ade there were over 300 tax teachers with ten or more years experience, the number of articles and other items in the highest-ranking academic journals written by full professors, was minuscule. If senior tax teachers were not publishing in the elite academic journals, where were they publishing? The author decided to look at prestigious professional publications, and selected two journals, roughly equivalent in prestige to the surveyed law reviews. The results showed more than twice as many pieces were published by senior professors in these elite professional journals than the academic ones.

Using the same procedures and standards, the author expanded the study to senior legal academics in fields other than taxation. Publications in the elite academic journals were charted in the same ten year period, the results for each journal tabulated, and the published items divided into the three categories of articles, symposium pieces, and other items (book reviews, comments, essays, colloquies, etc.). Authors were categorised as senior faculty affiliated with elite institutions, senior faculty of other institutions, elite junior faculty or other junior faculty. The tally of articles showed that, on average, senior faculty of the elite institutions accounted for about one half an article per issue. In fact, less than half the articles published were written by senior professors, elite or otherwise. Those numbers should give pause, given the immense disparity between the number of senior professors and the number of junior professors, a ratio approaching 6 to 1. Senior professors wrote just slightly more than half of the articles published by elite faculty in the elite journals. The articles by elite senior professors also demonstrate a degree of 'inbreeding' — more than 45 percent were written by a member of the journal's sponsoring faculty. Perhaps, the author suggests, the elite law reviews could voluntarily adopt an anti-nepotism policy or authors undertake to submit their work only to reviews outside their home institutions, in order to put to rest any allegations relating to these statistics.

The survey also showed that the senior faculty of elite institutions tend to produce responsive rather than proactive scholarship (that is, they respond to, or critique, another's work). It may be that the typical evolution of academics at elite institutions is to move from writing articles, in which they push the boundaries of the established order in a provocative and proactive fashion, to writing rejoinders, watchful and critical of others' proactive efforts.

To the author's mind, the consummate legal academic publishes for the academy (academic articles and university press books), for the profession (professional articles and treatises) and for students (casebooks and student guides). Each constituency is worth addressing, and the vehicles appropriate to the different constituencies are equally legitimate. No constituency and no vehicle of expression should be preferable to the others. All have value. But time is scarce, choices must be made, and senior professors on the whole publish their work in forums other than the elite academic journals.

TEACHING METHODS & MEDIA

From homogeneity to pluralism: the textbook tradition revisited
P Leyland & T Woods
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This article discusses, with a focus on constitutional and administrative law, the current state of the 'textbook tradition', with an eye to gauging some of the broader pedagogic implications for ongoing debates about the form of legal education, its relationship with the wider scholarly community and with the profession. In particular, it seeks to connect the re-drawing of subject boundaries to the appearance of new texts, as such innovations have important implications for the law teacher both in terms of the structure of syllabuses and in respect to classroom practice. It appears that, in some areas at least, the tendency to rely mainly on a handful of 'authoritative' black letter textbooks is being superseded by a more critical approach.

The first question to consider is the viability of the textbook as a form of instruction and guidance in its own right. The idea of the law textbook was to systematise and lend a sense of coherence to general principles underlying the law. It was a form of codification which revealed a set of 'orderly principles' to be found in the case law emanating from the courts. However, the quest for such principles is perhaps illusory, especially where difficult questions emerge and where the application of the law is far from straightforward, either because of considerations of policy or because the principles themselves may be very general or contradictory.

On the authors' home ground of constitutional and administrative law, recent publications well illustrate the trend towards a more pluralistic environment for law teachers. To begin with, there are constitutional law texts which mainly concentrate on the institutions and processes of accountability. Another common formula which satisfied the former requirements of the profession was to combine constitutional law, civil liberties and administrative law. Lack of agreement on the way the subject is defined is even more pronounced when surveying the main texts devoted to administrative law proper.

