INTRODUCTION: BACK TO THE FUTURE OF LAW SCHOOL

ERIC M. ADAMS*
Special Issue Coordinator

Just over one hundred years ago, the first law students arrived at the University of Alberta, Faculty of Law. The University — still just a handful of brick buildings dotting a freshly cleared campus conveying more hopeful promise than venerable history — provided space, but not much else: practicing lawyers travelled across the North Saskatchewan River from downtown Edmonton to give the lectures, and the Law Society of Alberta set the exams.[1] Students purchased or borrowed the assigned texts and studied an array of courses still familiar: contracts, property, constitutional law, statute law, common law, equity, torts, criminal law, evidence, private international law, practice and procedure, commercial law, company law, and wills.[2] By the early 1920s, the Faculty of Law had gained full control of the LL.B. program, now the exclusive route of admission to the Bar in the province of Alberta. "This year will see the graduation of the first law class trained entirely within the University," the campus newspaper proudly proclaimed.[3] Celebrating its Harvard-inspired "case method of study … recognized to be the best known system for the study of law," "excellent teaching staff and an adequate library," the *Gateway* set its eyes to the future, when "Alberta will have the best law school in the Dominion."[4]

But, of course, learning the law predated the arrival of the law school and its ambitions. Before the establishment of the Faculty, admission to the Bar in Alberta followed the professional educational model of a period of law office study, occasional lectures, and required readings culminating in an examination on "the general principles of the common law and equity jurisprudence, the British North America Act, and amendments thereto, the Statutes of the Dominion, and the Ordinances of the North-west Territories."[5] But even

---

* Associate Professor, University of Alberta, Faculty of Law. This special issue would not have been possible without the efforts and talents of all of those engaged — speakers, participants, volunteers, sponsors, and staff — in The Future of Law School Conference which took place at the conclusion of the centenary celebrations at the University of Alberta, Faculty of Law in September 2013. In addition, special thanks are owed to the Co-Editors-in-Chief of the *Alberta Law Review*, Leanne Monsma, Catherine Scott, Peter Buijs, and Shad Turner for their enthusiasm and dedication to this issue. A tremendous debt is also owed to the visionary behind the Conference, my colleague, FC DeCoste. In the best ways of the academy, I know he will passionately agree and strenuously object to many of the ideas contained in the articles which follow. Finally, it is with tremendous sadness and sense of loss that we acknowledge the death of Roderick A Macdonald just weeks before publication of this issue. It is an honour and a privilege to publish one of his final articles. Unquestionably, Rod's extensive writings on legal education and his mentoring of a generation of scholars will extend his profound influence deep into the future. To Rod Macdonald's memory, we dedicate this special issue.

1 See Peter M Sibenik, "Doorkeepers: Legal Education in the Territories and Alberta, 1885-1928" (1990) 13:1 Dal LJ 419 at 440-41. See also John M Law & Roderick J Wood, "A History of the Law Faculty" (1996) 35:1 Alta L Rev 1.

2 Alberta's curriculum is listed within the study produced by the Canadian Bar Association's Legal Education Committee as part of their 1920 annual meeting: *Proceedings of the Fourth Annual Meeting of the Canadian Bar Association* (Winnipeg: Douglas-McIntyre Printing, 1920) at 214.

3 "First Class in Law to Graduate" *The Gateway* (14 May 1924) 1, online: Peel's Prairie Provinces <http://peel.library.ualberta.ca/newspapers/GAT/1924/05/14/1/>.

4 *Ibid*.

5 Ord, 1885, No 10, s 1(4)(5), quoted in Sibenik, *supra* note 1 at 446. On the role of the profession as educator in this period see G Blaine Baker, "Legal Education in Upper Canada, 1785-1889: The Law Society as Educator" in David H Flaherty, ed, *Essays in the History of Canadian Law*, vol 2 (Toronto: University of Toronto Press, 1983) 49.

before there was a state to regulate legal education, law and learning had already arrived in what is now Alberta. Before Canada purchased the lands of Western Canada from the Hudson Bay Company in 1869, it was a dynamic blend of the English common law, HBC Company Law, Cree law, and Métis law that regulated the fur trade, governed private relations, and dispensed criminal justice in the river valleys, forests, parkland, and prairie of Northern Alberta.[6] In a world without formal legal education, the law in its various iterations transferred among its practioners and those subject to its rule in fraying letters and worn books, customs and traditions, stories and songs. And since time immemorial, Cree law has shaped the lives and communities of the Cree peoples who have called this region home.[7] And as long as there has been law, there has been learning about law. How law is learned — its modes and practices of memory, critique, and transference — has always been intimately bound up with how law is performed, experienced, and lived.

