

ranging from office memoranda and critiques of class exercises to formal briefs. This is intended to follow up the intensive writing program given in the first semester through the Contracts, Torts and Criminal Law courses.

In a survey of major segments of the Chicago and Missouri bars by Garth and Martin, the authors investigated how well law scholars are doing in teaching lawyer competence, and in that regard what are the expectations of young lawyers and law hiring partners in Chicago and small communities in Missouri. Competence was defined in terms of the ten lawyering skills essential in legal practice as defined in the then recently published McCrate Report. In designing their questionnaire, the authors sought to measure some of the changes that had taken place since the 1970s when Zemans and Rosenblum surveyed the Chicago bar for the American Bar Foundation.

The major findings in the survey may be summed up as follows. First, oral and written communication skills are the most important skills for novice lawyers; secondly, there are gaps between what law graduates think could be taught in law school and what they actually learn in practice areas; thirdly, the expectations of hiring partners strongly support the importance of oral and written communication skills; fourthly, the hiring partners have lower expectations in the areas of substantive and procedural law; fifthly, the ability to attract and retain clients is one of the top three partnership skills; and sixthly, the critical importance of legal reasoning every step is the key to defining the legal profession.

The changes that have occurred in the 20 years that separate these two studies are of interest. The role of law schools in the teaching of legal ethics has dramatically increased. The ascendancy of ethics as a matter of

concern to law schools is matched by a decline reported by practitioners in the relative importance of fact gathering and legal research. There may be several reasons for this. Computer legal research, which was not taught 20 years ago, has no doubt reduced the importance of library legal research and research into law and fact information do not loom as important today as communication and business skills. The 1993 survey shows a notable increase in the importance of communication skills and client relations compared with the survey done in the 1970s, perhaps reflecting the fact that law firms today tend to imitate their corporate clients in creating profit-centres which in turn necessitate more emphasis on billable hours and an earlier return on their substantial investment in new associates. Hence, today's partners expect relatively less knowledge of the content of the law and more highly developed personal skills.

The Garth-Martin survey confirms the conclusions in the McCrate Report that the skills and values of the competent lawyer are developed along a continuum that starts before law school, reaches its most formative and intensive stage during the law school experience, and continues throughout a lawyer's professional career. The authors comment that it is arguable that the key to improving practice is to pay more attention to the teaching of oral and written communication and to all the other practical skill areas including drafting legal documents, legal problem solving, negotiation, fact gathering, counselling and litigation.

They note, however, that there are certain concerns in pushing this consumer perspective too far. First, the authors ask how much law schools want to pay special attention to those who are likely to practise outside a large firm or other mentoring settings. Secondly, they ask how much deference partners' expectations deserve. They also question how

much education in law schools should chase after the perceived requirements of practice.

The Lawyer's Role program includes as part of its course objectives three particular areas about which the Garth-Martin findings have a lot to say. These are legal writing (including drafting), oral advocacy, and sensitivity to ethical problems. The Lawyer's Role course is criticised by both students and members of faculty. Students complain that it is too much work, that students do not get the big picture as they would in a conventional course, that it is uneven in content and workload and that the grading seems unfair because it is subjective. Faculty members find the course burdensome to teach and find the subjective nature of the grading system hard to deal with. The author believes the course should be retained with certain modifications.

The Lawyer's Role course is one appropriate response to the changes in the law school curriculum that the MacCrate Report indicated as needed and that the Garth-Martin survey revealed was desired by practitioners. Lawyer competence and adherence to high professional standards have never been in shorter supply and the earlier law students can be introduced to the issues they raise the better.

TEACHERS

REVIEW ARTICLE

A framework for teaching and learning law

G Joughin & D Gardiner

Centre for Legal Education 1996

This recently published book, co-authored by Gordon Joughin and Professor David Gardiner, respectively Legal Education Consultant and Dean of the Faculty of Law at Queensland University of Technology, is probably the most significant work on student teaching and learning in law published in

Australia since Le Brun and Johnstone's *The Quiet Revolution*.

