Awareness of social implications in legal problems and legal relations

##### (c) Scientific

Readiness to withhold judgment until the facts are presented and a readiness to revise judgments upon additional data and experience

##### (d) Scholastic

Awareness of law as a *learned* vocation and appreciation of the basic traditions of the law

#### II. To Impart Information

##### (a) History of legal ideas and institutions

##### (b) Present legal concepts in various legal subjects

##### (c) Present trends of legal thought

##### (d) Knowledge of existing procedures with present trends

##### (e) Data concerning facts and experiences of life as they may be applied to legal problems

## III. To Develop Technical Skills

- (a) Accurate and effective written and oral expression
- (b) Use of law books
- (c) Brief-making
- (d) Office practice—business documents
- (e) Court practice

## IV. To Stimulate Powers of Analysis and Synthesis

- (a) Case Law
  1. Reading and interpreting cases
  2. Rationalizing separate cases
  3. Constructing systematic statements of legal principles
- (b) Fact Situation
  1. Interpreting legal, social, economic, political and practical elements of the problem
  2. Applying legal, social, economic, political and practical principles to solution of the problem

*Summary of Deficiencies in the Existing Curriculum  
and Proposed Corrective Devices*

1. (a) Inadequate pre-law training  
(b) A pre-law program
2. (a) Lack of reasonable command of English by many students  
(b) A required course in the Law School curriculum for those who need additional training in English
3. (a) Failure to give beginning students some basis from which to view law as a system  
(b) Courses in Legal Institutions and Legal Method in the first quarter of the first year
4. (a) Lack of logical sequence of courses in some areas  
(b) Arrangement of courses so as to have background and foundation courses precede courses which deal with specialized phases of any given area

5. (a) Inadequate training of students in analysis and synthesis on a broader basis than that of some traditional subdivision of law. It is recognized that under the existing curriculum attention is directed, in various courses, to the social, political and economic implications of statutes and judicial decisions. However, it is believed that in three particulars the present curriculum fails adequately to meet that objective of legal education which is set out in IV (b) above: (1) Emphasis is ordinarily placed on the legal factors with the result that the student derives but a narrow and secondary appreciation of non-legal factors; (2) There are few disciplines in the present curriculum which compel a student himself to bring social, economic and political principles into active play in his study; (3) Granted that there is some training afforded now, it is not given to *all* graduating students with sufficient emphasis or to a sufficient extent.
  - (b) Prescribed Seminars for all third year students
6. (a) Insufficient training in some basic technical skills of the profession such as: the use of law books, brief making, preparation of professional documents, court practice
  - (b) In addition to Legal Aid, prescribe Legal Bibliography and Ohio Court Practice. In some of the prescribed seminars there will be some training in drafting and in the procedure of handling matters before tribunals
7. (a) Failure to develop student initiative in the handling of problems
  - (b) Reading courses; prescribed seminars
8. (a) Inefficient use of faculty and student time by use of classroom-casebook method in certain subjects where that method makes a minimum contribution
  - (b) Reading courses

*Principal Innovations in the Proposed Law  
School Curriculum*

1. Pre-law program
  2. First year courses in Legal Method and Legal Institutions
  3. An English course in the Law School curriculum for those who need additional training in English
  4. Prescribed Seminars in the third year
  5. Reading courses
  6. Reduction in the number of hours allocated to some courses
  7. Rearrangement of courses and increase in the number which are prescribed
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1. *The Pre-law Program*

Although there is no conclusive evidence that any particular field of study provides *the best* training for law, the only alternative is not, as some imply, to let the student roam the college curriculum at will or to specialize in any particular field he may choose to the exclusion of all else. The best preparation for law would seem to involve, over and above training in accurate and effective expression, a good grounding in fields which in content overlap the law, such as Economics, Accounting, History and Political Science, and in fields which, while not related to law in content, offer to the prospective law student valuable training in precision, scientific method, and logical reasoning, such as is offered by Mathematics, Logic and Philosophy, and the Physical Sciences. To illustrate: It may be unsound to insist on a major in Economics or Accounting as a basis for law, but in a day when law deals so much with business affairs and business practice it is good common sense to require that pre-law training include at least elementary courses in Economics and Accounting. And while it may be unwise to require a pre-law major in terms of Chemistry, Mathematics and Logic, the training in exactness, in analysis, in careful work that is characteristic of the study of these subjects offers something valuable for good lawyers. Certainly a well thought-out pre-law course, based on the

combined judgment of relatively mature minds is to be preferred to the haphazard method now in vogue.

