Forum

Towards a Restructuring of the Office Training Component of Legal Education

The legal profession has employed office training, commonly called articling, as a means of legal education throughout its history. Most common law jurisdictions continue to use office training as an important part of pre-admission education. For many years, office training was the only educational requirement for admission to the profession. The lawyer's training consisted of practice under the supervision and instruction of a senior practitioner. Office training taught the student how to apply substantive law and how to meet the needs of the client.

The development of law schools and the emergence of the academic component of legal education had an impact on pre-admission education. Governing bodies were searching for ways to improve the training of the student-at-law. Many felt that emphasis on academic means, such as bar admission courses, workshops and other programs, would provide instruction in areas of knowledge which the student lacked. Others felt that academic programs would compensate for weaknesses in the articling process.[1]

Interest in developing academic programs diverted attention from office training.[2] Governing bodies did not appear to possess the desire to supervise or administer these programs. They did not set standards or devise policy. They showed little interest in ensuring that the student received a competent period of office training. The office component of legal education was left to fend for

[1]The move toward academic programs gave rise to bar admission and similar courses. These courses, which exist in all Canadian jurisdictions except Prince Edward Island, vary in format and duration. British Columbia established its Professional Legal Training Program in 1981. See N. Gold, "Pre-Admission Education and Training in Canada: Some Reflections and A Survey", Proceedings of the Commonwealth Law Association, Hong Kong, 1983.

[2]D. Cruickshank, "Bar Admission Training in the United States, the United Kingdom, Ireland, and Australia", R.J. Matas and D.J. McCauley, eds., *Legal Education in Canada* (Montreal: Federation of Law Societies, 1987) at 865. N. Gold, "Pre-Admission Education", *supra*, note 1 at 1, suggests this movement began about 1950.

(1987), 36 *UNB LJ* 175.

itself. There were calls for its abolition and in some jurisdictions office training was abolished.[3] Where office training has been retained,[4] it remains a loose arrangement between principal and student, whereby the student responds to the expectations of the employer, often without receiving direction or guidance.[5] For the most part, principals do not appear to use guidelines prepared by governing bodies.[6] Dissatisfaction with pre-admission office training continues to grow. Criticism of articling continues, some going so far as to describe it as a sham.[7]

The profession, frustrated by the inadequacy of pre-admission education, continues to search for remedies. Unfortunately, it has not focused on improvements to office training.[8] While considerable efforts, financial and intellectual, have been expended to establish academic programs, there has been no concerted effort to foster research and development of this component of pre-admission legal education. There has been no attempt to update, structure or modernize, so that office training maintains its relevance in an increasingly demanding and technical world.[9] This lack of attention is surprising, since office training remains the most widely-used, time-consuming and extensive component of pre-admission education provided by the profession.[10]

While developments and new approaches in academic components are to be applauded and encouraged, they must not be seen as a panacea. Professional legal training courses, bar admission courses, seminars and workshops

[3]The abolition of articling was recommended by the McKinnon Report in Ontario, and earlier, by the Rich Committee in Manitoba, but in neither jurisdiction were the recommendations adopted. See W.H. Hurlburt, ed., *The Legal Profession and Quality of Service* (Canadian Institute for the Administration of Justice, 1979) at 133. However, jurisdictions in the United States, New Zealand and Australia have abandoned office training as part of pre-admission legal education. In the United States, only Delaware has retained the requirement. It is interesting to note that American jurisdictions are adopting "bridge-the-gap" programs, which are optional in forty-seven states but compulsory in New Hampshire and New Jersey. In Australia, New South Wales has abandoned articles entirely. In other Australian states, articling is an alternative to bar admission and other professional training courses. See "Bar Admission Training", *supra*, note 2 at 4, 5, 20.

[4]Office training is a compulsory component of pre-admission legal education in all Canadian jurisdictions except the Chambre des Notaires in Quebec. "Pre-Admission Education", *supra*, note 1 at 14.

