Canadian Clinical Legal Education Conference
and
Founding Meeting of the
Canadian Association for Clinical Legal Education

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1. **Introduction**
The purpose of this project is to hold a conference to be held the weekend of October 22-23, 2010, with three primary goals:

1. To launch a national debate on the future of legal education in Canada;
2. Improve legal education in Canada by providing student legal clinics with the knowledge and tools necessary to balance student theoretical learning and practical experience, while increasing access to justice within local communities;
3. To form a new organization with the tentative name of the Canadian Association for Clinical Legal Education.

The Conference will accomplish this goal by meeting the following objectives:

- Inviting speakers from the US and Canada to address plenary sessions or small group sessions;
- Encourage debate on the current state of legal education in Canada, with its pros and cons, and how it could be improved, with particular reference to the Carnegie Report (see below);
- To allow participants to share approaches and best practices;
- To provide an opportunity for students to learn from their peers and experts;
- To provide law school administrators with new ideas and feedback on the role of clinical legal education in Canadian;
- To draft the mandate and select the leadership of a national association for clinical legal education.

As noted above this conference also seeks to serve as the foundation to create a new national organization to study and promote the use of clinical education in Canadian law schools. The new organization is tentatively called the Canadian Association for Clinical Legal Education (CACLE).


In 2007 the Carnegie Foundation for the Advancement of Teaching released a report called *Educating Lawyers: Preparation for the Profession of Law*. This book has galvanized a debate in the United States that has been growing for some time.
The Carnegie Foundation has undertaken extensive studies on the education of the professions. Such a study of legal education has not taken place for decades, and was well overdue.

The Report focused on how law schools prepare students for the practice of law, in particular on the daily practices of teaching and learning, and compared these practices with other professions (medicine, teaching, nursing, engineering, etc.). It also examined the daily practices of teaching and learning with contemporary learning theory.

Typically in Canada and the U.S., law schools have developed as academic institutions and deferred practice experience until entry into the profession. Their traditional focus has been on legal knowledge and reasoning. However, practice skills and the relations of legal activity to morality and public responsibility are not given much attention in law school curriculum. The Report offers an alternative viewpoint that focuses attention on engaged practice – law is seen as a tradition of social practice that includes particular habits of mind, as well as distinctive ethical engagement with the world.

Students need opportunities to learn about, reflect on, and practice the all-encompassing responsibilities of legal professionals. The other professions employ well-elaborated case studies of professional work while law schools, which pioneered the use of case teaching, only occasionally do so. Lack of attention to practice and the weakness of concern with professional responsibility are the unintended consequences on a single, heavily academic pedagogy to provide the crucial initiation into legal education.

The authors of the Carnegie Report found that there are “three apprenticeships” for law students:

- Cognitive
- Ethical
- Practical

They endorse an integrative strategy of the three apprenticeships, rather than an additive strategy.

The core insight behind the integrative strategy is that effective educational efforts must be understood in holistic terms. There is a view that by teaching the practical and ethical apprenticeships, you take away from the cognitive apprenticeship. However, the report states that all three apprenticeships would be strengthened through their integration with another.
In medical education, the practical apprenticeship has begun to emerge as the cutting edge of pedagogical advance. For three decades, medical education has been enhancing the role of clinical education, bringing the teaching of skills into close contact with the teaching of the basic sciences. There is a growing recognition that medical science is best taught in the context of medical practice with integral connections between the fundamental knowledge base and the complex skills of professional practice. This has also led to more powerful means of fostering professionalism, e.g. students grapple with real issues of patient autonomy, intercultural communication, responsibility for public health and the challenge of maintaining compassion in a fast-paced medical environment.

3. **Why This Conference Is Needed**

Legal education in Canada has not changed significantly for the past century. The Carnegie Report provides an opportunity to launch a debate in Canada on our legal education system and how it can be improved.

Clinical legal education has made large strides in the United States. Harvard Law requires a clinical course or pro bono activity before a student is allowed to graduate. City University of New York and New York University have an integrated curriculum as recommended in the Carnegie Report. Both Yale and Southwestern have reduced the number of first year courses and added a clinical course.

To date there has been little debate on the issue in Canada. No conference has been devoted to the issue. This event would be precedent setting for legal education in Canada. Western Law would be the first law school in Canada to devote an entire conference to provoking debate on the future of legal training and education.

4. **Speakers**

To date we have received tentative confirmations from the following individuals to speak:

*Justice Thomas Cromwell, Supreme Court of Canada*

*Judith Wegner, Professor and former Dean, University of North Carolina School of Law, and co-author of the Carnegie Report*

*John Campion, President, Canadian Federation of Law Societies*

*Ian Holloway, Dean of Law, The University of Western Ontario, London, ON*
5. **In-Kind Support from Western**

The Faculty of Law at the University of Western Ontario will be providing administrative support and facilities. This will include rooms for the conference, audio-visual equipment, digital projectors, registration, website, and staff support.

