The French Legal Studies Curriculum: Its History and Relevance as a Model for Reform

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I. Introduction

Much like a fine wine of precious vintage, the legal studies curriculum in France took centuries to reach its point of maturity. By and large, it is a product of careful molding and enlightened experimentation, although some disparity exists between its theoretical promise and its actual implementation within the French university system. Moreover, its history is not without its share of ill-conceived hopes and retrogressive thinking. This article attempts to describe and analyze those events which fostered the historical metamorphosis of the French legal studies curriculum.

The predominance of a broad academic approach to law and the concomitant absence of a narrow "trade school" mentality in the French law schools might be attributed to the general organization of higher education in France.[1] The basic law degrees, the *licence* and the *maîtrise en droit*, are undergraduate degrees; students enter the university law program at the age of eighteen or nineteen after having obtained the *baccalauréat* (the French high school diploma).[2] A liberal arts approach to the study of law, consisting of a general introduction to the basic principles of

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[1] For a brilliant comparative discussion of French and U.S. legal education, see Deák, *French Legal Education and Some Reflections on Legal Education in the United States* [1939] Wisc. L. Rev. 473. It is the basic thesis of the late Professor Deák's article that U.S. legal education, with its obsessive concentration on preparing practitioners, could be modified on the basis of the French example. In his view, U.S. law schools place too little emphasis upon the lawyer's mission as a social engineer, and, as a result, produce highly skilled technicians rather than educated jurists: *ibid.*, 474, 479-80.

[2] For a general description of the French educational process as it relates to law studies, see, *e.g.*, Herzog, *Civil Procedure in France* (1967), 68-73, reprinted in Schlesinger, *Comparative Law* 3d ed. (1970), 95. Professor Herzog's discussion is valid as a description of the process before 1954.

juridical science with the choice of specialty deferred to the final two years of study, is more suitable for students who are relatively inexperienced and who lack prior university training. It also should be mentioned that since the end of the nineteenth century, legal education in France has been viewed as a general preparation for a career in fields other than law. In fact, only a very small proportion of French law graduates enter the legal profession,[3] and those who do are given practical training by way of either an apprenticeship program or further study in a specialized school.[4] The method of recruiting law professors and other teaching personnel is another factor contributing to a more academic legal education. As a general rule, educators have had little or no contact with the legal practitioner's world; they are selected by means of a rigorous and extremely competitive national examination after they have completed (or while they are completing) their doctoral research.[5]

One of the primary contentions of this article is that the fundamental character of French legal education, which emphasizes the educating of jurists as opposed to the training of lawyers, is the product of a set of factors which are deeply rooted in French history and are part of the basic intellectual assumptions of French culture. The *Faculté de droit* never was independent of the general university structure — it was one of the four constituting faculties of the university. Also, the original substance of the law curriculum was exclusively scholarly in character. Practical legal training was a post-university phenomenon, obtained by means of an apprentice-

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[3] Professor deVries estimates that only some 20% of law students enter the legal profession, while the remaining 80% go into government service or business positions: deVries, *Foreign Law and The American Lawyer: An Introduction to Civil Law Method and Language* (1969), 75, n. 21.

[4] Those who do enter the legal profession either go into private practice as an *avocat, avoué,* or *notaire,* or enter the *magistrature* to work as judges or prosecutors. To enter the *magistrature,* a candidate must pass a very competitive examination. If successful, he enters the *Centre nationale d'Etudes judiciaires* for a three-year course of intensive study which is more narrow and technical in orientation than the basic legal studies program. To become an *avocat,* the law graduate must study for an additional year, pass the bar examination, and undergo a three- to five-year apprenticeship program. For an extensive discussion of this system, see Szladits, *European Legal Systems* (1976), 278 *et seq.* See also Tunc, *Modern Developments in the Preparation for the Bar in France* (1949-50) 2 J. Legal Educ. 71. For a description of recent changes in the legal profession, see Herzog & Herzog, *The Reform of the Legal Professions and of Legal Aid in France* (1973) 22 Int'l & Comp. L.Q. 462.

[5] See, *e.g.,* deVries, *supra,* note 3, 76-77.

ship program. The traditional academic character of French legal education was altered considerably by the deterioration of the law faculties in the eighteenth century and by the utilitarian orientation of the Napoleonic reforms. The twentieth century law faculties represent a reassertion of the early university character of the *Faculté de droit* as it has been redefined by new intellectual currents. It is the basic thesis of this paper that the French legal studies program provides a model for the long-overdue reform of North American legal education.

II. The medieval law faculties

During the Middle Ages, the law faculties in France were known as *Facultés de droit civil et canonique.*[6] Despite their disparate historical origins, these university institutions proffered a uniform program of instruction consisting of lectures (given in Latin) on Roman civil law and canon law.[7] The case of the *Faculté de droit* of Paris, the most prestigious law faculty of the time, is illustrative: from the early thirteenth century until well into the seventeenth century, its curriculum was devoted entirely to instruction in the principles of canon law.[8]

A complex set of legal, political, and cultural factors militated against the establishment of a single legal system in France at this time.[9] As a consequence, national legislation was disunified and frequently disregarded.

At the close of the Middle Ages, the system of legal education in general began to fall into discredit.[10] Although some universities continued to offer the traditional program,[11] many abandoned law teaching altogether.[12] In those institutions in which some sort of legal instruction was maintained, the quality of the teaching de-

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[6] See Bonnecase, *Qu'est-ce qu'une Faculté de Droit?* (1929), 52.

[7] See Allemès, *The System of Legal Education in France* [1929] J. Soc. Pub. Teachers L. 36. See also Bonnecase, *supra,* note 6, 41-54.

[8] See Bonnecase, *supra,* note 6, 55. The law faculty at the University of Paris was a faculty of canon law from November 16, 1219, date of the Bull of Pope Honorius II, until the issuance of the 1679 Edict.

[9] The monarchy had yet to triumph over the feudal structure, the Church and ecclesiastic courts were an obstacle to the application of a national law, and the country was divided into two different legal regions. See generally Bonnecase, *supra,* note 6, 41-56.

[10] See Allemès, *supra,* note 7, 36.

[11] Most notably the universities of Paris, Orléans, Bourges, Poitiers, and Rheims: *ibid.*

[12] *Ibid.*

teriorated considerably — professors often failed to appear for lectures.[13]

A quiet movement towards change in the legal system and in legal education eventually became apparent at several institutional levels. During the sixteenth century, a number of distinguished French legal scholars initiated a trend (at least a tacit one) favoring the integration of the national law into the law school curriculum.[14] The increasing power of the Royal Administration, which entailed the growing secularization of the State, augured well not only for French political and cultural unity but also for a unitary system of national law.[15] Progress in the legal area was being achieved and the mutation of historical forces was leading inevitably to the assertion of a political and legal system with a distinctively French personality. Such a development unquestionably required a revitalization and restructuring of legal education.

III. Louis XIV's reform of legal education

Under Louis XIV, French legal education reached the first stage of its modern development. As an absolute monarch preoccupied with the centralization of all political power within his own hands, he invested the French legal system with sufficient force to give it a truly national dimension. From 1667 to 1673, the Royal Administration issued a series of ordinances dealing with, *inter alia,* French civil and criminal procedure and commercial law.[16] This new role of national French law brought about a renewed interest in the *Facultés de droit.*

In April 1679, a landmark date for French legal education, the King issued the celebrated Edict of Saint-Germain-en-Laye.[17] The

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[13] *Ibid.,* 36-37.

[14] During the Middle Ages, some legal scholars already had written works on French law (most notably Pierre Defontaines, Philippe de Beaumanoir, and Jean Bouteiller). In the sixteenth century, the work on French law was led by Dumoulin with the help of Charondas, Loisel, and Guy-Coquille. It also should be noted that the *coutumes* eventually were recorded, which helped to strengthen the trend toward a unified legal system. For a detailed discussion of these points, see Bonnecase, *supra,* note 6, 63-67.

[15] *Ibid.,* 65.

