How is it that, in times of relative constitutional inactivity and a lack of urgency on constitutional issues, there is such a preoccupation with constitutional issues? How is it that the topic of professional responsibility, which is of broad interest to the entire profession, accounts for about one percent of the articles? When international political and economic issues have commanded more and more attention in the media, why do these issues command less and less attention in major law reviews? Why is it that, as our economy is increasingly based on electronic information and commerce, intellectual property issues are of scant interest?

The scant attention paid to taxation by the major law reviews and their virtually all-consuming attention to constitutional and human rights issues in no way reflects contemporary concerns of the public.

The data indicate that as matters become more important to the practising bar, they become less important to student editors, the overwhelming majority of whom will, ironically enough, soon be pursuing with diligence those matters on which they display the least interest in exercising editorial judgment.

A traditional justification for academic scholarship is that it contributes to the learning process by providing students with deeper insights into materials and by providing teachers and authors of teaching materials with a strong understanding of the substantive subject matter covered by books used in the instructional process. Tax speciality journals have long provided the bulk of the tax scholarship that has been of assistance to the traditional legal education process, focusing as it does on substantive law. That is no surprise, given the fundamental technical focus of a fair segment of what is published in most tax specialty journals and the orientation of much classroom instruction. It is worth noting, however, that there has been a marked decline in the level of contribution by major law reviews and an increase in the level of contribution by other law reviews and especially by tax specialty journals.

Legal scholarship plays a major role in advancing the frontiers of thinking on major policy issues. The advancement of thinking on tax policy occurs in two distinctly different arenas: the academy and the power centre where tax policy is actually made. Although in the past the major law reviews quite clearly provided the principal venue for significant tax policy scholarship within the academy, in more recent years tax specialty journals have, in a rather commanding fashion, displaced the major law reviews.

If the subject areas of individual academics play an inordinate role in determining whether their scholarship will appear in a major review, then it is inappropriate for schools making decisions on tenure, promotion and compensation to insist on placement of some set number or percentage of articles in major reviews. Schools that employ such requirements for tenure will eventually find that constitutional law, criminal law and human rights scholars make up an inordinate percentage of their professoriate.

To elevate the opinions of third-year law students and make them arbiters of the faculty marketplace is to stand the academic institution on its head. Faculty cannot abrogate their responsibility for reading their peers' scholarship by substituting the opinion of a law student for that of an experienced scholar.

Over the last thirty years there has been a great profusion in the number of law journals published. Nowhere has this been more true, probably, than in the field of tax scholarship. The specialty journals have provided a hospitable refuge for tax scholars whose work is no longer welcome at the major reviews. They may also have contributed to the shift in venue for tax scholarship with their ability to respond to current major issues. Although this study has focused on the field of taxation, it is undeniable that similar developments have occurred in other areas of law where specialty journals are becoming the primary venues for scholarship.

TEACHERS

Leadership for teaching
R Johnstone
Commonwealth Legal Education Association Newsletter 85, Oct 2000, pp 13-30

At the cusp of the twenty-first century, law schools face significant challenges in responding to a rapidly changing environment. The challenges encompass all dimensions of the academy, including teaching and research. Strong academic leadership is required to meet these challenges.

Those who have been working in law schools since the mid-1980s are well aware of the way in which academic work has changed. Since those times, universities have been subjected to significant external pressures for change. Most of the changes have had an impact upon university teaching. The number of universities and the size of the student body has increased dramatically in the past fifty years. A greater proportion of school leavers go on to tertiary education than was the case even a decade ago. Consequently, universities are no longer the domain of the brightest and most committed students, and we now find ourselves teaching students with varying abilities.

Students increasingly are paying for their education, and consequently are demanding value for money. Universities now find themselves in a global tertiary education sector stretching beyond national boundaries, with universities and law schools increasingly competing for students from their own states, interstate and from overseas. They are now subjected to increasing stakeholder pressure, in that our students are more demanding, and government departments and others scrutinise the quantity and quality of our work.

At the same time there has been an explosion in the amount of knowledge, and a significant expansion of new specialist fields of knowledge. The expansion in the university system has also resulted in a different type of curriculum, much of it geared vocation-

focused education to equip a new workforce which can contribute to the economic growth of the nation. Law, like other disciplines, has experienced an extraordinary revolution in information technology, with a wider and faster access to material on the internet, and through other electronic sources.

