game excludes a consideration both of other goals, such as ethical practice and client service, and the social consequences of a particular outcome.

Law schools pay very little attention to their culture and the process of socialisation to which their students are subject. Yet these elements will have an important effect on framing lawyers' attitudes and the way in which they approach their work and also on shaping the legal profession of the future. In particular, small business — their interests, needs and problems — is largely missing from the law school gaze.

There are significant barriers obstructing the development of constructive relationships between small business and the legal profession. There is an obvious need for both quantitative and qualitative research into the frequency and range of services provided by the legal profession. The difficulty in attempting to remedy problems inherent in both the legal treatment of small business and the lawyer/ client relationship is to avoid a band-aid solution which will lead to temporary and superficial change. In order to remedy these significant problems, it is necessary to involve all the stakeholders in a thorough and far-reaching process of evaluation and change, so that all are committed to the outcomes. Any such process should not ignore the significance of legal education as a determinant of quality legal services.

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## LEGAL EDUCATION GENERALLY

### REVIEW ARTICLE

**Law in context: enlarging a discipline**
W Twining
Clarendon Press, 1997
365pp.

This book is a collection of essays written over the space of 30 years by William Twining, Quain Professor of Jurisprudence at University College London, and the author, four years ago, of the acclaimed *Blackstone's Tower.*[1]

In the eyes of many legal educators, Twining enjoys an enviable reputation as the most eminent and erudite scholar in the common law world on the study of law, particularly within the context of the function of law in society. Hence, a book which collates most of his important writings over almost the full span of his professional life is to be welcomed.

The theme he embraces for this collection is 'law in context'. Indeed, he states in the largely autobiographical first chapter, 'Wandering jurist', that the book presents the reflections of an involved insider on *the institutionalised discipline of law as an enterprise which includes legal education, legal scholarship, legal theorising, and the production of legal literature.* (p.1) However, the emphasis, as the book's sub-title, 'Enlarging the discipline', suggests, is upon providing *a detailed exploration of what is involved in trying to develop broader approaches to the study of law.* (p.1)

Twining has arranged his 16 essays into three groups. As he states, the first four chapters establish a historical context and articulate an approach to broadening the study of law from within in accordance with the classical values of a liberal education. The second group of seven chapters is concerned with implementing the program in particlar fields, particularly legal theory, evidence, legal method and skills teaching. The final group of five chapters canvasses international trends and policy issues in legal education and scholarship in common law countries.

Within the confines of a Digest review article, it is impossible to evaluate this book in the detail it deserves, but merely to provide a brief resumé of the contents. Several of the essays are very familiar, for example, *Taking facts seriously*, written in 1980, presents Twining's views on the the need to teach Evidence, Proof and Factfinding as an integral part of the core curriculum. However, by far the most celebrated of his papers, reproduced in this book, is *Pericles and the plumber* from 1967. In this essay he argued that most discussion on the education of lawyers was based on two contrasting images of the end product of professional formation: the image of Pericles as the enlightened policy-maker, lawgiver and wise judge and the plumber, a no nonsense competent technician concerned with socially useful but essentially mundane tasks. In a newly written chapter for this book he revisits these polarised notions of the lawyer to see whether after the lapse of 30 years his views have changed. He concludes that he would still maintain that monolithic models of the lawyer are too simple as a basis for designing legal education or establishing individual or collective professional identities. Twining's outlook is that law and legal practice are even more varied now than 30 years ago and he remains *sceptical of attempts to re-*

[1] Reviewed in 4 *Legal Education Digest* 3, January 1996, pp 9-11.

*duce the subject-matter of our discipline to a single core or essence.* (p.337)

The other essays extend over a wide range of topics, reflective of the span of the authors' concerns at different times during his career. There are two chapters on skills teaching, *Legal skills and legal education* and *Karl Llewellyn and the modern skills movement*; one on the vexed question of the access to legal education and the legal profession; and two more general essays on reading law. Reverting to the main theme of *Blackstone's Tower*, he reproduces a paper originally published in 1995, entitled *What are law schools for?* Finally, despite the facetious title, *A Nobel Prize for law?,* there is a serious and critical review of the progress of legal scholarship over the past 30 years.

Apart from a couple of chapters, most of this collection of essays have been published elsewhere, often in earlier less developed versions. Therefore, this book, as such, cannot be said to break significantly new ground in Twining's thinking about legal education. However, it does accomplish the twin objectives of exhibiting the scope of the author's major writings over his professional life as a legal educator by making them more accessible to the reader, as well as revealing the development of his thinking over that period.

Editor

**Legal education, legal competence and Little Bo Peep**

A Sherr

32 *Law Teacher* 1, 1998, pp 37–63

Legal education is not a spectator sport. Discussions of legal education tend towards the political, the practical and the methodological and not towards the theoretical or the analytical. As a subject of study, theory is often thought of as weak, not rigorous or, worse still, *sociological*. It somehow does not seem to have the power or the bite of substantive areas of law or of legal research. University legal education, at a time of enormous change in the legal profession and in legal education, itself may have lost its way.

Three different attempts were made in the decade leading up to 1995 to change the rules governing acceptance by the legal professions of 'qualifying law degrees'. In retrospect, these changes appear as a progressive liberalisation of the ingredients of a qualifying law degree, but at the time, from the perspectives of the university law schools, negotiations seemed to be much more about issues of power and importance in the relationship between the professions and the university. It was not so much that the universities had won any battle with the professions. It was largely a question of numbers: the professions must clearly be less able to exert their influence on the ingredients of a law degree when such a small proportion of law graduates now proceed into practice.

Legal education is progressively being 'released' from the hegemony of the professional bodies. They are much less prescriptive about both content and method of undergraduate legal education and what constitutes a qualifying law degree. Indeed, in some cases the professional bodies have recently appeared to be more liberal than some of the university law schools themselves in their approach to teaching and assessment.

How should the universities act now? Having always been able just to react to the professional bodies, universities now have to think for themselves. Undergraduate legal education is beginning to look somewhat purposeless, or at least unclear of purpose.

Should the educators of undergraduate lawyers be looking towards the rest of the academy for guidance, such as the discipline of education? Will they best be able to provide guidance for themselves from within? Or is the profession still an important model, lodestar, provider of meaning and generator of purpose?

What has law gained from the rest of the academy? What is there yet to gain? And is it here that the law should look for its main guidance? Law schools have never sat easily within the world of the rest of the academy. Experience of law within universities across the world shows an uneasy relationship based on a set of dichotomies. Law, for example, considers itself 'special'; other university faculties consider law as 'different'. University administrators consider law as a low cost subject whose popularity can make it a moneyspinner. Law teachers, on the other hand, feel their students need more exposure to them and therefore more money should be spent on staffing rather than less. The new movement towards skills teaching involves behavioural learning and assessment which cannot be done in large classes.

If there are advantages in interdisciplinary studies, it is then sad that so many law faculties still stick to themselves within the academy, have their own libraries, have their own buildings, refuse to be engaged in more general socio-legal institutional academic enterprise and in general declare their separation from the rest of the university.

What about the discipline of education specifically? Some law teachers have recently written that the main problems with legal education are that it is all about 'legal' and not very much about 'education'. It does not take into account the major changes that have occurred in the discipline of education,