Despite the ubiquity of law and its myriad paths of informal learning, formally-accredited law schools — in Canada, all of them affiliated with a university — have come to occupy a particular place of power and prominence in our contemporary legal system. Admission to law school operates as virtually the exclusive means of joining the legal profession. That fact alone grants law schools a tremendous influence on the shape and nature of the legal profession and, by extension, the practice of law. But, of course, law schools exist as much more than barriers or gateways to a particular career. "Legal education is the fulcrum of the Canadian legal system," Harry Arthurs once argued.[8] In their teaching and research capacities they are also, in Arthurs' latest evocative phrasing, "knowledge communities: they exist to collect, critique, produce and disseminate knowledge."[9] When we ask questions of what, why, when, and how law is and should be taught, we necessarily engage in a deeper and broader conversation about the law itself, its meanings, purpose, and contingent futures. "Law must be stable and yet it cannot stand still," Roscoe Pound famously wrote. "[T]he legal order must be … overhauled continually and refitted continually to the changes in the actual life which it is to govern…. [W]e must seek principles of change no less than principles of stability."[10] To live in a world of law, then, is to engage in a debate that never ends: not just about the content of law, but about learning law. "Since there has been legal

---

6 See generally Louis A Knafla, ed, *Law & Justice in a New Land: Essays in Western Canadian Legal History* (Toronto: Carswell, 1986); John McLaren, Hamar Foster & Chet Orloff, eds, *Law for the Elephant, Law for the Beaver: Essays in the Legal History of the North American West* (Regina: Canadian Plains Research Centre, 1992); Russell Smandych & Rick Linden, "Administering Justice Without the State: A Study of the Private Justice System of the Hudson's Bay Company to 1800" (1996) 11:1 CJLS 21; H Robert Baker, "Creating Order in the Wilderness: Transplanting the English Law to Rupert's Land, 1835-51" (1999) 17:1 LHR 209; Sarah Carter, *The Importance of Being Monogamous: Marriage and Nation Building in Western Canada to 1915* (Edmonton: University of Alberta Press, 2008).

7 John Borrows, *Canada's Indigenous Constitution* (Toronto: University of Toronto Press, 2010) at 84-91. See also Hadley Louise Friedland, *The* Wetiko *(Windigo) Legal Principles: Responding to Harmful People in Cree, Anishinabek and Saulteaux Societies — Past, Present and Future Uses, with a Focus on Contemporary Violence and Child Victimization Concerns*, (LLM Thesis, University of Alberta, Faculty of Law, 2009) [unpublished].

8 "Law schools," he elaborates "must train lawyers to new and higher standards of technical competence and professional responsibility; they must be a source of intellectual innovation for the profession; and they must provide the public with a disinterested and informed evaluation of the legal system." HW Arthurs, "Paradoxes of Canadian Legal Education" (1977) 3:3 Dal LJ 639 at 661.

9 HW Arthurs, "The Future of Law School: Three Visions and a Prediction" (2014) 51:4 Alta L Rev 705 at 710.

10 Roscoe Pound, *Interpretations of Legal History* (Cambridge: Cambridge University Press, 1923) at 1.

education," Deborah Cantrell astutely observes, "there has been a conversation about how it should change."[11] We would not want it any other way.