[5]The exception appears to be Ireland which has a structured program of pre-admission education, consisting of a highly developed program of office training and professional training courses. "Bar Admission Training", *supra*, note 2 at 14; infra, note 14.

[6]Most Canadian jurisdictions provide principals and articling students with articling guidelines and checklists. Those of Alberta, New Brunswick, Nova Scotia and Ontario are fairly extensive. Other jurisdictions simply identify areas of practice to which the student should be exposed.

[7]N. Gold, "The Role of the University Law Schools in Professional Formation in Law" (Address to the Rencontre annuelle des juristes francophones du Nouveau-Brunswick, École de droit, Université de Moncton, November 1985) at 7 [unpublished]; see also "Pre-Admission Education", *supra*, note 1 at 2.

[8]The Federation of Law Societies Conference on Legal Education held in Winnipeg in October 1985 was a manifestation of this concern. The conference, which focused on formal legal education, did not devote much attention to improving office training or other components of pre-admission education administered and supervised by the profession.

[9]The call for improvements to office training has been made, but little has come from it. See *The Legal Profession and Quality of Service, supra*, note 3 at 133. See also W.H. Hurlburt, ed., *The Legal Profession and Quality of Service, Further Report and Proposals* (Montreal: Federation of Law Societies, 1981) at 194.

[10]Canadian jurisdictions require a candidate for admission to the bar to pursue a period of six to twelve months of articling. See F. Waczko and E. McKenna-Kay, "Criteria for Admissions to the Bar and Articles", *Legal Education in Canada, supra*, note 2 at 635. See also "Pre-Admission Educations", *supra*, note 1 at 1, *supra*, note 4, "Bar Admission Training", *supra*, note 2.

have limitations, particularly where the objective is instruction in and retention of skills. These programs are limited, for example, in providing the supervision essential to skill acquisition. A period of in-office training is capable of providing more supervision for a longer period. It also permits supervision by the most appropriate instructor, for only those who practice law day-in and day-out can recognize the problems, pitfalls and practical solutions which must be communicated to the student. Only an experienced practitioner has the full range of skills which the student must be taught. Only a practitioner can provide a realistic view of the practice of law.

Similarly, the most suitable laboratory for the teaching of legal skills is the modern law office. Bar admission courses, professional training courses and similar programs cannot realistically duplicate the law office. No classroom or workshop can maintain the continuity or intensity required for the development of skills necessary to the practice of law. Nothing can replace effective work in the real environment in which the student is expected to perform after admission. Students value a properly-conducted and supervised period of office training. They recognize the benefit of a well-defined program of learning in a proper workplace conducted by experienced counsel. Students want office training to be improved and developed. Having just completed seven years of university training, they do not wish to return to the classroom.

Office training is the best pre-admission educational tool yet devised, but it must be used properly.[11] Substitutes are expensive. Many jurisdictions do not have the means and resources to implement sophisticated workshops designed as replacements for office training.[12] Thus it is probable that office training will retain the position it now holds in pre-admission legal education. It is the only practical means of providing extensive training in lawyering skills for students-at-law. Yet the office training system has been neglected. It must be improved. It must become a more effective means of skill acquisition.

To develop a quality in-office training program, consideration must be given to faults in the existing process. Remedial measures must be incorporated in any new proposal. Faults in the present program include:

- Insufficient discussion with the student as to expectations and performance objectives of the program;
- Insufficient direction or supervision by the principal;
- Insufficient interaction or communication with the principal;
- Insufficient evaluation, constructive criticism or feedback provided to the student;
- Lack of introduction or exposure to different areas of practice, including law office administration and management;

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[11]Many commentators believe office training is a valuable and important part of pre-admission training. Their concern, however, arises from the manner in which it is administered. See "Bar Admission Training", *supra*, note 2 at 5, 27; "Pre-Admission Education", *supra*, note 1 at 2; See also N. Gold, "The Professional Legal Training Programs: Towards Training for Competence" (1983) 41, *Advocate*, 247.