[16] The dates and subject matter of the ordinances are as follows: civil procedure (1667); forests and water (1669); criminal procedure (1670); and land commerce (1673). For a general discussion of this legislation, see Bonnecase, *ibid.*

[17] L'Edit de Saint-Germain-en-Laye d'avril 1679, reprinted in Bonnecase, *ibid.,* 41-46. For a general discussion of the substance of the 1679 Edict, see also Allemès, *supra,* note 7, 36-37.

chief accomplishment of this document and two supplementary *Déclarations,* enacted in 1682[18] and 1690,[19] was to institute the teaching of French law in the *Facultés de droit.* The preamble of the 1679 Edict attributed the poor quality of judicial decisions and legal work generally to the insufficiency of legal instruction, and proposed to remedy the problem by regulating the principal components of legal education: the curriculum, the degree requirements, and the institutional status of students and professors.[20]

Regarding the curriculum, all universities with law faculties were required to reinstate the course offerings in both Roman civil law and canon law.[21] Those institutions which had abandoned law teaching entirely were ordered to re-establish their law faculties.[22] Moreover,

> afin de ne rien omettre de ce qui peut servir à la parfaite instruction de ceux qui entreront dans les chargers de judicature, nous voulons que le droit françois, contenu dans nos ordonnances et dans les coutumes, soit publiquement enseigné; et à cet effet, nous nommerons des professeurs qui expliqueront les principes de la jurisprudence françoise et qui en feront des leçons publiques, après que nous aurons donné les ordres nécessaires pour le rétablissement des Facultés de droit canonique et civil ... .[23]

Under the provisions of the Edict, legal education consisted of three stages, each of which culminated in the conferral of a degree (the *bachelier, licence* and *doctorat*).[24] The Edict also contained stringent administrative requirements to assure that the degrees actually were earned by knowledgeable recipients. For example, the *licence* program, the basic law program, required three years of study.[25] During this period of time, the aspiring candidate had to attend at least two different classes each day and satisfy all the written work demanded of him by his professors.[26]

To ensure compliance with these standards, students underwent two separate registration procedures: a formal personal registration procedure four times a year and a less formal registration procedure every three months.[27] Moreover, favorable professorial recommenda-

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[18] Déclaration du 6 août 1682, reprinted in Bonnecase, *ibid.,* 46-50.
[19] Déclaration du 17 novembre 1690, reprinted in Bonnecase, *ibid.,* 50-52, n. 1.
[20] *Supra,* note 17.
[21] *Ibid.,* arts. 1 and 2.
[22] *Ibid.,* art. 2.
[23] *Ibid.,* art. 14.
[24] *Ibid.,* arts. 7 and 8.
[25] *Ibid.,* art. 6.
[26] *Ibid.*
[27] *Ibid.,* art. 15.

tions were indispensable for graduation.[28] At the end of the third year, the candidate for the *licence* would sit a written examination, defend a thesis publicly, and pass a three-hour oral examination on both Roman civil law and canon law.[29] Upon successfully completing the examination process, furnishing evidence of his unfailing attendance at lectures, and with satisfactory testimonial letters in hand, the student would be awarded the *licence en droit*.[30]

As was mentioned earlier, the conduct of the law professors also had contributed to the degeneration of legal education. To guarantee a minimum level of quality law teaching, the 1679 Edict mandated that professors give their lectures in conformity with established schedules and be duly present at examination sessions.[31] Anyone giving a law lecture who was not *bona fide* a professor of law would be fined and stripped of all past and future degrees. Those persons taking lessons from unaccredited teachers also would be sanctioned.[32] Finally, law professors who excused students from established degree requirements or furnished them with false letters of reference would be dismissed and the students involved would lose their diplomas and would be unable to acquire any other degree.[33]

The two subsequent *Déclarations* provided for the practical implementation of the 1679 Edict. As a result of the recommendations made by the *Facultés de droit* of several universities, the *Déclarations* contained a number of additions to the original reorganization program. For instance, they provided for the appointment of *docteurs agrégés* to help the law professors cope with their increased workload, laid down guidelines by which these assistants would be selected, and defined the scope of their responsibilities.[34] The most

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[28] *Ibid.*, art. 6.

[29] *Ibid.*, art. 7.

[30] For a description of the requirements for the initial and terminal degrees, see *ibid.*, arts. 7 and 8.

[31] *Ibid.*, arts. 10 and 11.

[32] *Ibid.*, art. 5.

[33] *Ibid.*, art. 12.

[34] *Supra*, note 18, arts. 2-8. Four criteria were established for the appointment to the position of *docteur agrégé*. The candidate had to be at least thirty years of age, hold a doctorate in law, receive two-thirds of the vote of the faculty, and be chosen from among aspiring teachers of law, *avocats*, or judges: *ibid.*, art. 9. It is worth noting that highly qualified auxiliary personnel continue to be used in contemporary law faculties. For a discussion of the modern practice, see Eisenmann, *The University Teaching of Social Sciences: Law* (1973), 74. Under art. 19 of the 1682 *Déclaration*, the position of professor of law could be obtained only by way of a formal competition

significant part of the *Déclarations* pertained to the newly created position of *professeur royal de droit français.* While it was clear from the substance of the 1679 Edict that the Royal Administration attached substantial importance to the teaching of the national law in the law faculties, the implementing legislation appeared to set the occupants of the Chair of French Law somewhat apart from their colleagues and to give them an inferior rank in the institutional hierarchy. The 1682 *Déclaration* stated, on the one hand, that the professors of French law

> seront du corps des dites Facultés, et auront voix délibérative dans toutes les assemblées et séances entre le plus ancien et second professeur...[35]

while adding, on the other hand,

> sans qu'il puisse devenir doyen ni participer aux gages et émoluments des dits professeurs.[36]

The *professeur royal du droit français* was indeed an oddity in the halls of the tradition-bound law faculties. Not only was he the sole faculty member to carry the title of *professeur royal,* teach in the French language, and reflect upon a "living" corpus of legal doctrine, but he was poorly paid and generally disliked by his fellow professors, who deemed him to be an outsider.[37] Despite the inadequate remuneration and other drawbacks, a significant amount of prestige accompanied the appointment to the royal professorship. The text of the 1682 *Déclaration* explicitly stated that the King himself would fill any vacancies by choosing a successor from a list of three candidates submitted by the bar.[38] In order to appear on the list, a candidate had to have been an *avocat* or a member of the judiciary for at least ten years.[39] Finally, in order to solidify

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and nomination process. Art. 20 prohibited a professor of law from simultaneously holding a position in private practice or in the judiciary. These features are still part of the modern process.

[35] *Ibid.*, art. 11.

[36] *Ibid.*

[37] See Bonnecase, *supra,* note 6, 63. The *professeur royal de droit français* received some compensation directly from his students; in order to receive his degree, a candidate for the *licence* had to obtain a testimonial letter from the professor of French law, for which letter he paid the professor a small fee. See Déclaration du 6 août 1682, *supra,* note 18, art. 13.

[38] *Supra,* note 18, art. 15.

[39] *Ibid.* One U.S. foreign law scholar (deVries, *supra,* note 3) has stated that the criterion of professional experience for the selection of the *professeur royal* represented a "recognition of the need for maintaining a close relationship between the academic world and that of the practitioners": *ibid.*, 73. It seems that this claim is somewhat exaggerated; it would be more accurate to interpret the requirement for practical experience as one con-

the place of French law in the law faculty curriculum, the Royal Administration proclaimed that all prospective *avocats* must take at least one course in French law during their three years of study.[40]

The reforms of the Sun King, however, were no more than a starting point in the development of a modern legal studies curriculum. During the eighteenth century, the attempt to revitalize legal education proved at times to be ineffective.[41] Roman civil law and canon law continued to dominate the curriculum; Latin was still the principal language of lectures and examinations; the former were poorly attended and the latter too easy to give legal education credibility.[42] In a word, prior to the French Revolution, it had become clear that, despite the integration of national French law into the law school curriculum and the revival of the system generally, the reforms of the late seventeenth century had failed to offset the decline of legal education. The *Facultés de droit* were content to see their task as the preparation of practitioners who, quite paradoxically, were trained in classical oratory, and, thanks to the force of blind tradition, received the major part of their substantive education in the precepts of Roman civil law and canon law.[43]

IV. The revolutionary ideology: legal education as civic instruction

In the aftermath of the Revolution, many universities closed their doors.[44] A few years thereafter, the Republican Convention enacted legislation establishing the *Ecoles centrales* to replace the former system of higher education.[45] Since previous republican legislation had made the professions open to all without

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ditioned by practical necessity. Since legal education until this time had been relegated to instruction in Roman civil law and canon law, only practitioners and judges, who had received their legal training through apprenticeships to members of the *Ordre des avocats* (the bar), were qualified to speak authoritatively on the state of French judicial doctrine. In any event, the requirement certainly did not establish a close affinity of a permanent duration between the academic world and that of the practitioners.

