suggests that the essential business of the law schools is inquiry into the practice of law and that this is the unifying thread in their activities.

The nature of an institution is determined by its mission and different missions entail different types of institution. If we conceive of universities in terms of a dedication to inquiry and understanding, then law schools must be dedicated to inquiring into and seeking to understand the domain of 'law'. The universities ought therefore to be encouraging understanding of the law rather than rote learning. We must tack away from the black-letter materials towards the explanatory theories we find in sociology, anthropology, economics, psychology and the like. We also need to have some grasp of the legitimacy of legal doctrine and institutional design which will include developing an understanding of ethical standards expected of lawyers. This does not imply that black-letter materials are not part of the raw materials that comprise the practice of law but rather that they do not consist of the whole of it.

If law schools are not all going in the same direction, this can be explained to a considerable extent by the teaching and research assessment exercises which have played a key role in two respects, first in their allocation of funding and secondly in their splitting of teaching and research.

Teaching quality assessment in the law schools cannot generate improvements as long as the process has funding implications. It inhibits a frank and open dialogue between assessor and assessed. A revised assessment methodology has recently been put in place which involves universal assessment visiting and operates with a core set of six aspects of teaching provision furnishing a common structure for the assessment process. There are only two categories of judgment, satisfactory and unsatisfactory; and the core aspects set the framework for the assessors to publish a graded profile of each department. An attempt is made to draw a distinction between aims and objectives, which are in substance virtually indistinguishable from each other. What this amounts to is that teaching quality assessment is less concerned with the intellectual missions that law schools set for themselves than it is with the way in which the sum of the law school's activities can be broken down into its component parts, each of which is referable to some element of the overall aims and objectives set for the course. This implies that law schools can be in whatever business they like provided they can account for their activities in terms of their overall productive ends. The approach to assessment should be sensitive to the core idea that inquiry has intrinsic value and cannot always be related to identifiable outcomes.

The funding implications of the research assessment exercise are reasonably well settled. Research ratings go into the formula which determines how a large budget for research is to be allocated. However, there is a serious division of opinion about the nature of research. One branch maintains that the objective of higher education is the advancement and dissemination of knowledge through research, publication and teaching. The other recognises the importance of research undertaken to meet the needs of users and to support wealth creation. What this means is that research assessment exercises operate according to their own particular ground rules and institutions engage in second-guessing as to what is required to impress the panels. Research assessment thus becomes a complex strategic exercise, and the fact that a law school orientates itself towards the research assessment exercise does not mean that it will necessarily be working with the grain of its essential mission. There is a crucial distinction between being 'research-led', with a view to the research assessment process, and being intrinsically 'research-led'. One finds the latter in law schools which are infused with the spirit of inquiry and hold true to their mission.

The latest figures on funding allocation indicate that, in both teaching quality assessment and research, the majority of funding will continue to be allocated to a minority of the universities, producing an elite group of law schools which are able to attract the lion's share of resources. Further, the splitting of teaching and research assessment and the separation of funding for teaching and research means there will be 'teaching only' law schools and will lead to a hierarchy of law schools differentiated by the extent of their involvement in teaching and research. It will remain possible for the elite law schools to fulfill the law school mission, but academics in law schools presently caught in the middle sector will be expected to carry an increasingly heavy teaching load while making contributions to the research effort. If the law schools do not have a clear sense of their mission, they will be carried along wherever the ebb and flow of education politics takes them.

Consumerism in legal education
R M. Lloyd
45 *J Legal Ed* 4, December 1995, pp 551-556

The main impediment to analysing and understanding what

consumerism means in legal education is that the model generally applied is both simplistic and invalid. If the student is the consumer and an education purchased with tuition money is the product, then students should be trying to get the most for their money by maximising their learning. In fact, their behaviour indicates that they work hard at getting the least. If law schools were really selling education, they could set the highest price which the product could command and serve whatever customers were willing to pay for it. However, if Harvard, for instance, started selling its degrees to the highest bidder, rather than making its students prove themselves in a demanding environment, those degrees would not be worth much.

There is no single model that adequately describes what is being bought and sold in law schools. One useful model has the student buying a credential primarily with her effort rather than an education with her money. The rational economic actor wants to maximise her credential and minimise her effort and chooses undemanding teachers who give the high grades. She spends time lobbying the administration to inflate her marks. Faculties can appease these demands without cost to themselves. In the short-term, the benefits are obvious. More students will get better jobs and the faculty's graduates look better in relation to the competition.

To analyse the long-term results, a model where the student is the product and the potential employers are the customers is required. In this model, the inflation of credentials amounts to misleading advertising and will eventually lead to the loss of the individual law school's reputation. A slight variation on this model retains the idea that the law student is the product but posits the public at large as the consumer with the law school being potentially subject to product liability suits. There are clearly problems with this model. In a free economy, consumers can decide how much of a product they want to buy. No one thinks we need more lawyers. The student-as-consumer model provides a better explanation. As long as the consumer is willing to buy, we should be willing to sell the product, whether that product is an education or a credential.

Who we consider to be the consumer will determine the dynamic of the classroom and the type of learning that goes on there. Law schools have long claimed that they teach disciplined thinking, a claim which is a major selling point for law schools and graduates alike. Historically, the vehicle for teaching this is the Socratic method. In fact, the true Socratic method is all but extinct in American law schools, abandoned because students are hostile to it. Many teachers and law schools have decided that students are the consumers and should get the style of teaching they prefer. What students want is, not to be turned into disciplined thinkers, but to be taught enough black letter law to pass the bar exam and to be turned loose to practise law. Hence we should stop falsely advertising the virtues of law training as a discipline for the mind and preparation for leadership. The fact is that many other academic fields have more intellectual rigour than law as law is now being taught.

But maybe our students really want an education and are afraid to say so. When graduating from law school meant something, those who made it felt a sense of accomplishment. Our present graduates look around and see classmates who graduated in spite of their inability to write a coherent English sentence and people with mediocre intellects who graduated without even studying hard. This is another justification for acting in what we know is the students' long-term interests and setting some standards in spite of what students say and possible accusations of paternalism.

Law schools without lawyers? Winds of change in legal education

G C Lilly

81 *Virginia Law Review*, Spring 1995, pp 1421-1470

There is a familiar debate in fashion these days about the nature and breadth of the disjunction between legal education and the legal profession. There is a body of opinion that the gap between the profession and the academy is growing wider and that, at a time when law firms are increasingly preoccupied with the pursuit of profit, law schools are tending to direct their scholarship and educational efforts away from the profession into theoretical dialogues involving the social and behavioural sciences.

The degree of alienation between the schools and the profession must be measured by the changes within each. There have been gradual significant changes in legal education over the last 25 years which began with elite law schools such as Yale drawing closer to other disciplines. The result was a general reorientation of many law schools towards 'university legal training', that is toward a theoretical, conceptual, and interdisciplinary study of law and away from the profession.

There are diverse perspectives from which law may be taught, studied and researched. These include an approach which emphasises the practical operational aspects of law, the 'doctrinal' approach, which