In a system of mass tertiary education, just as it is no longer special to be a university student, it is no longer prestigious to be an academic. The shift from elite to mass education has been accompanied by management models which cut across traditional academic values.

One of the consequences of the reduced status of academic work and the decline in traditional academic values is that many academics are resistant to change, resist changes in the focus of teaching within their disciplines, resist a more student-focused view of education, and are sceptical that quality measures introduced by university managements do in fact improve quality. It is the task of academic leaders to revitalise and energise their colleagues to meet the challenge of rough times with eagerness and with passion.

What are the qualities of leadership required to navigate law schools through these complex times? Most of the current writers on leadership have come to accept three models of leadership: transactional leadership, in which the leader provides clear expectations and rewards in exchange for effort and loyalty; representational leadership, in which leaders are often required to represent some feature of the organisation to people who are not subordinates within the organisation; and transformational leadership, which sees the leader as an agent for change. Transformational leadership involves building commitment, having a vision, taking people along in implementing that vision, inspiring them, showing personal consideration for them and intellectually stimulating them.

The characteristics of successful transformational leadership suggest some key ideas in successful leadership for teaching. Essentially, academic leaders need to create a school environment in which all members of the school work towards improving their teaching on an ongoing basis. This will involve academic leaders developing a vision of how teaching should be carried out within the school, pioneering new approaches to teaching, encouraging risk taking, modelling the way, promoting teamwork and collaboration, removing obstacles to good teaching, and encouraging and rewarding good teaching practices.

What are the 'common myths about teaching' that prevent academic leaders from initiating a discussion about teaching and which provide excuses for teachers not to do anything to improve their teaching? First, a person who is an expert in a discipline knows how to teach it. Second, there is no sound knowledge about effective teaching in higher education and the characteristics of effective teaching cannot be described. Third, good teachers are born, not made. Fourth, student learning is actually enhanced when teaching is poor. Fifth, students are illiterate and not motivated to learn. Sixth, people purporting to initiate discussions about teaching or to give feedback to others about their teaching are presenting themselves as model teachers and therefore need to be exemplary teachers. Seventh, it is too difficult to keep up with the literature on teaching and learning and teachers do not have time to read about teaching and learning. Eighth, teaching is a less creative activity than research.

We should urge law teachers to approach their role as teachers in the same way that a quality researcher approaches research and scholarship. This involves reading and thinking about teaching and learning, and about the discipline area that is to be taught, applying the principles of subject design to organise the subject in the best possible way for students to learn the subject matter, and then evaluating the subject as it is taught to reflect on how students are learning the subject, the learning outcomes and the areas of the subject that could be improved.

The aim of teaching is quite simply to make learning possible. Good teaching therefore depends on an understanding of how students learn, and how their learning is affected by teaching. If teachers have a critical awareness of these aspects of learning, then they are better able to facilitate high quality student learning.

First, teachers need to think about *who* our students are — their characteristics (demography; class background; motivation for taking the subject; prior educational experience; academic ability; any relevant prior experience/ learning relevant to the subject), and the implications of this for subject design. Second, bearing in mind the characteristics of our students, teachers need to articulate purposes and expectations. Articulation of learning objectives is the foundation of subject design.

Third, assessment is a process in which formally or informally we find out about our students, in the sense of obtaining and interpreting information about their knowledge, understanding, abilities and attitudes. Assessment should be integrated into the whole subject and designed as an intrinsic part of ongoing learning. Well designed assessment procedures also motivate and encourage students to learn, provide feedback to students so that they can improve their learning, and provide feedback to us about the effectiveness of our teaching. Fourth, we need to decide on the learning activities that will facilitate students' achievement of the relevant learning objectives. The selection of learning activities requires consideration of content, structure and sequence of topics. Fifth, we need to engage in an ongoing program of evaluating our teaching, using student evaluation questionnaires, self-reflection, group discussion, peer feedback and other sources of information.

The author also provides an extensive list of the components of the strategy that can be adopted by law schools to achieve these goals.

Academic leaders within the school need to 'show the way', by asking others

to visit their classes to provide peer feedback on their teaching, by openly seeking advice on teaching issues from colleagues, by discussing teaching initiatives they are undertaking and reporting back on their success, by admitting their mistakes, and by being present and actively participating at all meetings to discuss aspects of teaching.