[12]The Professional Legal Training Program provided by the Law Society of British Columbia is an example of a sophisticated program. Similar programs have existed for some time in Australia and Ireland, as well as in other Commonwealth countries. See "Bar Admission Training", *supra*, note 2.

— Concentration on only one or two areas of practice throughout the term of the in-office experience;
— Lack of a structured program and consistency of instruction;
— Continuous performance of menial or mundane tasks unassociated with the practice of law.[13]

Other faults have been identified, but most are variations of those listed.

Many faults could be corrected through a structured program of office training requiring the acquisition of a working knowledge of those areas which are essential to the practice of law. Exposure to essential areas must be compulsory. The program must also provide mechanisms for constructive criticism, assessment and continuous communication between principal and student. It must monitor the progress of the student. The program must ensure ease of operation, administration and flexibility. To ensure accessibility, practitioners who have the necessary experience must be permitted to engage a student regardless of the size and diversity of their practice or firm. What follows is an attempt to structure office training in a format which would produce an optimal learning environment within realistic parameters.[14]

Internship

The terms "articles" has been traditionally used by the legal profession to describe pre-admission office training. It came into use (circa 1820)[15] when no formal or professional training was required to practice law. The term does not reflect the formal training the student is now required to have, nor does it describe a program of training in a structured format.[16] This, coupled with the negative reputation articling has acquired over the years, suggests that it should be replaced by a term which would more accurately describe a new structure, and signal the establishment of a much improved program of practical professional training.

A more accurate term is "intern". It is defined as, "An advanced student or graduate usually in a professional field gaining supervised practical experience...".[17] Professional fields such as medicine and education recognize

[13] "Pre-Admission Education", *supra,* note 1 at 2; see also A. Bertrand, "Discussion Paper on the Question of Articling in the Province of New Brunswick", October 1984 (prepared for the Education Committee of the Law Society of New Brunswick) [unpublished].

[14] The proposal in this paper was inspired in part by the model in use in the Republic of Ireland. Professor Cruickshank, "Bar Admission Training", *supra,* note 2 at 16, succinctly describes the Irish program as follows: "After the first professional course, the next eighteen months of in-office apprenticeship is closely monitored by the Irish Law Society. The principals of the students must sign an undertaking guaranteeing the provision of a broad range of training, good working conditions and a minimum salary. The principals must also try to expose the student to each type of skill and task that the student has covered in the professional course. There is a compulsory review meeting at the halfway period of the apprenticeship during which the articling student must review in writing the work completed to date and both the student and principal must sign an agreed program of work for the next nine months. The Law Society Directors of Education are available for consultation and, in fact personally interview the principals and the articling students in almost every office during the eighteen-month period." Nowhere in Canada or in the jurisdictions studied in this paper is there such an extensive monitoring of the articling experience.

[15] *Webster's Ninth New Collegiate Dictionary* (1983) at 105.

[16] *Ibid.*

[17] *Ibid.* at 632.

pre-certification practical training as "internship". The term is used in many disciplines and is beginning to be used in legal circles.[18] In the medical model, the student is recognized professionally in terms of status and remuneration. The intern is required to complete a structured program which includes ongoing and recorded supervision. Intership must be completed satisfactorily prior to admission to the profession. The use of the term internship to describe the proposed office training program would be more accurate and would recognize the student's formal and professional background. The student-at-law would be identified as an intern.

Objective

The goal of the internship program would be to provide an improved and uniform program of in-office legal training, to ensure a greater degree of competence and professional responsibility in candidates applying for admission to the profession. The program would emphasize quality control through uniformity, simplicity, assessment and accessibility in a well-defined professional relationship. It would ensure that principal and student were aware of their roles, expected contribution, and responsibilities. Continuous communication between principal and intern as well as between the participants and the governing body would be encouraged.

Internship Committee

The governing body would establish an internship committee. The committee would be formed to maintain consistency and continuity in the administration of the program. It would consist of seven persons, six of whom would be appointed from the general membership for three-year terms, with two members being replaced each year. The deputy secretary of the governing body would be a permanent member of the committee.