6. **Target Audiences**

- Deans and faculties in law schools across Canada
- Student legal clinics across Canada
- Law students across Canada
- Canadian Association of Law Teachers
- Provincial Law Societies
- Federation of Canadian Law Societies
- Canadian Bar Association
- Provincial Bar Associations
- Provincial Legal Aid organizations
- Provincial Attorneys General
- Provincial ministries for post-secondary education

7. **Technical**

A website has been developed for the conference: http://www.law.uwo.ca/conferences/CanadianLegalEd/index.html.

Registration is available online.

Using Western Law’s audio-video equipment, we will be recording the proceedings of the conference and will make them available online.
### Draft Agenda

Friday, October 22, 2010

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<tr>
<th>Time</th>
<th>Activity</th>
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<tr>
<td>8:30-9:15</td>
<td>Registration</td>
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<tr>
<td>9:15-9:30</td>
<td>Welcome and Opening Remarks</td>
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<tr>
<td>9:30-10:30</td>
<td>Introductory Keynote — The Carnegie Report and the Three Apprenticeships</td>
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<td><em>Judith Wegner, Professor and former Dean, University of North Carolina School of Law, and co-author of the Carnegie Report</em></td>
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<td>10:30-10:45</td>
<td>Break</td>
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<tr>
<td>10:45-11:30</td>
<td>Plenary Keynote Speech 1 - The Status of Legal Education in Canada: Past and Present</td>
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<td><em>John Campion, President, Canadian Federation of Law Societies</em></td>
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<td>11:30-12:15</td>
<td>Plenary Keynote Speech 2 - New Developments in US Law Schools</td>
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<td><em>James Moliterno, Vincent Bradford Professor of Law, Washington and Lee University School of Law</em></td>
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<tr>
<td>12:15-13:00</td>
<td>Lunch</td>
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<td>13:00-13:45</td>
<td>Featured Keynote Speaker:</td>
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<td><em>Mr. Justice Thomas Cromwell, Supreme Court of Canada</em></td>
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<td>13:45-14:45</td>
<td>Small Group Sessions 1 — The Current Method of Legal Education</td>
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<td>• What are the strengths and weaknesses of teaching law in a solely theoretical context?</td>
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<td>o Judith Wegner, UNC</td>
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<td>• Does the current system adequately prepare students for articling and private practice?</td>
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<td>o John Campion, CFLS</td>
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<td>o Judith McCormack, Director, Downtown Legal Services, U of Toronto</td>
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<td></td>
<td>• How does legal education compare to other professions?</td>
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<td>14:45-15:00</td>
<td>Break</td>
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<td>15:00-15:45</td>
<td>Plenary Keynote 3 - Introducing and Implementing an Integrated Curriculum into Law School</td>
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<td><em>Michelle Anderson, Dean of Law, City University of New York</em></td>
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<td>15:45-16:45</td>
<td>Small Group Sessions 2 - The Modern Law School Environment</td>
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<td>• Building relationships between faculty and clinics</td>
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<td>• New experiential learning in law schools</td>
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<td>• The role of the private bar and the bench in law schools</td>
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<td>18:00-21:00</td>
<td>Reception and Dinner</td>
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<td><em>Featured Speaker: Hon. Chris Bentley, Attorney General of Ontario (to be confirmed)</em></td>
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### Saturday, October 23, 2010

<table>
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<tr>
<th>Time</th>
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| 9:00-9:45    | **Plenary Keynote 4 - Should Articling Be Abolished?**  
* Lorne Sossin, Dean of Law, Osgoode Hall, York University |
| 9:45-10:30   | **Small Group Sessions 3 — Theory and Practice: Student Education and Training**  
- Teaching methods in clinical education courses  
- Students and file management  
- Effective supervision of students in the clinical context |
| 10:30-10:45  | **Break**                                                                |
| 10:45-11:30  | **Plenary Keynote 5 – TBA**                                               |
| 11:30-12:15  | **Small Group Sessions 4 - Serving our Communities Better**  
- Public Legal Education: Who does what, where? And how?  
- Communicating services to the public  
- Assessing community needs |
| 12:15-13:15  | **Lunch**                                                                 |
| 13:15-14:00  | **Small Group Sessions 5 - Managing Student Clinics: Best Practices**  
- Funding your clinic—working with limited resources and budgets  
- Effective clinic set-up and operation  
- Legal software in the clinical context |
| 14:00-14:30  | **Canadian Association for Clinical Legal Education** — approval of mandate and board selection |
| 14:30-15:00  | **Closing Remarks — Where do we go from here?**  
* Doug Ferguson, Faculty of Law, The University of Western Ontario |

### 9. Follow Up

We will be posting papers online following the conference to make them accessible to all.

The new CACLE will carry on annual or biennial meetings where legal education reform will continue to be emphasized and advanced.