TEACHING METHODS & MEDIA

Borrowing experience: using reflective lawyer narratives in teaching
J Wilcox
50 *J Legal Educ* 2, 2000, pp 213-239

American law schools are generally successful at what they do the most: teaching substantive law and skills of doctrinal analysis in large classes. And most of the relatively few clinical and other skills courses teach other lawyerly skills in educationally effective ways, tying them together with doctrinal skills. But, as professors and practitioners agree, law school falls far short of preparing its graduates for law practice and of giving them the sense of the practitioner's experience that is important to successful work in a profession.

We can assume that American legal education will not change greatly any time soon: traditional courses using casebooks of some sort and some version of the appellate case method will continue to make up the bulk of the curriculum. In view of this assumption, the curriculum might be enriched by supplementing casebook readings with a number of books of a type rarely used in law courses: books written for the intelligent non-professional reader that recount and reflect upon stories of attorneys' work. Such books not only inform the reader about substantive law and the practice of law, they also allow the reader to gain a practical and sympathetic understanding of lawyers' work and lawyers' lives.

These 'lawyer stories' reflect the thoughts of careful, intelligent observers of attorneys' work, from both within the profession and without. Some of the books are lawyers' remembrances, but the lawyer-authors are joined by journalists, historians, and biographers. Such books may help broaden and humanise law students' education by letting them, in a sense, 'borrow' lawyers' experience – as readers have always been able to borrow the experience of others.

American law schools have traditionally set two principal goals for themselves: teaching substantive law and developing the ill-defined but recognisable logical skill of 'thinking like a lawyer'. Of course, given the self-imposed limitations on its aims, legal education cannot be successful in all respects. Even its handling of doctrinal substance has its limits; it is not for extraordinary success in teaching substantive law that law schools are respected. The appellate case method is not even, today, an especially efficient method of conveying doctrinal substance.

The accepted curriculum has places for basic research and writing skills and for some of the skills of oral advocacy. But a lawyer needs many other skills. Only a few courses, taught to relatively few students, focus on additional skills and give at least some students an experience more rounded than that of the typical law school classroom.

It is only in the last thirty years or so that most law schools have seriously broadened the curriculum in this way. The resulting skills courses, though they may play an important role in the education of some students, are a small part of the entire curriculum. The economics of legal education require most classes to be large ones and the tradition within law schools so bounded is to use some variation of the so-called case method.

The right kind of readings can aid students to appreciate both procedural and social contexts, by explaining them, depicting them, and offering reflection on them. Lawyer stories can offer, in limited measure, benefits similar to those of skills courses but realisable in traditional courses by instructors using a Socratic approach.

Such narratives about law practice both teach about the law and paint a practical picture of lawyers' work – in a sense, a sympathetic picture. The fact that the readers are mostly not lawyers requires the authors to place the legal issues not only in social context, but in procedural (and broader legal) context as well. It is this recreation of the contexts missing from appellate cases that provides much of the educational benefit to law students.

Lawyer stories include accounts of how lawyers have handled their work – accounts told in legally accurate but mostly nontechnical language. They also include explanations of legal doctrine, but not so much as to make them difficult reading for lay people.

Assigning a lawyer story (a short book or a large chunk of a longer one), for about a week's reading in a course, may give law students a better understanding of the law than they would gain from studying only materials designed for doctrinal analysis of a more conventional sort. In helping law students tie together their doctrinal learning with learning drawn from realistic narratives, lawyer stories are food for both the mind and the soul.

The suggestion to assign such books is a modest one, in that its adoption would change course assignments little, and classes even less. But the suggestion responds to a problem that many different criticisms of legal education have noted: the gap between the experiences of studying law and practising law. Lawyer stories can convey at least part of lawyers' experience and bring an element of realism to legal study. And the contextual knowledge gained from them helps students better decode and appreciate the appellate opinions that they read.

There are in fact many lawyer stories that can be recommended for use in law courses; it is hard to imagine a course for which something appropriate could not be found. Most such books are readily accessible (in two senses: understandable and available), because they have been written for an audience far wider than lawyers or law students. All make for excellent reading, and a good number will stand the test of time.