[40] *Ibid.*, art. 13.

[41] See Allemès, *supra*, note 7, 38.

[42] See Valeur, *Deux conceptions de l'enseignement juridique* (1928), 16.

[43] *Ibid.*

[44] See generally Bonnecase, *supra*, note 6, 72-80.

[45] By the provisions of the Décret de la Convention du 15 septembre 1793, the Republican Convention abolished not only the existing institutions of secondary education, but also "les collèges de plein exercice et les Facultés de théologie, de médecine, des arts et de droit". Although this decree was repealed on the following day, subsequent legislation — the Loi du 7 ventôse an III (25 février 1795) which was never applied and which was re-

regard to formal qualifications, and also had eliminated the bar,[46] law teaching apparently was of minor importance to the legislators.

Within the framework of the *Ecoles centrales,* one professor, who held the Chair of Legislation, was responsible for the entire curriculum of legal education in each school.[47] His mission, as described by a proponent of the new system, essentially consisted in imparting a sense of civic values to his students:

> [L]e cours de législation n'est point destiné à former de profonds jurisconsultes pas plus que des hommes consommés dans l'économie politique ou dans la science du gouvernement, ou dans celles de négociations, mais à donner aux jeunes gens les sains principes de la morale privée et publique, avec les développements nécessaires pour en faire des citoyens vertueux et éclairés sur leurs intérêts et sur ceux de leur pays... .[48]

In practice, the substance of the one course in legislation varied with the individual discretion of the professor who taught it. Some confined their attention to the provisions of revolutionary legislation; others lectured on the principles of natural law, or on a combined program of natural law and a special subject; still others taught a survey course in civil law. Although the professors apparently took their responsibilities seriously, the structure of the course did not allow for more than the most basic sort of teaching. With some striking exceptions, most lectures were poorly attended and the course itself gradually ceased to have any impact upon or importance in the educational process.[49]

Rather late in this period, the private efforts of a few legal scholars demonstrated unequivocally that legal education transcended its base purpose of training practitioners and instilling a rudi-

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placed by the Loi du 3 brummaire an IV (25 octobre 1795) on the organization of public education — had the same effect. These statutes replaced the previous university system with the *Ecoles centrales,* the purpose of which was to provide teaching in the sciences, the arts, and letters. For the texts of these legislative documents, see Bonnecase, *ibid.,* 81-88.

[46] See Law of March 2, 1791 (freedom of access to all professions) and the Laws of September 11, 1790 and March 6-26, 1791 (suppression of the bar) in Allemès, *supra,* note 7, 37.

[47] See Bonnecase, *supra,* note 6, 88.

[48] Circulaire du ministre de l'Intérieur en date du 5e jour complémentaire de l'an VII aux professeurs de législation: *ibid.,* 89.

[49] *Ibid.,* 91-93. It should be noted that in addition to the creation of the Chair of Legislation at the *Ecoles centrales,* the revolutionary government had maintained a Chair of *Droit de la nature des gens* at the *Collège de France,* the only institution of the *Ancien régime* to find favor with the republican government. Although the occupant held a position of high prestige, he proffered little guidance for the renovation of legal studies. For a detailed discussion of this point, see Bonnecase, *ibid.,* 94-98.

mentary sense of moral and civic responsibility; it could constitute an authentic area of intellectual inquiry and fulfil the vital professional needs of society. These scholars founded the *Académie de législation* and the *Université de jurisprudence*, which began operating in 1802 and 1803 and offered a comprehensive program of law teaching.[50] The *Académie*, for example, had twelve chairs of law. It offered courses in a wide variety of legal topics, from private French law through natural and international law and Roman law to a course in logic, morality and eloquence; its curriculum even included a course in medical-legal problems. In fact, this curriculum contained the basic elements of what French legal education was to become in the twentieth century.[51] However, these imaginative innovations remained the private offspring of a few men, and, as such, could not and did not have an important influence upon public legal education. Moreover, in historical terms, they came late — too close to the age of the Napoleonic reform of French legal education to be other than an isolated instance of truly exemplary law teaching.

V. The Napoleonic Charter on legal education

Under Napoleon, the evolution of French legal education reached the second stage of its modern development — a critically decisive stage which was to leave a firm imprint on legal education, one characterized by an emphasis on practical pedagogy. The need for a bar and a judiciary and Napoleon's personal predilections made the newly reinstituted law schools a training ground for practitioners. The law of May 1, 1802, a document pertaining to public education generally, announced, *inter alia*, that the old law faculties would be re-established in the form of ten *Ecoles de droit*, each having no more than four professors.[52] The law of March 13, 1804 and the decree of September 21, 1804,[53] which related specifically

[50] The *Académie* benefited from better leadership and, as a consequence, offered a program of instruction in law which was quantitatively and qualitatively superior. The *Université* curriculum consisted only of six courses on basic legal subjects. Moreover, its faculty was reputed to be less gifted and conscientious than its counterpart at the *Académie*. For a detailed discussion of both institutions, see Bonnecase, *ibid.*, 95-98.

[51] *Ibid.*

[52] Loi du 11 floréal an X sur l'instruction publique, reprinted in Bonnecase, *ibid.*, 100-4.

[53] Loi de 22 ventôse an XII relative aux Ecoles de droit; Décret du 4e jour complémentaire an XII concernant l'organisation des Ecoles de droit: *ibid.*, 104-14. For a general discussion of this legislation, see Allemès, *supra*, note 7, 39.

to law teaching and which constituted the Napoleonic Charter on legal education, made the provisions of the 1802 law a reality.

Despite dissenting views appealing for a broad vision of legal education,[54] the spirit of utilitarianism dominated the 1804 legislative enactments, which ratified the view that the *Ecoles de droit* should function as professional "trade schools".[55] According to the Charter, education in the law schools would be restricted to the texts of the codes and the principles of private French law. The professors would teach private law by dictating their comments on the codal provisions to their students. Such courses as the philosophy of law, legal history, and natural law were not included in the curriculum.[56]

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[54] See Bonnecase, *ibid.*, 115-22.

[55] Termed "écoles professionnelles" or "écoles spéciales": *ibid.*, 114.

[56] See Bonnecase, *ibid.*, 114-15, 123-25. In large measure, this system of legal instruction reflected Napoleon's personal views; he was averse to scholars and philosophers generally since they needed independence in order to function. Also, he believed that schools of higher education should respond to and perform a limited and well-defined task. This view was premised on his idea that all cultural learning should be completed at the secondary education level. The law of March 13, 1804 had given a limited place to the study of public law, and had defined the study of legal philosophy as the study of natural law and the rights of man, with legal history consisting of the study of Roman law in its relation to civil law. The implementing provisions of the decree of September 21, 1804 were even more restrictive — they further confined the place of public law and eliminated the study of legal philosophy and history entirely. The ordinance of March 24, 1819 represented a slight improvement; it created a number of chairs in the neglected areas of law. Many of its provisions, however, were either never implemented or implemented only half-heartedly. In fact, some were tacitly abrogated by the ordinance of September 6, 1822. See Bonnecase, *ibid.*, 126-27. See also Allemès, *supra,* note 7, 40.