It is certainly true that the past few years have witnessed an escalation in the volume (in both senses) of the debate surrounding legal education. There are many who see the traditional modes and mores of legal education in decline, if not outright crisis. "In recent years," Alfred Konesfsky and Barry Sullivan note, "we have heard dire warnings of failing law schools and vanishing lawyers."[12] Although the most drastic and sharp-edged of the gloomy forecasts have emanated from the United States,[13] similar sentiments have been expressed across other common law jurisdictions: Australia, the United Kingdom, and Canada. Without question these are moments of instability in legal education brought about by monumental shifts in information technology, but also larger structural changes in political economy, demography, and culture. And naturally such forces exert pressure not only on legal education, but also the legal profession,[14] and post-secondary education more generally.[15] It is the inclination of every generation to imagine that the challenges of their time are particularly exceptional and extraordinary. And so it is with law schools. Whatever the particularities of today's "existential crisis"[16] in legal education, legal educators would do well to reflect upon the innovations, missteps, and ideological and practical battles of the past — to see the cycles of adaptation and resistance to change as ultimately productive and necessary elements of the vibrant life of law schools. In short, we would be wise to see reflecting upon internal and external criticism of legal education as healthy and inevitable aspects of the mission of law school itself.

If we looked back, we would see that legal education has always been a predominant concern among lawyers. Indeed, the issue consumed considerable attention in the early years of the Canadian Bar Association (CBA).[17] After its founding in 1915, members frequently debated the best model of legal learning — lenient or strict admission standards, university or professional control, classroom or law office training, case method or lecture, uniformity or diversity of law schools — and, less admirably, how to maintain the profession's

---

11 Deborah J Cantrell, "Are Clinics a Magic Bullet?" (2014) 51:4 Alta L Rev 831 at 832.

12 Alfred S Konefsky & Barry Sullivan, "In This, The Winter of Our Discontent: Legal Practice, Legal Education, and The Culture of Distrust" Buff L Rev at 2 [forthcoming], online: Social Science Research Network <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2343375>.

13 See e.g. Richard W Bourne, "The Coming Crash in Legal Education: How We Got Here, and Where We Go Now" (2011-2012) 45:4 Creighton L Rev 651 ("[u]nless law schools reconfigure themselves, many will die on the vine, crushed by cost-structures incurred during good times and starved by an unwillingness of students to incur ever-increasing indebtedness to train for a much tighter job market" at 697). See also Brian Z Tamanaha, *Failing Law Schools* (Chicago: University of Chicago Press, 2012).

14 Richard Susskind, *The End of Lawyers? Rethinking the Nature of Legal Services* (Oxford: Oxford University Press, 2010).

15 William G Bowen, *Higher Education in the Digital Age* (Princeton: Princeton University Press, 2013). See generally Anthony C Masi, "Questioning Higher Education: As digital alternatives get cheaper and easier, can universities justify their existence?" (2013) 21:7 Literary Review of Canada 5.

16 Lincoln Caplan, "An Existential Crisis for Law Schools" *The New York Times* (15 July 2012) SR10.

17 "We realize that the subject of legal education is the most important subject we can deal with after all," MH Ludwig announced in a CBA debate: *Proceedings of the Seventh Annual Meeting of the Canadian Bar Association* (Toronto: Carswell, 1923) at 38. So frequent were discussions that as early as 1923, it was possible to title an article appearing in the *Canadian Bar Review*, OM Biggar, "Legal Education Again" (1923) 1:10 Can Bar Rev 864. Twenty-five years later, Maxwell Cohen could report that "[t]wo or three generations of Bar papers, studies and reports make it abundantly clear that legal education long ago became a hardy perennial of discussion within the profession." Maxwell Cohen, "The Condition of Legal Education in Canada" (1950) 28:3 Can Bar Rev 267 at 267.