The authors' framework for teaching and learning law, based on the student approaches to learning tradition developed by researchers in various parts of the world, does not lay claim to the exalted status of a model. Instead, its characteristics are delineated more modestly as follows: (1) it defines and describes the elements of teaching and learning law; (2) it specifies the relationship between these elements; (3) it simplifies complex issue for clarity and useability but warns about the underlying complexity; (4) it is not intended to be comprehensive or to espouse a particular slant on law, lawyering and legal education; and (5) it is a working tool to assist teachers to extend their knowledge about teaching and learning, describe and explain what is happening and predict the consequences of intended changes.

The introductory chapter presents the conceptual foundation for the framework and defines its five dominant components, which are later broken down into sub-elements: (1) student characteristics or the influences they bring to learning; (2) teaching, being the function it performs in setting the learning context; (3) student approaches to learning or how the students relate to their study materials within the learning context; (4) learning outcomes, the end product of the teaching/learning equation; and (5) improving the quality of teaching and learning, that is the usual feedback loop necessary for the ongoing process of refinement and development.

The authors are at pains to establish the credentials for their own

framework, which they assert is 'based on the thoughtful and systematic observation of actual teaching and learning situations'. They also draw upon a body of research and literature, reviewing the relevant contributions under headings corresponding to the five elements, and conclude that their framework is firmly grounded in a significant body of research validly tested over time in a wide variety of educational settings. The advantages they assert for using the framework are that it is readily comprehensible, supported by leading educationalists and by a growing research base, it is broad and inclusive, derived from real teaching/learning situations and its elements are interactive in accordance with a systems approach. It is also contended that the framework acknowledges the critical importance of nurturing in the law student the characteristics of the lifelong learner. Finally, the authors illustrate the uses to which the framework can be put by a diverse audience, namely teachers, researchers, 'administrators' of teaching and learning and the faculty as a body, the last mentioned of which can benefit by the acquisition of a common language in which to discuss teaching and learning issues.

Having laid the foundation, the rest of the book is occupied with a detailed presentation of each of the individual framework elements which are broken down into their sub-elements. For example, Element 1 — Student Characteristics consists of three sub-groups, orientation to learning, stages of intellectual and ethical development, and demographic characteristics, which are then individually presented. The format adopted for exhibiting the individual elements and sub-elements so as to ensure that the entire schema and its component parts can be readily understood is information mapping. The book follows the approach to information mapping espoused by Romiszowski, a leading figure in instructional design methodologies.

As a result the description of each element and sub-element, occupying no more than two facing pages, consists of an introductory statement, a definition of the key features of the component, real-life examples, key issues relating to the component, the connections with other framework elements and essential references, concluding with a checklist to aid teachers with practical application.

Even with the benefit of the diagrammatic presentation used in the book, it would be a difficult task to comprehend fully the interrelationships between each of the elements, some of which descend to two levels, rather like a computer game. This would be very heavy-going for the time-pressed law teacher. Thus Element 2 — Teaching: the Context of Learning has three sub-elements, which in turn possess their own four, five and five further sub-sub-elements. A fold-out wall chart would have assisted greatly. However, fortunately, help is at hand in the form of a computer based version of the framework in the Windows format, which is undoubtedly more flexible than the print medium and successfully conveys the notion of the dynamic interaction of the various elements.

Although 103 pages in total length, this is a difficult book to review in any comprehensive way. The presentation of the framework and its component parts occupy all but the initial 14 pages which are devoted to a rationale for the adoption of the framework and how it was developed. It is beyond the scope of this review to delve more deeply into the intricacies of the model.