The law curriculum at this time no longer included canon law; Roman law was taught only in its relation to French law. Major emphasis was placed on private French law as contained in the codes. The compulsory subjects in the law faculties were: French civil law, French public law, Criminal Law, Criminal Procedure, Civil Procedure, and Civil Law in relation to Public Administration. The entire process of legal education was dominated by the imperial spirit, and the insistence on a single professional mold was accentuated by the influence of codification on French legal scholarship. The codes were seen as definitive and immutable works; this attitude gave rise to a casuistic tendency to give the codal texts primacy over legal principles and fostered a belief in mechanical jurisprudence. Scholarship was further marked by the narrow professional spirit of the Napoleonic Charter. Rather than engage in a scientific inquiry into legal phenomena, scholars became preoccupied by the exegetical method, contriving semantic arguments on the basis of the codal provisions. Legal teaching and scholarship at this time and until the last decades of the nineteenth century confirmed

Opposition to the Napoleonic method of educating lawyers began as early as 1819. A number of scholars, taking exception to the idea that the simple memorization and the logical and grammatical analysis of the code provisions could produce educated lawyers, inveighed against its vocational orientation and its lack of a scientific base.[57] They insisted upon the need to foster a higher form of jurisprudential activity, opining that the fundamental purpose of legal education was to endow the students with a humanistic understanding of the law. In their view, this objective could be achieved only by incorporating courses in legal history and philosophy into the curriculum.[58] These criticisms laid the groundwork for a third stage in the evolution of French legal education, one with a historical personality that was less well-defined than the two previous stages, but which would give French legal education its modern character.

VI. The movement toward a hybrid legal curriculum: social science and the law

In 1838, in response to the mounting dissatisfaction with the legal education process, de Salvandy, the then *ministre de l'Instruction publique*, appointed a committee on legal studies.[59] It recommended that the current curriculum be expanded by supplementing the exegetical commentary on private law with courses in public law, political economy, comparative legislation, and legal history and philosophy. The intention of the committee was to infuse law teaching with a comprehensive social scientific perspective which could account for legal phenomena accurately and give the law faculties an authentic university and academic status.[60] The political

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a commonly held impression of the law, namely, that it was "un ensemble de règles arbitraires mises en oeuvre par un art de chicane": Valeur, *supra*, note 42, 17-21.

[57] *E.g.*, Athanase Jourdan, the founder of the journal *La Thémis* (1819); Lherbette in his book *Introduction à l'étude philosophique de droit* (1819); and Lerminier in his book *Introduction Générale à l'Histoire du Droit* (1829). All these scholars lamented the fact that the study of law had been reduced to a sort of vocational training; they unanimously called for a higher form of jurisprudential inquiry based upon philosophic and historical considerations. See Bonnecase, *supra*, note 6, 130-35.

[58] Klimrath was the principal advocate of the historical study of law. He promulgated his views in 1833 in his doctoral dissertation, stating that an incomplete and superficial education, based upon routine learning and rote memorization, constituted misguided science and could lead only to short-sighted ideas and narrow bias. See Bonnecase, *ibid.*, 135-37.

[59] *Ibid.*, 139.

[60] *Ibid.*, 140-41.

instability of the times, however, did not permit that objective to be realized.[61]

The next serious attempt to revamp legal studies in France came in 1872 upon the initiative of another *ministre de l'Instruction publique*, Jules Simon, who also appointed a committee to evaluate the substance and structure of legal education.[62] By comparison, the recommendations of this committee were much more modest, representing at best a perfunctory attempt to achieve fundamental reform. For example, to integrate a social scientific perspective into the current curriculum, the committee confined itself to proposing that two new courses be added to the *licence* program, namely, a course in political economy and a general introductory course to the study of law (which included a survey of natural law principles and legal history as well as a treatment of the organization of public institutions). These courses represented the only part of the de Salvandy committee recommendations that were retained by the Simon committee.[63] The Simon committee, however, appeared to be more sensitive to the new educational needs generated by the practical development of the legal system; in a more forceful way, it advocated that courses in criminal and administrative law be incorporated into the curriculum. In effect, these reforms relegated a social scientific inquiry into law to the doctoral research level.[64]

Accordingly, during the first three-quarters of the nineteenth century, the spirit of the law of March 13, 1804 (emphasizing private law; the code provisions, and practical training) dominated the process of French legal education. In the last two decades of the century, however, the criticisms voiced throughout the century began to have their effect: the narrow professional mentality was beginning to erode and to give way to the social scientific vision of the legal education and law teaching.[65] In the closing years of

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[61] *Ibid.*, 142-46.

[62] La Commission des études de Droit chargée de rechercher et de proposer les mesures propres à réorganiser l'enseignement du Droit en France: see *ibid.*, 150.

[63] *Ibid.*, 152.

[64] *Ibid.*, 152-53.

[65] The decree of December 28, 1878 rendered the teaching of political economy obligatory in all law faculties. It would be taught for three hours a week during the entire second year. The decree of December 31, 1879 re-established the Chair of Constitutional Law at the University of Paris law faculty. Only doctoral students, however, were permitted to take the course. The decree of December 28, 1880 introduced two new courses in the basic law curriculum: a course in the general history of French public and private law for first year students and a course in private international law for third year students. See Valeur, *supra*, note 42, 39-40.

the century, courses in political science and political economy became an integral part of the curriculum of the law faculties. The pedagogical *raison d'être* of the *Facultés de droit* gradually was being reassessed:[66] while not abdicating their responsibility as centres of professional learning, the law faculties also recognized their status as university institutions —"des établissements de haute culture intellectuelle et de recherche scientifique".[67]

VII. French legal education during the first half of the twentieth century

At the beginning of the twentieth century, French legal education, while remaining faithful to certain traditional features of its past, had advanced considerably in its substantive curriculum. The most salient of the traditional characteristics that persisted into the modern era was the method of law teaching by way of the formal lecture.[68] The preference for this pedagogical method — allowing for little, if any, student participation — inhered in the nature of the French legal system and educational process. Despite the integration of French law into the law school curriculum to supplement the more academic subjects, case law in the French civil law system never occupied the central position that it has in common law countries.[69] At least in theory, *jurisprudence* is not recognized in the French system as on an equal footing with statutory

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[66] The ministerial circular of January 12, 1889 stated:

"[L]a licence en droit, l'économie politique exceptée, semble avoir été surtout considérée comme une préparation professionnelle au barreau et à la magistrature. Là est sans doute une de ses fonctions essentielles: mais ce n'est pas la seule; il ne faut pas oublier que, parmi nos licenciés en droit, un très grand nombre ne se destinent ni à la magistrature ni au barreau, mais aux fonctions administratives et politiques et aux carrières commerciales et industrielles". Cited in Valeur, *supra,* note 42, 45.

[67] Duguit, *Le droit constitutionnel et la sociologie* (1889) 18 Revue internationale de l'Enseignement 484, cited in Valeur, *supra,* note 42, 23.

[68] For a detailed description of the French law teaching method, see Valeur, *supra,* note 42, ch. 4.

[69] Some French scholars, however, did attempt to introduce the study of case law as a supplement to the lecture course (based on a treatise). An effort was made in this direction by Professor Henri Capitant in his book *Les grands arrêts de la jurisprudence civile* which was published in 1927 and revised in 1934. This book was reviewed by Deák (1934-35) 9 Tul. L. Rev. 149 and by Wigmore, *The Case-Study System in Continental Law Schools* (1930-31) 25 Ill. L. Rev. 579. For a discussion of the case method in civil law countries, see Deák, *The Place of the "Case" in the Common and the Civil Law* (1933-34) 8 Tul. L. Rev. 337. The case method, however, still occupies a distinctly secondary position in French law teaching.

and customary law.[70] Moreover, since the principles of French law were codified in the early nineteenth century, the lecture format, already widely used to explain the precepts of Roman civil law and canon law, was tailor-made for the elucidation of the theoretical implications of the general legal principles in the codal provisions.[71] The less adversarial character of the legal system and the diversity of the career orientation of the law students also favored the continued use of the lecture method. Finally, the expansion of the curriculum to include social scientific courses reinforced the use of the lecture method. Despite the consistency in teaching methodology, the substance of the curriculum and the purpose of law teaching had been altered: law was envisioned not only as a technical apparatus for the resolution of disputes, but as an historical entity with profound philosophic underpinnings interacting with social and political phenomena.