We hope that by holding the first national conference on this issue, it will serve as a catalyst for reform in Canada in the years to come.
10. Strengths and Weaknesses of Canadian Clinical Legal Education

(a) Articling

The Canadian legal education system is very similar to that of the United States. We have three years of law school, with similar courses in first year (most Canadian schools teach contracts, torts, criminal, constitutional, and property in first year).

After graduation from law school, Canadian law students are required to article for a period of time, and write the bar exams. For example, in Ontario, a student articles for 10 months.

Articling is similar to an apprenticeship. Students are under the supervision of a lawyer for that time and are paid a salary. They can appear in court on many matters with the exception of superior court trials and appeals.

Articling is intended to provide a student with the practical skills and knowledge to begin private practice after he or she is called to the bar.

However, articling is an inconsistent experience. Some law firms have a well thought out articling program that ensures students work in various areas of law and take on significant responsibility. Others, particularly smaller firms, do not have the capacity to create and supervise formal programs. Anecdotally I hear of large firms where articling students’ main task is to crank out research memos.

There is concern in Ontario that the number of articling jobs will not keep up with the number of graduates and international transfers coming into the province. The Law Society of Upper Canada, which governs Ontario lawyers, recently had a discussion about abolishing articling and adopting the American process, but the idea was turned down. I expect it will return to the Law Society’s agenda in the near future.

I believe that the existence of articling reduces the pressure for teaching practical skills in law schools.

The key issue is this: whose responsibility is it to provide the practical skills law students need to succeed as lawyers? Does it belong to the profession (namely the provincial law societies that govern the profession) or to the law schools?
(b) Funding

Canadian student clinics as a whole do not have the access to funding enjoyed by many US clinics.

Ontario appears to have the strongest funding. The six student clinics are funded by Legal Aid Ontario and form part of the legal aid system in that province. As a result, their students represent clients in the courts and handle a substantial number of files.

There are well established clinics at Dalhousie in Halifax, Nova Scotia, the University of Alberta, the University of Calgary, University of Victoria, and the University of Saskatchewan where students represent clients on legal matters.

New Brunswick's two law schools on the other hand do not have student legal clinics as there is no funding for them. The University of Manitoba is in the process of creating a student clinic.

In between are clinics such as the University of British Columbia and McGill University, where students provide legal information but not legal representation.

In Ontario (and perhaps elsewhere in Canada) some portion of student fees are paid to the clinic in return for legal services for the university student population. At my clinic, about 20% of our funding comes from student fees.

Interestingly, law schools in Ontario put little funding into their own clinics. My own law school provides no cash, but provides facilities (office space, utilities, and cleaning). I do not at this time have information from other provinces on their funding sources.

(c) Status of Clinicians

Contrary to the US experience, where many clinicians are on the tenure track, no Canadian clinic directors are members of faculty. They are considered to be adjunct professors, and considered to be a member of the university staff.

Many faculty members in Canadian law schools look upon clinics as something that do not belong in a law school. In their eyes, the practice of law is not something that law schools should teach, and is not as worthy as academic research.

It is interesting to note that most law faculty members have never practiced law, or practiced it briefly before entering academia. This may play a role in their attitudes toward law practice.
(d) **Breadth of Services Offered**

Canadian law schools do an excellent job in providing a broad range of services to their low income clients, based on community needs.

For those clinics that provide legal representation to clients, the common denominators are what I call “the big three”: criminal law, landlord and tenant, and small claims court.

Other common service areas include public legal education, mediation, family law, immigration, and wills and powers of attorney.

(e) **SpecialtyClinics**

Most Canadian law schools have one student clinic with a range of areas of law where services are provided. There are some schools with additional specialty clinics; the University of Victoria and the University of Ottawa both have environmental clinics, while Osgoode Hall has the Innocence Project.

The University of Western Ontario, Osgoode Hall, and Queens University have stand-alone business law clinics while the University of Calgary is in the process of opening an administrative law clinic. Western’s student clinic also has a pilot project in intellectual property law.

Some of the specialty clinics specialize in policy issues rather than representing individuals. For example, the University of Ottawa intellectual property clinic and the University of Toronto Health Equity and Law Clinic are focused on policy and advocacy.

Generally these specialty clinics are much smaller (on both staff and the number of students participating) than the general student clinics.

(f) **Outreach**

Canadian clinics are strong in their outreach efforts. For example, the University of Saskatchewan clinic has a strong focus on the needs of the aboriginal population, while Western and Osgoode Hall have outreach to the lower income areas of their respective cities, and Queens looks after the needs of inmates in the local prisons.
(g) Clinical Curriculum

Only one Canadian law school has a requirement for clinical or pro bono work in order to graduate. Only Osgoode Hall Law School at York University in Toronto has a “public interest requirement” of 40 hours of public service.

Other law schools have clinical courses, all of which are optional. Some clinic courses are intensive programs which require spending an entire term in the clinic, such as the University of Windsor. Others have clinical courses that are one course in a student’s regular schedule, but require the student to perform clinical file work as part of his/her grade in the course.