The direct administration and supervision of the internship program would be the responsibility of the internship committee. The committee would also monitor all aspects of the program as well as the progress of each intern. The committee would retain all reports and assessments prepared by the principal. It would ensure that performance objectives of both principal and intern were met. The internship committee would recommend policy and program modifications to the council of the governing body. It would implement the program as approved by the council. The committee would prepare and distribute all forms and information, and undertake any other initiative necessary for the success of the program. The intern would have the right to appeal any decision of the internship committee to the council of the governing body.

The deputy secretary would be the administrative officer of the committee and would closely monitor all internships. All reports and correspondence relating to any matter would be channelled to that office. In addition to perus-

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[18]The Law Reform Commission of Canada research program for students is identified as the Summer Research Internship Program. Its goal is to afford students an opportunity to do research under supervision and provide on-the-job training. The student is identified as an intern.

ing all reports and assessments, the deputy secretary would interview each intern at approximately the midway point in the internship. Where possible, the deputy secretary, in consultation with the internship committee, would assist in resolving any problems within the program.

Composition

The program would be composed of those areas of practice in which a working knowledge is essential to the practice of law. The expression "areas of practice" would designate the different areas of knowledge which the student must acquire.

Many governing bodies have already prepared guidelines and checklists of the areas to which the student should be exposed.[19] However, without compulsory exposure, few students receive instruction in all essential areas. The internship program would be based on compulsory skills acquisition. The principal would be required to expose the intern to all compulsory areas of practice and assess the intern's progress. The intern would not complete the internship until all requirements have been met. The program subject matter would be divided into two categories:

COMPULSORY AREAS OF PRACTICE This category would consist of areas of practice in which a working knowledge is essential for admission to the practice of law. The number of areas would be kept to a minimum. The compulsory list would consist of the major areas of practice in which most practitioners, regardless of the size of their practice, could provide instruction. Acquisition of a working knowledge in all areas of practice identified on the primary list would be compulsory.

RECOMMENDED AREAS OF PRACTICE This category would include all other areas of practice in which a candidate for admission should acquire a working knowledge. No areas identified on the list would be compulsory individually. However, to ensure as broad an exposure as possible, a given number of areas would be compulsory. The intern would have to acquire a working knowledge of those areas constituting the compulsory component.

The profession would determine the content of the compulsory component of the secondary list.[20] The areas of practice on the recommended list forming the intern's compulsory component would be left to the choice of the principal and intern, based on such factors as the intern's personal preference, or the principal's ability to provide instruction in a given area. While the program would not require exposure to non-compulsory areas on the secondary list, it would nevertheless encourage familiarization in all areas.

The use of categories and compulsory requirements would ensure that the intern received a working knowledge of the most important areas of the practice of law, while recognizing that not every area of practice can be covered in

[19] *Supra,* note 6.

[20] The final report of the Education Committee of the Law Society of New Brunswick will recommend which areas of practice will be identified on each list. It is expected that the report and recommendations will be presented to the Law Society in July 1987.

an internship program. The structure would provide flexibility, to permit most practitioners to engage interns. The limited breadth of the compulsory category and the optional component of the recommended category would allow firms which have a restricted practice to provide internship education.[21]

Principal-Intern Relationship

The initiation of the principal-intern relationship would be left to the participants. It would be the responsibility of the principal to cover all elements of the program. A practitioner who could not certify that the intern would receive the required exposure would not be eligible to participate as a principal. Because the program would be based on a close-working relationship and direct supervision, a principal would be limited to only two interns at any one time.