Following the example set by Louis XIV and Napoleon, legal education in France continued to be the responsibility of the State-controlled universities, with the government acting as ultimate arbiter in all matters and setting a uniform educational policy for all the law faculties.[72] Throughout the first half of the twentieth century, the course offerings at the *Facultés de droit* not only were uniform, but also remained fairly constant. In 1905, a government decree[73] provided that the three-year *licence* program would consist of the following set of courses:

First Year	*Second Year*	*Third Year*
Roman Law	Civil Law	Civil Law
Civil Law	Criminal Law	Commercial Law
Political Economy	Administrative Law	Civil Procedure
General History of French Law	Political Economy	Private International Law
Constitutional Law*	One Elective*	Industrial Legislation
		Two Electives

* Indicates a one semester course, all other courses were two semesters long.

[70] See Szladits, *supra*, note 4, 188.

[71] deVries, *supra*, note 3, 78: "... French legal reasoning appears to start with a highly generalized proposition of law to which the facts are then fitted, rather than to begin with a detailed examination of the facts followed by application of a narrowly formulated rule".

[72] *Ibid.*, 73.

[73] Décret relatif à la licence en droit, J.O., 3 août 1905.

The entire three year curriculum consisted mainly of required courses. It achieved its diversity in the intertwining of basic law courses and social science courses. It required students to attend approximately fifteen hours of lectures per week and to sit for year-end examinations.

Subsequent legislation, enacted in 1922, modified the curriculum only slightly.[74] The law of October 30, 1940,[75] however, provided for more substantial change by requiring all law students to attend weekly sessions devoted to individual practical work on the subject matter of one of the lecture courses. Regular attendance at these *conférences et travaux pratiques* was a prerequisite to sitting for examinations, and the student's performance at these sessions was a factor in the faculty's total evaluation of his work.[76] The purpose of introducing this additional requirement was to bridge the gap between students and professors, between the virtual absence of student participation and a more individualized forum to cultivate opinions and views, and, finally, between theoretical analysis and its application to practical problems. Without question, it was a welcome addition to a system (however much enlightened it had become by the cross-breeding of the strictly legal and the social scientific) which had been impersonal, abstract, and overly theoretical.[77]

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[74] Décret du 2 août 1922 modifiant le régime des études et des examens en vue de la licence en droit, J.O., 5 août 1922. The changes consisted in slightly modifying the title of the courses in constitutional law; eliminating the second year elective course and adding Roman Law to replace it; and substituting a course in fiscal legislation for the course in industrial legislation in the third year curriculum. For a critical account of French legal education around this time, see Bullington, *Legal Education in France* (1925-26) 4 Tex. L. Rev. 461. In addition to summarizing the workings of the system, the author decries the fact that too little attention is given to practical matters in the French law faculties and that the lectures are often boring and tedious: *ibid.*, 467-69.

[75] Loi du 30 octobre 1940 faisant obligation aux étudiants des facultés de droit d'assister aux conférences et travaux pratiques, J.O. 22 novembre 1940.

[76] *Ibid.*, art. 4.

[77] For a comparative account of continental and U.S. legal education at about this time, see Riesenfeld, *A Comparison of Continental and American Legal Education* (1937-38) 36 Mich. L. Rev. 31. Although the author focuses upon the German and the Italian processes, his study contains significant insights into the continental system as a whole. In particular he notes (at p. 47) that "[t]he aim of the university law school [in Europe] is not to give the most useful technical training, but to give the most complete and thorough picture of the basic ideas of the legal system and the difficulties of certain basic legal institutions and concepts, and above all to develop

The most significant re-evaluation of French legal studies during this period came in 1954, again in the form of a government decree.[78] The preamble of this document stated unequivocally that the time had come to realign the structure and organization of legal education to enable it to respond to changes in society, namely the growth of public law and social legislation, the surfacing of new economic theories, and the growing diversity of career options open to law faculty graduates. The reshaping of the curriculum was to be guided by the two-fold mission that had been entrusted to the *Facultés de droit*: to provide students with a general but solid social science background through a hybrid teaching of law and political economy, and to prepare them to engage in professional activity in their chosen career field.

To accomplish this objective, the Decree of March 27, 1954 lengthened the program of legal studies for the *licence* to four years, divided it into two cycles — a general and a specialized cycle — and placed a renewed emphasis upon the weekly *travaux pratiques*. The rationale behind the additional year of study was to provide students with a more complete education, thereby eliminating the previous practice of pursuing advanced studies at the doctoral level. The first cycle consisted of a general program of required courses; in the final two years, in addition to a limited common program, students would specialize in one of three sections — either private law or public law and political science or political economy — and would take the courses corresponding to their choice of specialty. Finally, during each year of the *licence* program, the students were required to take two one-and-a-half hour sessions of *travaux pratiques* each week and to write a final examination each year.[79] The 1954 law curriculum consisted of the following courses:

'legal grasp' ". He also maintains (at p. 52) that "[i]n Europe the whole attitude is more critical ... . Greater influence is exerted by theoretical, deductive considerations in dealing with legal problems, the effort to rationalize, to work out fundamental principles, to maintain harmony of the whole. ... Nobody on the continent would bother to raise for lengthy discussion each year the question about what the holding of Slade's case really was".

[78] Décret du 27 mars 1954, D.1954.141, modifying the program of study and examinations in law. The reforms were implemented under the provisions of Décret du 23 octobre 1954, D.1954.432.

[79] For a discussion of the 1954 reforms in French legal education, see Dainow, *Revision of Legal Education in France: A Four-Year Law Program* (1954-55) 7 J. Legal Ed. 495; Tunc, *New Developments in Legal Education in France* (1955) 4 Am. J. Comp. L. 419.

FIRST CYCLE

First Year	Second Year
Judicial Institutions & Civil Law	Civil Law
History of Institutions & Societal Facts	History of Institutions & Societal Facts
Political Economy	Political Economy
Constitutional Law & Political Institutions	Administrative Law
International Institutions*	Labor Law*
Financial Institutions*	Criminology & General Criminal Law*

SECOND CYCLE

All Sections: Commercial Law & Social Security*

Third Year	Fourth Year
Private Law Section	
Civil Law	Commercial Law
Criminal Law*	Civil Law
Civil Procedure*	Private International Law*
Criminal Procedure*	Roman Law & Old French Law*
Roman Law & Old French Law*	Elective Course(s)
Public Law & Political Science Section	
Political Science Methodology*	Important Administrative Departments & National Enterprises
Advanced Public International Law*	Colonial Law*
Fiscal Science & Techniques*	Public Liberties*
History of Political Ideas*	Private International Law*
Civil Procedure*	Financial Economics*
Criminal Procedure*	Elective Course(s)
Fluctuations in Economic Activity*	
Political Economics Section	
Fluctuations in Economic Activity*	Economic Systems & Structures
History of Economic Thought & Analysis of Contemporary Theories*	Economic Geography*
	International Economic Relations*
Statistics & Methods of Economic Observation*	Business Management & Accounting*
Fiscal Science & Techniques*	Financial Economics*
History of Political Ideas*	Elective Course(s)

* Indicates a one-semester course; all other courses are two semesters long.

Course work in each year of the program is supplemented by three hours of *travaux pratiques* each week. While attendance at course lectures is optional, it is compulsory for the *travaux pratiques.*

The 1954 reform shows that the theory underlying the organization of the French legal studies curriculum had grown increasingly sophisticated. The *Facultés de droit* were capable of functioning both as *bona fide* academic institutions dispensing a broad education in law and as professional schools providing a substantial (albeit theoretical) preparation for business, government, and legal careers. State control over higher education, however, was to have a pernicious consequence. Although the centralization of educational policy in the national government provided for a nationally uniform curriculum and guaranteed the worth of national diplomas, it did not allow the regional universities to determine their own educational policies and prevented them from dealing effectively with their particular problems. Rigid government control also had the effect of supporting and maintaining a strict hierarchy of authority in which students and faculty had little or no place. The lack of autonomy from government supervision, combined with student alienation and mounting dissatisfaction, gave rise to a final episode in the modern development of the French legal studies curriculum.