There can be no doubting that an enormous amount of dedication and insight into the nature of the operation of the teaching/learning process in the law school has been brought to bear upon the formulation of this blueprint for law teaching. Properly understood and used, it should be a great boon to

² Law Book Co., 1994. Reviewed in 3 *Legal Education Digest* 3, Jan 1995, pp 11-13.

law teachers who conscientiously wish to improve their teaching practices. It will assist them to understand what are the ingredients of the teaching equation and how the various elements interact as parts of the entire system. It is a conspicuous landmark in our understanding of what exactly is involved in teaching and learning law.

However, it also cannot escape one of the great weaknesses in many of the models which one encounters in much of the general instructional design literature: the more an educational phenomenon is broken down into its component parts, the more impenetrable and labyrinthine it can become, with the risk of blurring the vision of the relative importance of each of those parts and their contribution to the bigger picture. Fortunately, this particular model/framework appears to be securely anchored in commonsense. The litmus test will be the extent to which classroom law teachers ultimately make use of it to improve their teaching practices.

Editor

A comprehensive approach to orientation and mentoring of new faculty

D Keating

46 *J of Leg Educ* 1, March 1966, pp 59-66

Law school faculties have so increased in size since the 1970s that it has become no longer practical or for them to function as a single social unit as in the past when new faculty could fast become acclimatised to the nuances of the faculty culture.

In 1993 the Washington University law school bit the bullet and decided to invest time and resources into creating a formal and comprehensive orientation and mentoring program for new faculty. This consisted of four elements:

- a detailed memo, 'Things I wished I had known as a new faculty member'
- a series of four two-hour orientation sessions
- a formal mentoring program, and
- a detailed question-and-answer memo about the tenure process to supplement the formal tenure document.

The 'Things I wished I had known' memo addressed a broad range of disparate items from consultancies outside the university to where the coffee was kept. The importance of annual updating was recognised, as was the need for different customised versions for full-time tenure-track staff, visiting faculty, adjuncts and summer school faculty.

It was realised that some important topics did not lend themselves to a memo and require fuller discussion. Two-hour seminar-like orientation sessions on teaching, creating and grading exams, pursuing scholarship, and dealing with the law reviews, taking the format of round table discussions, were spaced over the course of the year to coincide with the times when the subject matter would be most relevant. These proved to be one of the more successful aspects of the orientation program.

Whether there should be a formal mentoring program at all met with some debate. Assignments are made at the start of the academic year and most people tend to keep the same mentor from year to year. Mentors are expected 'to assist the development of the candidate in the areas of teaching, scholarship, and general acclimation with the law school community'. A major issue was trying to reconcile the conflict of interest between a senior faculty member's role as mentor and as a voting member of the tenure committee. The mentoring program as it works in practice is a useful resource for new faculty in their first year or two of teaching but by the end of the second year they

have usually figured out which senior colleagues they will turn to for regular advice.

The fourth element, questions and answers about the tenure process, was not adopted until 1995. Tenure is obviously of foremost concern to untenured staff and the subject so large it clearly merited separate treatment. While the formal tenure document is confined to the statement of standards and criteria, the Q & A addresses both procedural details about which there must be specific answers and subjective matters on which it is clear there is no single answer. One danger is that the school could be later held responsible by the university or a court for the failure to follow the guidelines as articulated by the faculty.

Law schools which seriously invest time and effort in an orientation program may well discover benefits to their untenured faculty that go beyond the mere transmission of useful information, such as contributing to a greater sense of community within the school.

TEACHING METHODS & MEDIA

Thinking about first year law teaching

J Goldring

2 *Canberra Law Review* 2, 1995, pp 137-144

The climate of legal in Australia has changed markedly since the publication of the Pearce Report in 1987. These changes are marked by different approaches to the content of legal education and also a change in teaching techniques. Reading *Thinking about law*³, a collection of

³ Hunter, R, Ingleby, R & Johnstone, R, (Eds) *Thinking about law: perspectives on the history, philosophy and sociology of law*, (1995) Sydney: Allen & Unwin