The provision of optional areas of practice on the secondary list forming part of the intern's compulsory program was designed to provide flexibility so most practitioners could participate. For those practitioners still unable to ensure personal instruction in all areas of the compulsory program, two other mechanisms provide flexibility. The first would permit the principal's responsibility to be met by the principal alone or by other members of the principal's firm. Under this arrangement, the principal would provide the greater part of the instruction, while delegating to other members of the firm those areas the principal is unable to address. No formal administrative arrangement would be required, but full compliance with the program would remain the principal's responsibility. A second mechanism, affiliation with an associate principal, would apply where the principal would have to go outside his or her practice or that of the firm to ensure exposure to the compulsory areas. The principal, with the consent of the intern, might initiate an affiliation with an associate principal at any time during the program. However, affiliation with an associate principal should be discussed with the intern at the outset. Affiliation would be restricted to one associate principal during the course of the internship. The associate principal could provide instruction for any number of the compulsory areas of practice. A request for affiliation would be forwarded to the internship committee for approval. It would be granted if the principal could certify that the intern would be exposed to all compulsory areas while under the supervision of the principal or the associate principal. The associate principal would certify to the principal that the outstanding portion of the compulsory program was covered, and that the intern had acquired a working knowledge of those areas of practice. The certification prepared by the associate principal would be returned to the principal and a copy forwarded to the internship committee. Throughout the affiliation, the principal would retain ultimate responsibility to ensure that the intern had satisfied all requirements of the program.

Finally, an intern could request transfer from one principal to another. If the transfer did not take place when the quarterly reports were due, the

[21]The structure used in this model is but one method. Others exist. Any method used must ensure sufficient flexibility to permit most practitioners to participate and thereby increase the number of positions available for internships.

transfering principal would be required to compile an assessment of the intern's performance to date, which would be submitted with the request for transfer. The assessment would include any item which might be considered a deficiency in the performance of the intern and, in particular, anything which might be considered questionable conduct or conduct unbecoming a member of the profession. A request for transfer would be reviewed by the internship committee and forwarded to council for approval.

Eligibility

The internship program would require standardized eligibility requirements for both principals and interns.

PRINCIPAL The instructor must have depth of experience in the essential areas of practice. An inexperienced principal would impair the education of the intern and the success of the program. A practitioner of five or six years at the bar has not generally acquired the degree or breadth of experience required for a structured program. The junior practitioner is still learning the law. His or her priorities include consolidating the practice and establishing clientele. These factors impede the ability to provide a sound educational environment. Thus, the minimum experience required for participation as a principal should be eight years of practice immediately preceeding the internship application.

The internship committee would ensure that each candidate for principal status met the eligibility requirements. The committee would also recommend that the status of principal be refused a practitioner for any of the following reasons:

- Inordinate claims experience in errors and omissions liability;
- History of administrative or disciplinary problems with the profession;
- History of disciplinary sanctions;
- Non-compliance with any aspect of the structured internship program or any other regulation of the governing body;
- History of negative intern evaluations;
- History of negative intern-principal relationships;
- Any other reason determined valid by the governing body.

Each of these reasons indicates a problem area. Attitudes, habits and practices which produce these problems must not be taught to one about to enter the profession. The governing body must have the resolve to refuse principal status to practitioners who do not qualify.

STUDENT Some jurisdictions require completion of the university degree program prior to beginning the office training component of pre-admission education.[22] Others permit the office training component to begin at any time after the conclusion of the second year.[23] In the latter case, students enter the

[22]Nova Scotia and Ontario are examples.

[23]The Law Society of New Brunswick requires the successful completion of second-year law studies. *Barristers' Society Act* S.N.B. 1973, c.80, as am. S.N.B. 1986, c.96, now titled *Law Society Act*. See "Law Society Act and regulations 1986" (Barristers' Society of New Brunswick) Reg. 25(17).

program with varying degrees of knowledge. They often lack exposure to many of the essential areas of practice. This is frustrating to both principal and intern. The student knows nothing of the area of practice in which he or she is expected to work. Valuable time is wasted while the student becomes acquainted with the subject matter. This is a problem for the principal, who must nevertheless put together a program which meets the standard requirements. Division of the period between second and third year also reduces the value of the program in terms of continuity and intensity. Overall, it provides the student with little benefit and may even produce negative financial consequences. Division would make a structured program impossible to administer or supervise. It would present a major obstacle to any attempt to integrate the bar admission course with pre-admission office training. Division would also prevent any initiative to teach bar admission courses at a more advanced level. The internship program requires prior substantive knowledge in all essential areas of practice. The program must be administered consistently. It must have ease of operation, administration and supervision. Therefore, all elements of the program, including eligibility, must be standardized. Applicants to the internship program should be eligible only upon successful completion of all the formal educational requirements for admission to the bar.