VIII. The present curriculum

Prior to the May 1968 student riots, the French national government had been the chief architect of French educational policy. In matters relating to higher education, for example, the Ministry of National Education not only set university budgetary requirements and the procedures governing the recruitment of professors, but also established the substance of the university curricula for degree programs. Opposition to this rigid hierarchical system manifested itself in violence, which gave rise to an almost immediate legislative response. On November 12, 1968, the French Parliament unanimously enacted a statute, entitled the *Loi d'orientation de l'enseignement supérieur*,[80] which provided for faculty and student participation in the administration and management of the universities. More importantly for purposes of the present analysis, the 1968 statute gave the universities some measure of autonomy vis-à-vis the national government in matters concerning the curriculum and pedagogical organization.

Under the provisions of the 1968 statute, the universities acquired the right to establish their teaching activities, their research pro-

[80] Loi no 68-978 du 12 novembre 1968, D.1968.317. For a detailed commentary on the consequences of the statute on the system of French higher education generally, see Carreau, *Toward "Student Power" in France?* (1969) 17 Am. J. Comp. L. 359.

grams, their pedagogical methods, their examination procedures, and the status of their teaching personnel.[81] Moreover, by granting the universities the benefit of a moral personality and financial autonomy[82] and by creating a network of elected university and regional advisory councils on educational matters,[83] the statute further reduced the previously all-encompassing authority of the Ministry of National Education, and in effect made university curricula the fruit of a partnership between the Ministry and the individual universities. While the national government retained the discretion to set mandatory requirements for conferring nationally-recognized degrees,[84] the universities were free to determine the distribution of these requirements and to supplement them with their own requirements and a broad range of electives.[85] The administrative restructuring of the system of French higher education — its "decentralization" — did not alter, however, the basic pattern of French legal studies: the basic degree course remains a four-year program consisting of two principal "cycles" or stages of study.[86]

The first two-year cycle essentially is a period of general orientation to the study of law; students achieve a limited concentration (or major) in an academic department only in the second year. Upon completing this first cycle, students are awarded a general studies degree, called the *Diplôme d'Etudes Universitaires Générales, mention Droit* (D.E.U.G.), which corresponds to an associate degree with specialization in law. During the second two-year cycle, students must concentrate in one of the departments providing instruction in law. For example, a senior law student may take the majority of his courses in the program designed by the departments of commercial law, political science, or economics. At the end of the third year, students receive a *licence en droit*, the equivalent of a B.A. in law; at the end of the fourth year, they are granted a *maîtrise en droit*, an M.A. in law, which, for all practical purposes, has become the basic French law degree. The weekly work load of French law students during each year of study normally amounts to twenty class hours, consisting approximately of fifteen hours of university lecture courses (*cours magistraux*), three hours

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[81] *Ibid.*, art. 19.
[82] *Ibid.*, art. 3.
[83] *Ibid.*, arts. 8 and 9.
[84] *Ibid.*, art. 20.
[85] *Ibid.*, art. 19.
[86] See French Cultural Services, *Higher Education in France* (1977), 20-22.

of directed study classes (*travaux dirigés*), a one-hour introductory course to professional practices, and a weekly language seminar.[87]

Although the basic pattern of legal studies in France is unchanged, the sharing of power instituted by the 1968 statute in matters of curriculum policy has accentuated the already marked tendency of French universities to teach law in an interdisciplinary fashion. As with the 1954 legal studies curriculum, the interdisciplinary perspective is present at the initial stage of study and continues, despite the specialization, into the final years of the program. Although the Ministry of National Education still determines nearly half of the substantive content of the legal studies curriculum, even these core courses foster the interdisciplinary objective. The remainder of the curriculum consists of university and departmental requirements as well as electives and it is here that the impact of the decentralization of educational policy is most pronounced.[88] The French law student is confronted with a plethora of course packages and electives both within and without the area of chosen concentration. This allows the student to move from one social science perspective to another, from an initial introduction to a more advanced consideration, and provides for a well-rounded legal education with courses from allied or more remote academic disciplines. It also is worth noting that the required program includes courses in public or private international law as well as comparative law.

This brief description, of course, does not do justice to the originality of the legal studies curriculum in each of the French universities. This study will focus upon the program that is being administered at the University of Paris I (Panthéon-Sorbonne), a university long recognized as one of the most distinguished centers for the study of law in France. Although its legal studies curriculum probably is more exemplary than it is representative of the programs offered at other French universities, Paris I provides a forceful illustration of the educational and intellectual advantages that can be derived from the interdisciplinary study of law.[89]

At Paris I, five Teaching and Research Units (departments) provide instruction in law: the Departments of Public Administration

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[87] *Ibid.*

[88] *Ibid.*, 20-21.

[89] For the description of the legal studies curriculum at the University of Paris I, the author has used a catalogue entitled *Université de Paris I Panthéon Sorbonne, Licence et Maîtrise en Droit* (1977-78), 9-18, 29-58. The tables presented in the text are summaries of the content of the booklet, but have been reorganized considerably.

and Domestic Public Law; Commercial Law; Development and International, European and Comparative Studies (Law Section); Political Science; and Labor and Social Studies. For both administrative and academic purposes, entering law students are required to select tentatively one Teaching and Research Unit as their major department. During the first two years of the program, the student's choice of a major area of academic concentration is of relatively minor importance and, in fact, can be changed from one year to the next; it does, however, become binding during the last two years of study when a final orientation in legal studies is chosen.

First year law students at Paris I are required to take three year-long university lecture courses, entitled Political Institutions and Constitutional Law, General Introduction to Civil Law, and Economics, and a one-semester departmental course. For those students who have registered as majors in the Department of Political Science, the departmental requirement is satisfied by taking Political Science: The Sociology of Politics; students in the other departments must take History of Law and of Institutions. The program of elective courses also is administered on a departmental basis. Students registered in the Departments of Public Administration and Domestic Public Law, Commercial Law, and Labor and Social Studies may satisfy their elective requirements by taking three of the following courses: International Relations; Political Science: The Sociology of Politics; The History of Political Doctrines — 19th and 20th Centuries; or Sociology and Social Psychology. Students in these departments, however, also have the possibility of fulfilling their three credit elective requirement by taking certain specified courses in other university departments. For example, they may take a purely historical elective component, consisting of Introduction to the Historical Sciences and Survey of Contemporary History, or the three-credit course General Philosophy and the History of Philosophy; or offerings in art, such as Introduction to the Art of Modern Times, Introduction to Contemporary Art, and Introduction to Cinematographic Studies; or business-related electives, namely, Statistics, Mathematics, and National Accounting. Students from the Department of Development and International, European and Comparative Studies and the Department of Political Science choose their electives from a similarly diverse list of courses, although the distribution of these electives caters more to the particular interests of these departments.

In addition to the foregoing program, first year law students at Paris I are required to take three hours of directed studies classes (the *travaux dirigés*) each week. These classes are intended to

provide students with individual instruction on the subject matter covered in the basic curriculum. For example, all students must take the two directed studies classes in Political Institutions and Constitutional Law, and Introduction to Law and Civil Law. The choice of the third directed studies class again depends upon the student's major concentration. Students who are registered in the Departments of Public Administration and Domestic Public Law, Commercial Law, or Labor and Social Studies, may select between a directed studies class in Economics or History of Law and of Institutions, while students in the Department of Development and International, European and Comparative Studies and in the Department of Political Science may choose between Economics or, respectively, International Relations or Political Science as their third directed studies class.

By the second year of the D.E.U.G. program, law students at Paris I begin to work more closely within the framework of the program administered by their major department. Although the elective and inter-departmental offerings are reduced significantly during the second year, the curricula established by the individual departments, while promoting specialized study in a given social science discipline relating to the law, incorporate a sufficient diversity of courses to maintain a full-fledged interdisciplinary character. It is also during this final year of the D.E.U.G. program that law students at Paris I receive weekly instruction on the more practical aspects of professional life and work. The table below summarizes the basic second year course requirements in two of the five departments. While one program is more traditional in character than the other, they both reflect an unfailing commitment to the interdisciplinary study of law.