exclusivity and homogeneity.[18] By 1920, the CBA adopted a model common law curriculum, based upon Dalhousie Law School's Harvard-influenced curriculum, predicated on three years of academic legal study followed by a period of practical training undertaken under the supervision of a practicing lawyer.[19] The CBA debate leading to the adoption of the curriculum veered from the mundane and technical to the profound and back again. But amidst the haggling over course titles and the appropriate years in which to teach certain courses, the assembled lawyers struggled to find an appropriate blend between skills and theory, practice and academy, actions and ideas. And even then such dichotomies struck some as unduly rigid: "Is it not desirable to attempt to combine both practice and theory," F.R. Taylor intervened.[20] R.M. Macdonald, for his part, turned to first principles: "What should be the aim of the law course for the law student?"[21] he asked. It could not be simply to "cram [students] as full of detailed law as we can," he noted, for "law is such a vast subject that we … cannot accomplish a complete course of instruction in five years or in fifty."[22] Rather, he argued, "[t]he great object … that a law school should have before it, is to saturate the minds of the students in those elementary principles that lie at the base of all law, and upon which our ideas of freedom and justice exist."[23] The following year, the CBA proudly reported that their model common law curriculum had been taken up by law schools across the country, with the exception of Ontario.[24] But even as law schools in Ontario by the end of the 1950s, as elsewhere across the country, became permanent fixtures on university campuses, an emphasis on "practical" and "professional" legal training by inadequately staffed and under-resourced law schools remained the dominant mode of Canadian legal education at mid-century.

---

18 See Winnipeg lawyer Isaac Pitblado's concern that "[w]e have in our province, as in some of the other western provinces, men coming forward whose parents were not originally of Canadian birth. We find what I might call foreigners coming and taking advantage of admission, and getting into our legal profession" *Proceedings of the Third Annual Meeting of the Canadian Bar Association* (Toronto: Carswell, 1918) at 44. See generally DG Bell, "Slamming the Door on Brains: Two Early Twentieth-Century Law Schools and the Narrowing of Educational Opportunity" in Constance Backhouse & W Wesley Pue, eds, *The Promise and Perils of Law: Lawyers in Canadian History* (Toronto: Irwin Law, 2009) 31.

19 *Proceedings of the Fifth Annual Meeting of the Canadian Bar Association* (Winnipeg: Bulman Bros, 1920) at 250. The Standard Curriculum recommended Contracts, Torts, Property I, Constitutional History, Criminal Law, Practice and Procedure, History of English Law, and Jurisprudence in first year; Equity, Wills and Administration, Evidence I, Sale of Goods, Bills and Notes, Agency, Corporations and Partnership, Insurance, Practice and Procedure, Property II, and Landlord and Tenant in second year; and, Constitutional Law, Equity II, Evidence II, Practice and Procedure, Conflict of Laws, Mortgages, Suretyship, Practical Statutes, Rules of Interpretation and Drafting, Shipping or Railway Law, Domestic Relations, Public International Law, and Legal Ethics in third year.

20 *Ibid* at 24.

21 *Ibid* at 19.

22 *Ibid*.

23 *Ibid*.

24 *Proceedings of the Sixth Annual Meeting of the Canadian Bar Association* (Toronto: Carswell, 1922) at 241-42. The profession in Ontario continued to fiercely debate the nature, purpose, and form of legal education for the next three decades. As Kyer and Bickenbach explain,

> [T]he academically minded believed that law was not just a practical profession but a "scientific" field of study of substantial complexity that was strongly affiliated with the social sciences. The practioners envisaged the law from the standpoint of how they practiced it: there was some theory to learn, of course, but that theory made sense only if viewed from the perspective of the lawyer in practice. The debate over legal education was nothing more or less than a debate about the nature of the legal profession itself. Neither side denied that the other had a point — law was obviously a practical matter and a theoretical subject amenable to scientific treatment. The problem was which of the two conceptions was to dominate at the level of instruction.

C Ian Kyer & Jerome E Bickenbach, *The Fiercest Debate: Cecil A Wright, the Benchers, and Legal Education in Ontario 1923-1957* (Toronto: University of Toronto Press, 1987) at 67.