Responsibilities of Principal

The principal participating in pre-admission legal education owes responsibilities to the intern, the profession and the public. Practitioners who are not prepared to accept a commitment to the intern and to the program should be denied the privilege of engaging an intern.

The program will require the principal to provide a sound education in the essential areas of the practice of law. It will require supervision and administration.[24] The principal will be required to ensure that the full program has been administered. Each principal would have to undertake to comply with the requirements and guidelines. The principal would have to certify that the student met the program standards. The governing body would monitor each internship to ensure compliance.

Administration

Internship is based, in part, on communication. The expectations of both principal and intern as to the student-teacher and employee-employer relationship must be explored at the outset. The intern must know in advance the role and responsibilities of both parties. Guidelines for such discussion would be prepared by the internship committee.

The intern would work directly with the principal in all facets of the principal's practice, while focusing on the compulsory areas of practice. The program would provide participants with mechanisms for continuous discussion, assessment and constructive criticism. Assessment would be facilitated by succinct quarterly reports prepared by the principal on a provided form. The form

[24]The administration required of a principal to implement and conduct an internship program would only be slightly more than that already required of office training programs in some other provinces. See articling guidelines for the Barristers' Society of Nova Scotia and the Law Society of Saskatchewan.

would outline the compulsory areas of practice which the intern has covered. The principal would also provide a brief assessment of the intern's capabilities and performance, along with any other relevant comments.[25] The reports would be filed with the internship committee and be available to both the intern and the principal. The quarterly report would aid the principal in following the program. It would provide the participants with an opportunity for discussion and feedback, and assist the internship committee in monitoring the progress of the intern. At the completion of the program, the principal would prepare a final evaluation on a form provided and certify that the intern has satisfactorily completed the internship. The intern would complete a student evaluation.[26] These reports would also be filed with the internship committee.

An interview of the intern, performed by the deputy secretary, would take place at the mid-point of the internship.[27] This interview would give the intern an opportunity to discuss with the governing body his or her experience. The interview would permit the governing body to assess the program provided by the principal. It would permit the internship committee to become aware of any problems which might impair the success of the intern's program. It would also permit the student to explore, with the deputy secretary, admission requirements, admission policy, or any other administrative matter relevant to practice.

At the conclusion of the program, the internship committee, based on the intern's reports and interview, would determine whether each intern satisfied the program requirements. The final certificate of completion, prepared by the committee, would be inserted in the intern's file. When the intern has successfully completed the program, the internship committee would inform the governing body. Failure to satisfactorily complete the program would require referral of the matter to the internship committee which would consider each case and determine appropriate remedial measures. Such measures might include repetition of whole or part of the program. The internship committee would be empowered to impose compliance with remedial measures.

A principal or intern might request termination of the internship at any time. The request would be forwarded to the internship committee with a copy to the principal or intern. The principal would be required to file a report, on a form provided, indicating what part of the program had been completed. The principal or intern would provide reasons for the request for termination. The internship committee would review the request and forward a recommendation to the council.

Duration and Content

A working knowledge of the areas of practice encountered in the modern law

[25]The reports would be based on reports already used in other jurisdictions, i.e., Nova Scotia and Saskatchewan.

[26]A student evaluation must be submitted to the Law Society of Saskatchewan on a form provided by the Society. A more extensive form should be prepared incorporating some of the elements often found in university student evaluation forms pertaining to learning in a workshop environment.