	Department of Commercial Law	Department of Development and International, European and Comparative Studies
University Lectures:	Criminal Law Civil Law II	Contemporary Economic Problems Political Organizations or Criminal Law
Professional Practices:	Corporate Accounting	Organizations and Relations (International Orientation)
Directed Studies Class:	Commercial Law Civil Law	Commercial Law Administrative Law and Institutions

The organization of the second year D.E.U.G. program around the departmental structure foreshadows the type of specialization law students engage in during the second cycle of the legal studies program. The candidates for the *licence* and the *maîtrise* have chosen a definite area of concentration; as a consequence, in their final two years of study, they are obliged to take the specialized program established by their major department. Specialization entails a drastic reduction in elective offerings and inter-departmental distribution requirements. These limitations, however, are counterbalanced by the interdisciplinary character of individual departmental programs. The table below provides a description of both the *licence* and the *maîtrise* curricula in the Department of Commercial Law and the Department of Development and International, European and Comparative Studies. It should be noted that the *maîtrise* program is divided into two semesters in which special concentration is achieved in the second semester in the form of a certificate program.

LICENCE		
	Department of Commercial Law	Department of Development and International, European and Comparative Studies
University Lectures	Labor Law Civil Law Suretyship Family Law Commercial Law Negotiable Instruments Bankruptcy Public International Law I Private International Law Administrative Law I	Public International Law Private International Law Labor Law Administrative Law I Commercial Law Major Legal Systems and Anglo-American Law or German Law
Directed Studies Classes	Three from among: Labor Law Suretyships Family Law Negotiable Instruments Bankruptcy	Three from among: Public International Law Private Internatonal Law Major Legal Systems and Anglo-American Law or German Law

Electives	One from among: The History of Business Company Organization and Financial Management Public Liberties Criminal Procedure Major Legal Systems Insurance Law Private Judicial Law	One from among: Public Liberties Economic Politics Administrative Law II Introduction to EEC Law Civil Law Suretyship or Family Law
MAÎTRISE		
	Dept of Commercial Law	Dept of Development & Int'l, European & Comparative Studies
First Semester University Lectures	Commercial Law Taxation Private International Law Civil Family Law	International Commercial Law Public International Economic Law Private International Law
Directed Studies Classes	Commercial Law Taxation	International Commercial Law Public International Economic Law
Electives	(None)	Two from among: The Sociology of International Relations Foreign Administrative Institutions Comparative Labor Law Seminar in German Law
Second Semester	*Certificate in International Business Matters*	*Certificate in the Law of International Life*
University Lectures	International Commercial Law European Commercial Law European Organizations	European Organizations European Commercial Law
Directed Studies Classes	International Commercial Law	European Organizations

Electives	*	Two from among: Oil Law Middle East Oil Politics Maritime Law Computer Programming and International Relations International Law of Development
	Certificate in Domestic Business Matters	*Certificate in Anglo-American Law*
University Lectures	Commercial Criminal Law Banking & the Stock Market European Commercial Law	U.S. Company Law Contract Law in Common Law Countries and Private International Law English Company Law Seminar in Anglo-American Law
Directed Studies Classes	European Commercial Law	(none)
Electives	*	(none)
	Certificate in Management	*Certificate in European Institutions & Law*
University Lectures	Commercial Management Financial Management Banking & the Stock Market	EEC Institutional Law European Commercial Law EEC Economic Problems
Directed Studies Classes	Financial Management	EEC Institutional Law European Commercial Law
Electives	*	One from among: European Social Legislation (includes a directed studies class) European Tax & Finance Law**

* In addition to the certificate program, all students in the Department of Commercial Law must take two electives from among Remedies, History of Private Law, English Company Law, European Social Legislation, Insurance Law, Industrial Property, Management Supervision, and Special Criminal Law.

** The Department of Development and International, European and Comparative Studies also offers Certificates in African Law and Economics and Third World Studies. Considerations of space did not allow for a description of these two additional certificate programs.

When compared to the legal studies curriculum established by national government decree in 1954, the current program at the University of Paris I represents a considerable advance in the social scientific interdisciplinary methodology. While law students are nurtured in a particular departmental discipline, the initial phases of the program and the continuing diversity of both the required and elective curricula oblige them constantly to perceive the law as a multi-faceted phenomenon with political, economic, and social ramifications. The university, in its capacity as an academic institution whose fundamental mission (according to the language of the 1968 statute) is to provide for the elaboration and transmission of knowledge, the development of research and the training of men,[90] is concerned that students understand the law in its full dimension: its origins and interrelationships with society as well as its actual elements in a more narrow vocational and technical sense. The principal question emerging from this description of the evolution and present status of the legal studies curriculum in France is whether its theoretical promise and appeal can be transcribed — either wholly or in part — into the reality of the French legal education process. Do students emerge from the program of study with a firm intellectual understanding of the law? Does the program cater to their interests and needs or is it more a reflection of the academic proclivities of their professors? Is such a curriculum operable within the framework of the French university system?

IX. The value of the French legal studies curriculum as a comparative model

In actual practice, the French legal studies curriculum suffers from a number of drawbacks which, although they do not undermine its status as a model of substantive legal instruction, call into serious question the pedagogical worth of some aspects of the French university system.[91] On the one hand, these flaws are endemic to any educational system which places so much importance upon strictly academic values and establishes so clear a demarcation between the world of ideas and the realm of existing fact. Rightly or wrongly, the French university appears to function prin-

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[90] Loi du 12 novembre 1968, art. 1.

[91] In describing the characteristics and the operation of the French university system, the author has relied on his own experience at the University of Paris and the University of Tours. He wishes to express his gratitude to Professor John M. Kernochan, Professor William J. Bridge, Antoine N. Paszkiewicz, Esq., and Ms Marie-Annick Fédéli, a fourth year

cipally upon its own momentum. Academic inquiry becomes meaningful in itself; knowledge is prized exclusively for its own sake and perhaps at the expense of other human endeavors. Accordingly, despite statutory language and government policies proclaiming educational egalitarianism and the need to have the universities respond to the immediate needs of society, the French universities have held fast to an elitist tradition, envisioning themselves primarily as breeding grounds for academic vocations.

On the other hand, the deficiencies that attend the legal studies (or any other) curriculum within the setting of the French university system stem from the fact that higher education in France is "part of a nationally uniform system of free, secular, public education"[92] which is funded rather parsimoniously by the national government.

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law student at the University of Paris, for their comments and observations on their experience in the French legal studies program. See also Hauser & Hauser, *The Study of Law in France: A Student's View* in Harvard Law School Bulletin, vol. 10, no. 4 (Feb. 1959).

[92] deVries, *supra*, note 3, 72. Because of its public character, tuition and fees at the French university are minimal, rarely exceeding more than $50 a year; room and board costs are subsidized heavily by the State. The "open admissions" policy was instituted in France primarily for political reasons, to assuage critics who assailed selectivity as elitist and undemocratic; it is not a policy which reflects a purely pedagogical design. Although the open admission policy admittedly equalized access to higher education, it also created a more subtle form of post-admission selectivity, engendering, for example, a 50% attrition rate during the initial years of professional studies. A few years ago, the then Minister of National Education, Joseph Fontanet, recognized that the open admission policy had particularly brutal consequences, essentially eliminating after a few years of study many of those students whose expectations had been raised unjustifiably and whose investment of their time and effort in a program of study for which they were unsuited and unprepared went to naught. Most of the teaching personnel do not have offices or secretarial support. Libraries lack sufficient space to accommodate students, library hours are inconvenient, and it is difficult to get books and almost impossible to take them out. A sense of participation in the life of an academic community or a willingness to engage in extracurricular activities are unknown in the majority of French universities. These general conditions of university life promote an attitude of indifference and cynicism, not only among students, but also among the teaching staff. While students focus their attention almost exclusively upon getting a passing grade on examinations, professors, who usually can rely upon the job security guaranteed by their status as civil servants, minimize their pedagogical roles and devote their time and energy to research or other personal pursuits. Finally, in direct contradiction to the open admissions policy, the French university system remains hierarchical and elitist in character, catering primarily to the needs and interests of a small minority of academically-inclined students who aspire to enter the teaching profession.