In the process of making (and re-making) themselves across the twentieth century, Canadian law schools perpetually found itself in moments of transition and change. The 1930s roiled the Canadian legal academy as new ideas about legal functionalism, sociological jurisprudence, and, later, legal realism, penetrated into law faculties displacing bedrock notions of legal science in legal thought.[25] "The day of faith and credence seems going," Dean Caesar Wright pointed out in the early 1930s, "and in its place we have a general spirit of skepticism followed often by a move towards the empirical and the pragmatic."[26] Not all of this new critical thinking about the law translated into changes to the curriculum, but nonetheless law professors increasingly taught law less as a detached entity and more as an embedded social science imbued with politics and policy, as well as reason and logic. Shortly thereafter, the dramatic expansion of the administrative state, especially accelerated during the Second World War, forced law schools to adapt their curriculums to the changing realities of expanding government and legal practice. To a curriculum heavily devoted to private law, faculties added courses in administrative law, tax, and labour law, as the career orientations of students began to include not only private practice, but work for government, business, and the public sector.[27] "[W]e are living in a revolutionary epoch," George Steer, Edmonton lawyer and former Acting Dean of the University of Alberta, Faculty of Law, argued, "when law and society are bound to undergo and are now undergoing profound change."[28] Legal education, he reasoned, must change too.

And change, although sometimes slow and incremental, continued to arrive at Canadian law schools. Post-war prosperity dramatically expanded the number of law schools, the number of law students, and the number of professors.[29] The composition of the student body changed too. Waves of confident returning veterans in the late 1940s and early 1950s, gave way to the increasing diversity of the law school classroom in the decades which followed. The arrival of increasing numbers of female law students in the 1970s altered not only the face of the profession, but the culture and practices of legal education too.[30] The ethnic backgrounds of students also changed, as classrooms, though still imperfectly, came to more closely mirror the multicultural realities of Canadian society. And the curriculum changed yet again. Law schools markedly increased their number of course offerings to incorporate new theoretical fields and perspectives, social justice concerns and critiques, and clinical initiatives. At the same time, many previously mandatory courses — agency, bills and notes, equity, sale of goods, mortgages — were folded into existing subjects, made purely optional, or vanished entirely.[31] At Alberta, as elsewhere, students took leading roles in demanding these curricular changes and in founding legal aid clinics, such as Student Legal Services

---

25 See RCB Risk, "Canadian Law Teachers in the 1930s: 'When the World Was Turned Upside Down'" in RCB Risk, *A History of Canadian Legal Thought: Collected Essays*, eds, G Blaine Baker & Jim Phillips (Toronto: University of Toronto Press, 2006) 341; Eric M Adams, "Canada's 'Newer Constitutional Law' and the Idea of Constitutional Rights" (2006) 51:3 McGill LJ 435.

26 Cecil A Wright, "An Extra-Legal Approach to Law" (1932) 10:1 Can Bar Rev 1 at 1.

27 On the mid-century transition see Eric M Adams, "The Dean Who Went to Law School: Crossing Borders and Searching for Purpose in North American Legal Education" [unpublished].

28 GH Steer, "On Legal Education in Canada" (1947) 25:9 Can Bar Rev 943 at 943.

29 Edward Veitch, "The Vocation of Our Era for Legal Education" (1979-1980) 44:1 Sask L Rev 19 (reporting that between 1925 and 1979 "the number of schools have doubled (from 10 to 20), the number of students have increased tenfold (from 911 to 9,506) and the number of full time teachers have risen from 18 to 558" at 19-22).

30 Constance Backhouse, "'A Revolution in Numbers': Ontario Feminist Lawyers in the Formative Years 1970s to the 1990s" in Backhouse & Pue, *supra* note 18, 265.

31 See generally Rod Macdonald, "Legal Education on the Threshold of the 1980's: Whatever Happened to the Great Ideas of the 60's?" (1979-1980) 44:1 Sask L Rev 39.

which began offering legal services to low income persons in Edmonton in 1969.[32] But if change was a constant, so too was criticism that legal education had not gone far enough, or had gone too far, or perhaps had gone off its track entirely. The influential *Law and Learning* report appearing in 1983 criticized the unfocused nature of Canadian legal education, the paucity of serious interdisciplinary scholarly output, and the continuing neglect of "[s]cholarly or intellectual legal study."[33] During the same period, others noted that "[t]he dissatisfaction expressed by some members of the Bench and Bar with the graduates of law schools, while not new, is growing."[34] In reality, such disunities have always marked the legal education enterprise.