[27]The Law Society of Ireland requires an interview at midpoint in the eighteen-month office training period. See *supra*, note 14.

office requires sufficient time to ensure assimilation and retention, and a relaxed learning atmosphere. Concentrating subject matter in a limited period forces the intern to assimilate knowledge at an accelerated pace and discourages effective learning. The internship program must provide enough time to cover the requisite areas in an orderly fashion. Most jurisdictions now require a twelve-month period of office training.[28] Others require more.[29] It is suggested that the internship should consist of a period of twelve months, exclusive of the other components of the legal education continuum.

To ensure that all admittees possess the required knowledge, each candidate for regular admission would be required to complete the internship in its entirety. Unfortunately, it is possible in many jurisdictions for candidates for admission to complete the office portion of their pre-admission legal education without ever working in a law office or otherwise being exposed to the practice of law. Students-at-law conducting legal research with government bodies[30] or clerking with the judiciary are often accredited.[31] Academics enjoy similar privileges.[32] These admittees enter practice with a limited working knowledge of the law office or of areas essential to the practice of law. It is difficult to accept that someone should be permitted to practice law and serve the public without undergoing the basic training program.

Successful completion of the internship program must be a prerequisite to admission to the practice of law. If governing bodies wish to admit those who prefer not to practice and therefore seek exemption from the training requirements, such admission should be limited to a non-practising roll. Should the admittee subsequently desire to transfer to the practising roll, successful completion of the internship program would be necessary.

The internship program would not be mandatory for those seeking admission for the purposes of occasional appearances or those requesting transfers as members of governing bodies of other jurisdictions. These applications would be dealt with according to the regulatory mechanisms presently in place.

Remuneration

Traditionally, the remuneration of the student-at-law has been left to the marketplace.[33] Some firms offer a reasonable amount, while others provide

[28] Alberta, British Columbia, Saskatchewan, Northwest Territories, Ontario, Prince Edward Island, Nova Scotia and Newfoundland require twelve months of articles. Manitoba requires eleven and one half months. New Brunswick requires only forty-four weeks. See "Criteria for Admissions", *supra*, note 10 at 646.

[29] The Law Society of Ireland requires eighteen months of office training. To qualify as a solicitor in Britain, two years articling is required. A barrister must undergo twelve months of pupillage. "Bar Admission Training", *supra*, note 2 at 10, 11, 16.

[30] The internship program would not preclude principals employed by government from participating in the program. The participation requirement would remain the same as for all principals; that is, completion of the compulsory program either by the principal alone or through affiliation with an associate principal. A principal in government service would be required to establish an affiliation with an associate principal outside government for instruction in all compulsory areas of practice which the principal or the government office could not provide.

[31] "Law Society Act and Regulations 1986" (Barristers' Society of New Brunswick) Reg. 25(17).

[32] *Ibid.* Reg. 30.

[33] The exception appears to be Ireland, where the Law Society has established a minimum salary, *supra*, note 14.

token payment. One hears of cases where the student receives nothing or where the student pays the principal. Often, the student then spends most of the office training period doing title searches. Lack of remuneration was not a great hardship when the articling period was short and the cost of living low. This is not the case today. Students, no matter how motivated, cannot become enthusiastic at the prospect of continued or heightened financial hardship. A proper learning environment cannot be encouraged when the student's attention is focused not on work, but on financial problems which stem from it. Such a situation would inhibit the full potential of the internship. Similarly, the situation must not make the student wish to get the entire matter over with so that he or she may get on to something more appealing financially. A principal, in order to provide a proper learning environment, must ensure that the student is comfortable and has directed his or her mind to the task at hand.