#### SUMMARY OF THE PROPOSED PRE-LAW PROGRAM

*Required* — 135 quarter hours of college credit with a point average of 2; excluding: non theory courses in Military Science, Physical Education, Music;<sup>4</sup> and courses in law which duplicate material contained in the professional curriculum (such as law courses in schools of business and departments of political science)

*Recommended* — Not less than 20 hours of English and Speech including at least 10 hours of English Composition — To acquire facility in written and oral expression

— Not less than 40 hours from the fields of Economics, Political Science, and English and American History with at least ten hours of this from Economics and at least 10 hours from one of the other two areas — To familiarize the student with social institutions

— Not less than 10 hours of an exact science.  
— For training in precision

— Some Accounting — For information in an area which is pertinent to many phases of law

— Some Mathematics, Logic or Philosophy. — For discipline in abstract reasoning

— Cultural and theory courses in preference to courses having a more direct professional implication (The recommendation of Accounting is an exception to this general recommendation)

<sup>4</sup> The rules of the Association of American Law Schools forbid the giving of credit for non-theory courses in Military Science, Physical Education, and Music.

Notice of these requirements and recommendations is to be sent to the appropriate officer in each Ohio college to be used as a guide for students who contemplate studying law.

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2. *First Year Courses in Legal Method and Legal Institutions.*

Both the law student and the practicing lawyer should regard the various subdivisions of the legal system as something other than units which are complete in themselves. These categories which are shaped for pedagogical or other purposes should be viewed as part of a broad system of law which itself is part of the general social scheme. To counteract the false perspective which is apt to result from the inevitable pigeon-holing of law into courses, it is proposed that beginning law students be offered two courses which have as their primary objective the giving of perspective on *The Law*. This training in the student's first year of law, coupled with the experience which he will get from his seminar work in his third year, should make a significant contribution to the developing of the student into something more than a mere case lawyer who is helpless if not armed with a case in point.

The two courses proposed are Legal Method and Legal Institutions. The general perspective furnished by these courses is being presented to some extent at present in the usual law courses, but it is thought that greater emphasis can be secured when the material is presented in a separate course.

In Legal Method the student will be introduced to the problems of the judicial process through a study of cases in Personal Property. He will consider the various philosophies that judges have adopted and how those philosophies play a part in judicial decisions. The doctrine of *stare decisis* will be studied and its application to particular cases observed.

The course in Legal Institutions involves an historical study of some of the important legal and political institutions. This course, while similar to some courses in Legal History, is



thought of as broader than the usual course of that title. This course deals with the general background of the law with which every lawyer should be familiar. It involves the study of the growth of the common law, the jury system, the growth of equity, and the more recent rise of the administrative tribunals. The background of the Bill of Rights and the doctrine of the separation of powers will be traced historically to prepare the student for the later more detailed study of the legal problems involved.

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3. *An English Course for Those Who Need Additional Training in English.*

The English language is a lawyer's basic tool. The usefulness of all of the rest of his training is limited by his ability to express his ideas orally and in writing. The Law School should take some responsibility for the adequate development of a skill which is so fundamental to professional competency.

In the curriculum which is recommended it is proposed that each student who displays a need for additional training in English will be required to take a course in that subject without credit. This course will be given by a member of the department of English and this instructor will decide when a student has acquired a sufficient proficiency in the use of English to be excused from further work in the course. Assignment of students to the English course will be made by the law teachers. A student who had supposedly made up his deficiency may be reassigned to the course if he fails to maintain a satisfactory standard of proficiency.

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4. *Prescribed Seminars in the Third Year.*

Six seminars are proposed for the third year, every third-year student to be required to complete *one* such seminar. Six seminars are proposed in order that, by an approximately equal division of the senior class into six parts, each group will be

small enough for efficient application of the seminar technique of study, with its inestimable advantages in more individualized instruction, development of student skills, and training in independent thought and research. It is proposed that the mechanics of division be as follows: (1) Divide the third-year class into two grade groups, upper and lower, on the basis of the average of each student for his first two years of work. (2) Require each student, on enrolling for third-year work, to designate a first, second, and third choice as to seminars. (3) Allocate all third-year students to the various seminars on the basis of their expressed preferences, subject to the limitation that each seminar contain approximately one-half from the upper grade group and one-half from the lower.