It is true, as Kim Brooks points out, that on the subject of legal education, "[t]he number and volume of conferences, workshops, task forces, and studies undertaken … in the last five years easily dwarf everything undertaken on the topic in the last century."[35] But I am not so sure the stakes or positions on display are very much different than they have been. Themes of societal change, evocations of revolution, destabilizing shifts in technology, debates about the balance of theory and practice, and the sense that unique and dramatic times call for innovation have always defined Canadian legal education.[36] Which is not to argue that our future has been preordained by the past. If legal history shows us anything it is that legal institutions are the contingent products of a range of larger societal forces and currents, and also respond to the power of ideas, accidents of time, decisions of leaders, actions of masses, and intervention of circumstance.[37] Knowing our past may usefully ground us in humility just as it frees us to experiment, innovate, and alter course.

Certainly it was a shared excitement about the future of legal education that brought academics, lawyers, deans, and students from across Canada and around the world to the University of Alberta, Faculty of Law to attend The Future of Law School conference, over three days at the end of September 2013. The diverse collection of articles which follow originated in those proceedings. The conference focused on four central themes: (1) Foundations — Theories of Contemporary Legal Education; (2) Circumstances — Law Schools, Regulators, and the Market for Legal Services; (3) Challenges — Reflecting Changes in the Practice of Law; and (4) Practices — Innovating the Content and Delivery of Legal Education. Some of the topics raised — digitally interactive coursebooks, flipped classrooms, the demands of international legal practice, off-shoring legal services — would have been difficult to imagine when the Law Society of Alberta first entered into an

---

32 "Student Legal Services History — 1960s," online: Student Legal Services of Edmonton <http://www.slsedmonton.com/about/student-legal-services-history/1960s/>. Student Legal Services explains that it was founded "by a group of fourteen University of Alberta law students who were inspired by the student legal assistance clinics emerging at law schools throughout Canada and the U.S."

33 Consultative Group on Research and Education in Law, *Law and Learning: Report to the Social Sciences and Humanities Research Council of Canada* (Ottawa: Social Science and Humanities Research Council of Canada, 1983) at 153. On the impact of what became known as the *Arthurs' Report* see the special issue of the CJLS, (2003) 18 CJLS.

34 Veitch, *supra* note 29 at 30 [footnotes omitted].

35 Kim Brooks, "The World Needs More Rod Macdonald: The Potential of Big Ideas" (2014) 51:4 Alta L Rev 871 at 875.

36 Virtually every decade a handful of articles appear attesting that *this* is the most critical moment of change in the life of legal education. "Historians love to show the new is old," Laura Kalman writes, "[i]t is one of our favourite parlor games." Laura Kalman, "Professing Law: Elite Law School Professors in the Twentieth Century" in Austin Sarat, Bryant Garth & Robert A Kagan, eds, *Looking Back at Law's Century* (Ithaca, NY: Cornell University Press, 2002) 337 at 337.

37 Jim Phillips, "Why Legal History Matters" (2010) 41:3 VUWLR 293.

agreement with the University of Alberta to administer law exams in the fall of 1912; quite clearly globalization and technology have transformed legal practice and legal education in marked and profound ways. But there is much that was discussed at the Conference that would have resonated with the lawyers, judges, and students who began the University of Alberta, Faculty of Law over a century ago. How, in short, should legal education best prepare students for a world in which law continues to play such a crucial role? If nothing else, the articles which follow reveal how deeply and passionately so many of us remain committed to that vital and enduring project.

The collection opens with Harry Arthurs' perspicacious soothsaying, "The Future of Law School: Three Visions and a Prediction." As he has done so often in his long career of writing about legal education, Arthurs lays out a compelling account of the forces which hold law schools in sway, while reminding that "one crucial factor is very much within the control of law schools: the values they embrace and the way they define their ambitions."[38] In taking up the challenge of defining themselves, sometimes in opposition to the demands of others, Arthurs presses law schools to "embrace their vocation as knowledge communities" in their methodologies, identities, and aspirations.[39] Challenging and trenchant, Arthurs offers a clear-eyed vision of an uncertain future, nonetheless imbued with optimism.