An acceptable scale of remuneration is difficult to establish. One must recognize the ability of the law firm to pay. While it is accepted that a firm will not cover its expense during the first half of the internship, it is fair to say that the student may produce a return sufficient to cover the cost over the full length of the program. Once the student acquires basic skills, contribution to the practice of the principal is possible. The student becomes able to do intensive research and practical work which may be charged to the client at a rate applicable for research, or indeed at a rate particular to an assistant. If the law firm is looking for a potential associate, it must realize that its financial contribution to the student during the internship is an investment. If a student is treated well by the firm, the student will want to stay. A reasonable rate of remuneration is essential to maintaining initiative and interest.

The rate of remuneration could be determined by various formulae. One is the minimum wage. This, however, is not recommended. The present rate is too low for someone who has acquired professional qualification. Psychologically, it is difficult to encourage a student to put forth maximum effort for a minimum wage. Another method is to establish a rate based on the remuneration of a legal secretary of intermediate or senior experience. Interning students should be treated at least as favourably as secretarial staff. Other formulae may be devised.

A recent sampling of opinion of a limited number of members of the profession indicated a view that an intern should be paid nothing less than the minimum wage.[34] Almost half of those who responded indicated that the intern should receive an annual salary which would translate into at least a forty percent increase over the present minimum wage, while some suggested an increase as high as eighty percent over the rate of the minimum wage. For the internship program to be successful, the governing body must address this problem by establishing guidelines for reasonable remuneration for interns.

Integration of Pre-Admission Education

The office component of legal education cannot provide maximum benefit if it functions in isolation from the other components of legal education. Govern-

[34]The Education Committee of the Law Society of New Brunswick circulated a questionnaire to the general membership of the society in June 1986. Response was limited; out of approximately 650 members of the practising bar, there were forty-five responses representing approximately eighty-five members.

ing bodies traditionally create programs with little thought as to how the program must interact with others. Lack of coordination and planning result in a disjointed or overlapping approach which is inimical to the development of the student's interest and initiative.

Education is a developmental process. Programs must expose the problem, instruct the student on how to respond, and provide an opportunity for the response to be practiced in a realistic environment. Integration of the office component with the other forms of pre-admission training would respond admirably to this model. The logical focal point is the integration of office training with a revised bar admission course. Some governing bodies have already moved in this direction.[35] Bar admission courses in these jurisdictions have been interwoven into the period of office training. Division of the bar admission course into workshops taking place at intervals throughout the period of office training would accomplish this goal. The student would be provided with a concentrated period of instruction followed by a period of practical work, during which the student would consolidate knowledge and practice skills. Integration would allow the instructor in the bar admission workshop to know precisely what practical experience the student had received to that point. The instructor could then begin at a common point and teach the subject at a higher level. The order of areas of practice in the compulsory program could be programmed to follow sequentially the order of the bar admission workshops. A program of office training, coupled with seminars and workshops spaced at intervals throughout the period, has the potential to be far more productive than the present process.

Conclusion

The changes recommended would improve the office component of legal training, as well as pre-admission legal education generally. The structure suggested would permit the establishment of a viable program, leaving minor details to be worked out as the program develops. The proposed structure should not be difficult to implement or administer. Most of the mechanisms required already exist in this or other jurisdictions. This internship proposal attempts to use existing tools in a more structured and efficient fashion. However, implementation would require a commitment by the profession. It must be prepared to supervise and administer internship. However, the responsibility would not be a burden and would produce an efficiency which would be a benefit to all. Adoption of the internship program, integrated with the other components, would be a turning point in legal education. Internship would go a long way towards assisting the profession in providing more competent service to the public.

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[35] Ireland, for example, has a professional training course "sandwiched" between two nine-month periods of office training. "Bar Admission Training", *supra,* note 2 at 16. The Bar Admission Course Committee of the Law Society of New Brunswick is proposing a program of nine seminars of a three or four day duration at monthly intervals through a fourteen-month cycle. See "Draft Submission on a Proposed Restructuring of the New Brunswick Bar Admission Course" (prepared for the Pre-Admission Education Workshop, Moncton, 5 February 1987) [unpublished]. Other jurisdictions have embarked on this course. For a more detailed examination, see "Bar Admission Training", *supra,* note 2.

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