Creation of small groups for individualized instruction is one of the two major purposes of the proposed seminars. The other major purpose is that of affording to every graduating student intensive training in the interpretation and synthesis of legal, political, economic, social and practical principles in terms of realistic fact situations presented by different areas of legal control. The areas in which these required seminars are proposed are: Labor Relations; Marketing; Industrial Control; Fiduciary Administration; Law Administration; Constitutional Problems. Both the areas to be chosen and the materials to be used are subject to experimentation and change; the basic purpose, however, is to emphasize during the third year the study of important areas of law not only on the strict legal plane but on the economic, social, and other planes as well, in order that graduating students will be better prepared as skillful practitioners, business counselors, and public servants.

While no definite tie-up of seminar and court practice work is made in the proposed curriculum, it is hoped that, as experience in the conduct of the Seminars develops, there may be an effective keying of the seminar work with trial and appellate practice, thus affording each student the experience of carrying a problem precipitated in his seminar research through the actu-

alities of a trial suit and an appeal. By this process substance and procedure would be integrated so as to give the senior student a vitalized, meaningful introduction to the practice of law as it exists today, and to instill in him a greater breadth of approach and a more dynamic legal philosophy.

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##### 5. *Reading Courses*

In certain areas where the classroom-casebook method of instruction appears to make a minimum contribution toward the objectives of legal education, it is proposed to substitute a reading-consultation method. Thus students enrolling in a Reading Course will be expected, through suggested readings in cases, texts and articles, to work out the subject-matter of the course without classroom supervision, but provision is made for conferences with the instructor in charge once a week at a time set aside for this purpose. Each course will be open to second and third-year students.

Reading Courses proposed are: Rights in Land; Quasi Contracts; Wills; Suretyship; Domestic Relations; and Municipal Corporations.

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##### 6. *Reduction of Hours Allocated to Some Courses*

Starting with a fairly definite limit as to faculty and student time which is available, it is obvious that new courses which are added have to be compensated for by shrinkage elsewhere. In some areas a change in method which results in shrinkage may be a virtue in itself. The suggested Reading Courses, for example, provide for a more efficient use of faculty and student time, and may make a worthwhile contribution to the development of student initiative. In some other areas shrinkage in hours allocated can be absorbed by the elimination of material which is duplicated in different courses. Where there is shrinkage beyond these points any loss has to be weighed against the potential gain from the proposed courses.

Aside from the Reading Courses a few subjects require specific mention. The regular course in Labor Law is dropped and a seminar in Labor Relations substituted. Because of the restricted enrollment in the seminar it is thought that the normal Labor Law course might be offered frequently in the summer session. Legislation is dropped but might be offered in the summer session, perhaps alternating with Labor Law. Trade Regulation and Administrative Law will be offered in alternate years.

In the proposed curriculum fewer first year courses are offered in sections. There can be no doubt but that this is a loss, but it is believed that it is more important to have small groups with individualized treatment in the third year than in the first.

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7. *Rearrangement of Courses and Increase in the Number Which Are Prescribed*

Some standardization of the second year work is necessary in order to prepare students for the prescribed seminars of the third year. Constitutional Law, Trusts, Corporations, Evidence, and Legal Bibliography are essential as foundation courses for the proposed seminars and so these courses are required in the second year. With the exception of Legal Bibliography, these courses are at present elected by most students. The requirement of Legal Bibliography is justified by the contribution which it makes to the mechanical equipment of the prospective lawyer as well as its relation to effective seminar work.

In the past Constitutional Law, Trusts and Corporations have been offered as third year subjects. The shifting of these courses to the second year not only secures the foundation material essential to prescribed seminars but also, brings about a closer adherence to the general principle that foundation courses should precede courses which deal with a specialized

phase of a subject. This is particularly noticeable in the public law field. The basic course, Constitutional Law, is placed ahead of the various courses which deal with special public law problems. The advantages resulting from the shift of Trusts and Corporations are not quite so specific but the placing of these courses in the second year facilitates the general arrangement of student instruction on an ever widening basis throughout the three years. These courses represent areas which are fundamental in the training of a lawyer. With his first study of the subjects completed in the second year, a student will start his third year with a better foundation with which to analyze and integrate on a broader, and consequently more realistic basis. His training in various phases of practice can duplicate more accurately true professional experience; and his selection of electives can have an intelligent relation to his needs and desires.

In the third year Ohio Court Practice and a Seminar, are added to the present required courses of Legal Aid and Legal Ethics. Each of these courses makes a significant contribution to the student's training in analysis and synthesis on a wider, more realistic, basis. Through them substantive law is examined without the distortion produced by narrow pedagogical categories; substantive law is integrated with judicial administration and other phases of practice; and the field of law is integrated with the general social scheme.