The next three articles all engage with the theme of foundations — what ideas and principles stand at the heart of legal education? In "Decolonizing Law School," Roderick Macdonald and Thomas McMorrow argue that Canadian legal education "has been and remains thoroughly dominated by powerful exogenous forces."[40] Their article charts the nature of those varied forces and the shape of their influences while adumbrating a vision of legal education freed from such constraints. Calling for diversity and pluralism in the future institutions of learning law, Macdonald and McMorrow find inspiration in the idea of the study of law as the humane endeavour of learning to live virtuously. David Sandomierski's "Training Lawyers, Cultivating Citizens, and Re-Enchanting the Legal Professional," proposes that a robust and publicly-oriented sense of professionalism holds the promise of uniting the sometimes disparate communities of law school stakeholders. Focusing on the law school's purpose as the cultivation of professionalism in the service of the public good, Sandomierski imagines the ways in which the power of an ideal may establish the foundations upon which a diverse array of pedagogies and approaches may stand. Finally, in "Forgotten? The Role of Graduate Legal Education in the Future of the Law Faculty," Rosalie Jukier and Kate Glover turn the spotlight on the often neglected field of graduate studies in law. Any efforts to conceptualize the law school, they argue, must include appreciation of its constituent parts, including the vibrant programs of graduate study at Canadian law schools. Indeed, part of the success in doing so might well be to abandon the notion that law schools have distinct parts at all, they argue, but rather to imagine the faculty as "an integrated whole of 'place, program, and people'" with "a single broad mission: that of cultivating jurists."[41]

---

38 HW Arthurs, *supra* note 9 at 705.

39 *Ibid* at 713.

40 Roderick A Macdonald & Thomas B McMorrow, "Decolonizing Law School" (2014) 51:4 Alta L Rev 717 at 719.

41 Rosalie Jukier & Kate Glover, "Forgotten? The Role of Graduate Legal Education in the Future of the Law Faculty (2014) 51:4 Alta L Rev 761 at 770 [emphasis omitted].

The next series of articles emerge from our authors' reflections on the present dilemmas and challenging contexts of contemporary legal education. In "A Canadian Law School Curriculum for this Age," Ian Holloway sees change afoot and more on the horizon. If law schools lived (too) comfortably in the second half of the twentieth century, the immediate future holds the promise of fewer comforts and certainties, Holloway argues. But Holloway suggests our present moment of instability offers the opportunity for productive change. He advocates a curriculum that focuses not simply on what we teach, but how students learn; courses premised on finding creative solutions and not just legal problems; and learning environments adept at better preparing students with the skills necessary in modern practice such as teamwork, leadership, and technological literacy. Whatever the brave new world of the future, in "Legal Education Reform and the Good Lawyer," Alice Woolley argues that law schools must remain committed to their role in teaching students to "'think like a lawyer,' when thinking like a lawyer involves thinking seriously about the demands and requirements of law."[42] Rejecting notions of complete legal subjectivity, Woolley defends teaching doctrinal law as essential to grounding students in the critical idea that law "fundamentally defines and constrains what lawyers may accomplish on behalf of their clients."[43] Knowing that law has discernible meanings and limits, for Woolley, is essential to understanding and internalizing the core tenets of ethical practice. For his part, in "The Great Disconnect: Reconnecting the Academy to the Profession," Douglas Ferguson advances the view that reinvigorating legal education requires reconnecting the academy and the profession in meaningful and sustained ways. A partnership model between law schools and the profession, Ferguson argues would enable the curriculum to better reflect the realities of practice while also giving law professors greater standing and influence in professional bodies and regulators.