It is a matter of legitimate concern for many teachers that the writing of student texts may be undertaken by respected authors without questioning sufficiently the basic assumptions upon which judicial decision making is premised or setting the decision making in context. In part, this is because selec-

tive critical analysis of case law reveals strong divergences in judicial approach. Amongst these, the emergence of judicial review is widely recognised, even by former critics of judicial activism. Nevertheless, its impact should not be exaggerated. Judicial review is merely one of a number of necessary tools for delivering accountability and legitimacy. The difficulty remains that the process operates in a highly arbitrary and inconsistent manner, which leads to the inevitable conclusion that the courts are not central to the *process* of administrative law as a whole and that their actions may have damaging implications for the legitimate autonomy of administrators.

One administration law text provides a possible alternative. Rather than concentrating on the courts and a discussion of case law, the authors have produced a scholarly study with both a theoretical framework and a contextual analysis of the administrative state in order to reveal the structural architecture of public institutions and practices.

In contrast, another text guides the reader through a series of case studies, with the aim of offering an understanding of the 'intricate network of state activity'. To assist in this task an explanatory framework is provided in the form of a simplified model which assists in drawing out the necessary interconnections between politics, policy-making, administration and the law. From an academic standpoint the text offers the prospect of operationalising a process based approach.

The article's final consideration is the relationship between academic work and its utility for the practice of law. Although there have been many attempts to integrate new methods of analysis and teaching in legal education, over the years the dominant form has retained its practitioner orientation, which amounts to teaching law as a simple set of rules supported by examinations to test the ability to solve legal problems. The result is that, for many students and teachers of law, the assumptions, classifications and pedagogy of the 'black letter' tradition possess a reified logic of inevitability, thus de-emphasising that they are human constructs embodying political and moral choices.

This view of law as a body of knowledge conceived largely in terms of legal concepts and rules has been challenged for a number of reasons. First, this is because a largely uncritical court centred approach provides no explicit theoretical framework and thus fails to address the reasoning process which provides the links between general principles and particular circumstances. Second, such an account is particularly unsatisfactory in today's more open climate in which several prominent judicial figures have set out a number of sometimes potentially conflicting interpretations of the judicial role. Finally, it conveys the impression that dealing with case law from textbooks, law reports and practitioner manuals will be the main activity for lawyers, which neglects the rapidly increasing importance of the Internet and electronic databases as sources of legal information.

Weighing into these debates on the proper role of legal education is the realisation that a decreasing proportion of law graduates are entering the profession and that this trend is likely to continue. Thus, the nature and purpose of the academic law degree is more than ever a pressing issue for teachers, as well as its one time largely uncritical consumers. But it would be making a serious mistake to suggest that there is an unbridgeable chasm between the black letter textbook tradition and more recent attempts to set the law in context. Rather we see the emergence of multifaceted approaches offering a new way forward in a changing climate. For law teachers to venture even partway down the path of becoming effective contributors to the great debates about law and its relationship to culture, society, the state and individual freedom and well-being will require that the nexus with the profession be further eroded.

Whatever the outcomes of the various debates on legal law scholarship, until law schools and legal scholars take their place in the broad intellectual stream offered by philosophy, social theory and the human sciences, law cannot be said to have reached the stage of independence from vocational professionalism that is desirable.

Using problem-based learning to teach first year contracts
J Macfarlane & J Manwaring
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Problem-based learning (PBL) is a teaching and learning method used widely in medical and other programs of professional education. It replaces regular lectures with work on simulated problems, which in law usually take the form of a client file. At least some of the information necessary to 'solve' the problem is new material on which students have not yet received instruction, either in the form of written materials or formal lectures. The rationale is that learning on a 'need-to-know' or 'discovery' basis, using materials which attempt to simulate the reality of professional practice, is both a more effective and a more motivating way to learn than via didactic methods such as lectures, which are principally concerned with information transmission.

By focusing on the simulation of realistic problems and issues in law, PBL also aims to help students to develop research and problem-solving skills which may be used again in different substantive contexts. The method appears to offer enhanced opportunities to think critically about the potential of law to solve problems, both individual and systemic, by providing a practical context in which to evaluate and apply legal principles.