An alternative to this system in the form of private universities has yet to be proposed; in light of the commonly-held attitude in France that the government bears full responsibility for the educational needs of the country, it is unlikely to be forthcoming in the future. Admission to the French universities is open to any high school student who has obtained his *baccalauréat*. The exceedingly large numbers of students generated by this admissions policy, combined with inadequate government funding, leads to overcrowding and generally inadequate facilities for both students and professors, especially in the large metropolitan areas.[93]

As with other university programs, the university lecture courses in law may be attended by anywhere from five hundred to a thousand registered students. Professors deliver formal lectures, presenting a view of the law which is not only didactic, but also dogmatic in character. Clearly, the size of the courses discourages both formal and informal contacts between students and professors; the method of presentation prohibits any attempt to question the fundamental principles of the law, the memorization of which usually is the key to success in the final examination. Moreover, students often complain that the basic instruction is too erudite and theoretical to be of any value to them when they leave the university. For many French law professors, the lecture is an art form, the substance of which responds to a detached analytical imperative and is delivered in an elegant and impeccably articulated French. By his training and personal predilections, the French law professor avoids the practitioner's perspective; he weaves a web of theoretical abstractions that is destined to inspire those few members of his anonymous audience who aspire to follow in his footsteps.

The more individualized group instruction proffered by the directed studies classes was meant to remedy the impersonal and theoretical character of the lecture method of instruction. These weekly sessions were designed to provide students with an opportunity to apply the knowledge they acquired in lectures to existing legal problems. The actual operation of the directed studies classes, however, appears to deviate from this statement of purpose. In keeping with the training they have received and with the precedent set by the professors they wish to emulate, the graduate instructors, who conduct these sessions under the general supervision of a law professor, devote their teaching efforts to expounding upon funda-

[93] See Herzog, *supra*, note 2, 69.

mental legal principles rather than encouraging students to develop a critical perspective upon the law. Often, the analysis of the practical legal problem is relegated to a hurried treatment in the closing minutes of the sessions. Paradoxically, the professors, who have established themselves as educators, have the least amount of contact with students, while the graduate instructors, who have just begun to teach, have the most direct influence upon the students' education.

This brief summary of the deficiencies of the French university system does not compromise the substantive integrity of the French legal studies curriculum or undercut its viability as a comparative model, especially in regard to a system which has the benefit of more adequate educational funding. The independence of the curriculum from external pressure exerted by the bar, its grouping together of a number of social science disciplines, and its provision for guided specialization in a given area during the final years of study are features which could provide an illuminating and profitable comparative perspective upon the more focused, vocational orientation of the North American law school curriculum. Needless to say, the substantive differences between the French and North American legal studies curricula are radical in character. One could argue that any extensive comparison between the two programs would be misleading and false, on the ground that the French legal studies curriculum finds its closest analogue in the North American undergraduate program, in which students are exposed to a diversified liberal arts perspective and choose a particular field of concentration in their final years of study. In the final analysis, the law program in French universities is an undergraduate course of study, established for students who lack any previous university training and fixed professional goals.

In contradistinction to the French curriculum, the program of courses in North American law schools represents graduate-level study designed to inculcate, in students with well-defined career ambitions, certain professional values and basic skills that are deemed requisite to the practice of law. In the majority of North American law schools, faculty time and institutional resources devoted to an interdisciplinary treatment of the law are frills around a basic core curriculum of traditional law courses. The study of law in North America is a serious practical business. In fact, some law professors feel obliged to engage in several years of actual law practice, in lieu of graduate legal study, before seeking academic positions. Moreover, in order not to disappoint student expectations,

law professors focus the substance of their courses upon "real world" legal problems and disregard the more esoteric aspects of their subject matter.

All these differences, however, discount the fact that the French and North American legal studies curricula share a common pedagogical goal: to give students an understanding of the law. They merely represent different ways of achieving this same goal; each of them inevitably falls victim to the deficiencies of its particular methodology. The French system has attempted (albeit with minimal success) to introduce more practical instruction in its curriculum through the directed studies classes and the survey courses in professional practices. North American law schools have established distinguished reputations for training legal practitioners, although they have been under increasing pressure to do so more effectively and with greater sophistication. It is undeniable that a professional school with a vocational mission must give its students high quality, intensive training in the basic skills that are indispensable to the exercise of their future profession. Quite possibly, the most efficacious way of fulfilling that mission is to retain the traditional first year format, possibly supplementing it with a more elaborate clinical writing program. The North American system, however, appears to have been guilty of a lack of commitment in those areas where the French system has engaged in excesses. In the opinion of this writer, North American law schools have failed to maintain a sufficient autonomy from the practical demands of the bar and consequently have neglected to assert fully their academic character and establish a viable law teacher training component in their curricula.

Much ink has flowed over the question of what is to be done with the curriculum after law students have been through the rigors of the first year of law school. In recent years, there has been a growing trend favoring the complete elimination of the second and third years of study and the reintroduction of a form of apprenticeship program. Many of the proponents of this abbreviated legal studies program stress the strength of character and personality that can be gained from actual experience and maintain, with some accuracy, that senior law students who aspire to practice law are really only impatiently putting in their time after the first year of study. Such a position, however, unjustifiably belittles the academic status of law schools and even more unjustifiably discounts the fact that the law has an intellectual life of its own.

Proposals for the reformulation of the North American legal studies curriculum should take into account the fact that the law schools are university institutions which, although they have a strong commitment to professional endeavor, also have the responsibility of furthering the pursuit of knowledge and preserving intellectual traditions and of acting as the impartial and independent repositories of ideas. Any abridgement of the length of the current curriculum would work a considerable disservice not only upon the academic status of law schools but also upon the social standing of the legal profession itself. Although the present second and third year curricula are defective in many respects, the answer is not to eliminate them, but rather to refurbish them so that they can be made to provide students with greater stimulation. In this way, the advanced curriculum could satisfy the need for improved legal services and provide a means by which law schools could lay claim to an authentic academic and intellectual status as university institutions. It is precisely in this area that certain features of the French model — the history of its vacillation between practical and academic instruction, its adoption and continued use of an interdisciplinary social scientific approach, its emphasis upon academic values and the training of professors, and finally, its program of guided specialization in the concluding years of study — can be particularly instructive to institutions with more adequate financial resources and physical facilities to deploy its principal ideas.

This article seeks to advance the general idea that the quality of North American legal education could be enhanced considerably by transforming the second and third year curriculum into a three-tier system of areas of concentration, with a common first year program (closely akin to the current program at most law schools) assuring a basic uniformity of legal training. The first track of the advanced curriculum would be in keeping with the substance of the curriculum that is being offered presently; it would consist of basic core courses in corporate law, commercial law, evidence, conflicts of laws, a few required courses in legal history and philosophy, and a fairly elaborate clinical program in such subjects as trial advocacy and negotiations. The second track would represent a hybrid program, combining strictly legal courses with interdisciplinary offerings, and would act as an intermediary between the first and the third options. It would appeal to students who are interested primarily in practising law, but who also wish to spend some of their time in law school exploring the law from a less practical perspective. The third track would be designed for students who intend to

become teachers of the law. Although they would take courses in a certain area of the substantive law, their time would be devoted primarily to an interdisciplinary consideration of the law, ultimately preparing them to engage in graduate legal study and professional research. The content of their program would focus upon philosophy, economics, political science, and sociology, as these disciplines relate to law.

Admittedly, the foregoing description only provides the skeletal structure of a potential program, the details of which would require more thought and extensive planning. Nonetheless, it is submitted that the general idea of a three-tier advanced curriculum, based upon the French model, could be of immense use and benefit to North American law schools. It would enable them not only to respond more effectively to a multiplicity of social needs and student expectations, but also (and more importantly) to give more breathing room to the intellectual side of the law. The institution of such a program would be the beginning of a response to Professor Auerbach's description of his short-lived experience in a North American legal education program:

> After so many years spent learning what to think it was a relief to be told that I was learning how to think. The experience was paradoxical: the more I learned how to think like a lawyer the less I wanted to become one. Legal education was designed to evade precisely those questions which, in my naiveté, I believed that lawyers should contemplate: Is it just? Is it fair? If not, how can law be utilized to make it so?[94]

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[94] Auerbach, *Unequal Justice* (1976), ix.