Each student will have to elect a minimum of thirty-eight quarter hours of course material. Only a comparatively small portion of this can be taken during the second year. In order to permit freedom of election, most elective courses are to be available to both second and third year students. Such elective courses are to be so scheduled as not to conflict with each other or with required courses of either the second or third year. This will necessitate a more extensive use of afternoon hours for classes.

SUMMARY OF THE CURRICULUM

FIRST YEAR

REQUIRED COURSES

Fall		Winter		Spring	
Contracts	3	Contracts	3	Contracts	3
*Torts	3	*Torts	3	*Torts	3
*Remedies	3	*Remedies	2	*Remedies (Equity)	3
Legal Institutions	3	Real Property	4	Real Property	3
*Legal Method and Personal Property	3	*Agency-Partnership	3	*Agency-Partnership	3
	<hr/>		<hr/>		<hr/>
	15		15		15
**English	3	**English	3	**English	3

SECOND YEAR

REQUIRED COURSES

***Legal Bibliography	1	Constitutional Law	2	***Legal Bibliography	1
Constitutional Law	3	Private Corp.	2	Constitutional Law	3
Private Corp.	4	Trusts	3	Trusts	3
	<hr/>	Evidence	2	Evidence	4
	8		<hr/>		<hr/>
			9		11

THIRD YEAR

REQUIRED COURSES

Ohio Court Pract.	2	Ohio Court Pract.	2	‡Legal Aid	1
‡Legal Aid	1	‡Legal Aid	1	Legal Ethics	2
Seminar	3	Seminar	3		<hr/>
	<hr/>		<hr/>		3
	6		6		

SECOND AND THIRD YEAR

ELECTIVES

Insurance	3	N.I.L.	4	§Ohio Court Pract.	2
Equity	3	Spec. Perf.	3	Sales	3
Mortgages	3	Debtors Estates	2	Procedure Probs.	3
Debtors Estates	4	Taxation	3	Public Utilities	3
Future Interests	3	Jurisprudence	3	Administrative Law	3
	<hr/>	Conflicts	2	Conflicts	4
	16		<hr/>	Criminal Law	4
			17		<hr/>
					25
‡Reading Courses	8	‡Reading Courses	8	‡Reading Courses	8

\* Course is offered in two sections.

\*\* For all students who need additional training in English.

\*\*\* Legal Bibliography is offered in four sections, two in the fall and two in the spring.

‡ Only one quarter of Legal Aid is required of each student.

‡ These include Rights in Land, Quasi Contracts, Wills, Suretyship, Domestic Relations, and Municipal Corporations. Each one will be offered in two quarters.

§ For third year students only.

SUMMARY OF THE CURRICULUM FOR 1939-40  
(TRANSITION YEAR)

FIRST YEAR

Fall		Winter		Spring	
Contracts	4	Contracts	3	Contracts	2
Torts	4	Torts	3	Torts	2
Remedies	4	Remedies	2	Remedies (Equity)	4
Legal Method and Personal Property	3	Real Property	4	Real Property	3
	—	Agency-Partnership	3	Agency-Partnership	3
	15		—		—
			15		14

SECOND YEAR

Agency-Partnership	4	Agency-Partnership	2	Legal Bibliography	1
Corporations	4	Corporations	2	Constitutional Law	3
Constitutional Law	3	Constitutional Law	2	Trusts	3
Legal Bibliography	1	Trusts	3	Evidence	4
	—	Evidence	2		—
	12		—		11
			11		

SECOND AND THIRD YEAR

ELECTIVES

Debtors Estates	4	Debtors Estates	2	Sales	3
Future Interests	3	Specific Perform.	3	Public Utilities	3
Equity	3	N.I.L.	4	Quasi Contracts	3
Mortgages	3	Taxation	3	Procedure Probs.	3
Insurance	3				

*Reading Courses:*

Wills		Wills		Rights in Land	
Suretyship		Suretyship		Domestic Relations	
		Rights in Land			
		Domestic Relations			

THIRD YEAR

Legal Aid	1	Legal Aid	1	Legal Aid	1
Ohio Court Pract.	2	Ohio Court Pract.	2	Ohio Court Pract.	2
Constitutional Law	3	Constitutional Law	2	Constitutional Law	3
Con. Law Seminar	3	Con. Law Seminar	3	Con. Law Seminar	3
Trusts	3	Trusts	3	Municipal Corp.	3
Corporations	3	Corporations	3	Legal Ethics	2
		Conflicts	2	Conflicts	4
		Jurisprudence	3		

*Not offered in 1939-40*

Criminal Law  
Trade Regulation  
Labor Law  
Legislation