In Deborah Cantrell's contribution, "Are Clinics a Magic Bullet?," the binaries between profession and academy, practice and theory, fade in significance. Breaking away from our impulses for such structured thinking across the law school curriculum, Cantrell argues, will encourage teaching that prepares and inspires students "to lead flourishing lives, professional and personally."[44] We would do better, she claims, to "think about our law schools as learning ecologies — interconnected and interdependent systems that are dynamic, changing and, in action."[45] Clinical legal education might be one small part of a successful learning ecology, she offers, but only a part since ecologies are a product of their varied and interconnected — sometimes operating in tandem at other times in tension — components. Lorne Sossin enthusiastically endorses a similar message in "Experience the Future of Legal Education." Charting the "experiential shift" in legal education, Sossin promotes the merits of experiential learning as a pedagogical experience but also as a structural model which might well change the way law schools look, feel, and operate. A future premised on experiential learning, Sossin stresses, is not a return to trade school apprenticeship, but rather a system of action and reflection "integrated with other forms of learning so that theory, doctrine, practice, and critique all become seamlessly enmeshed."[46] We conclude this section with, "The World Needs More Rod Macdonald: The Potential of Big Ideas," Kim Brooks'

---

42 Alice Woolley, "Legal Education Reform and the Good Lawyer" (2014) 51:4 Alta L Rev 801 at 804.
43 *Ibid*.
44 Deborah J Cantrell, "Are Clinics a Magic Bullet?" (2014) 51:4 Alta L Rev 831 at 832.
45 *Ibid*.
46 Lorne Sossin, "Experience the Future of Legal Education" (2014) 51:4 Alta L Rev 850 at 852.

engaging exhortation "to think boldly and experimentally about the possibilities for legal education."[47] Rather than tinker at the margins as has been our tendency, says Brooks, why not embrace the possibility of "dramatic innovation, or at least renovation, in the design of Canadian law schools."[48] Far too many of our practices, she points out — from admissions, to curriculum design, to research dissemination — have ossified into traditions whose underpinnings and utility are ripe for reappraisal. What might, she wonders, a law school willing to take on bold and creative change look like?

The final three articles address law teaching and the methods and tools of the classroom as their principal concerns. In "Taking the Instruction of Law Outside the Lecture Hall: How the Flipped Classroom Can Make Learning More Productive and Enjoyable (for Professors and Students)," Peter Sankoff reports on his gradual disenchantment with lecturing as the primary mode of teaching. Moving instead to the model of a "flipped classroom," Sankoff explains how his creation and use of "capsules" — short video podcasts intended to be viewed prior to attending class — promotes better learning objectives among his students and enables a greater degree of active learning problem-solving in class time. For Sankoff, embracing technology as a learning tool "offer[s] the potential to reinvent the way we deliver course content" in ways that better connect with the learning styles and preferences of this generation of students.[49] The productive possibilities of technology also emerge as a major theme in "Crowdsourced Coursebooks," Stephen Henderson's and Joseph Thai's reimagining of the casebook for the twenty-first century. Surveying the existing field of traditional print casebooks and more recent digital versions, Henderson and Thai make a case for the utility of an online digital casebook imbued and enhanced with the benefits of social reading and authorship; that is, a casebook capable of displaying, interacting with, and responding to the ideas, edits, comments, interventions, and critiques of other readers and authors. Finally, in "Qualitative Research on Legal Education: Studying Outstanding Law Teachers," Gerald Hess argues that, as ever, we have much to learn from the talents and methods of "law teachers who produce extraordinary learning in students."[50] To access those insights in a systematic way, he proposes, requires robust and effective qualitative research methodologies. Offering the methods used in his own path-breaking work on law teaching, Hess reminds us that the classroom and student learning must stand at the foreground of whatever changes await us in legal education.

Varied, inspiring, and thought-provoking, the articles of this special issue take their place within the long history of the future of legal education. May we always be on the road to get there.

---

47 Kim Brooks, "The World Needs More Rod Macdonald: The Potential of Big Ideas" (2014) 51:4 Alta L Rev 871 at 876.

48 *Ibid* at 877.

49 Peter Sankoff, "Taking the Instruction of Law Outside the Lecture Hall: How the Flipped Classroom Can Make Learning More Productive and Enjoyable (for Professors and Students)" (2014) 51:4 Alta L Rev 891 at 906.

50 Gerald F Hess, "Qualitative Research on Legal Education: Studying Outstanding Law Teachers" (2014) 51:4 Alta L Rev 925 at 936. See also Michael Hunter Schwartz, Gerald F Hess & Sophie M Sparrow, *What the Best Law Teachers Do* (Cambridge: Harvard University Press, 2013).