

*The Quiet Revolution: Improving Student Learning in Law* by Marlene Le Brun and Richard Johnstone (Sydney: The Law Book Company, 1994) pages i-lxxxv, 1-400, index 401-12. Price \$65.00 (soft cover). ISBN 0 455 21279 1.

Marlene Le Brun and Richard Johnstone's book is a timely and valuable addition to the literature on the teaching and learning of law at a tertiary level. Timely because its publication occurred in the same year as that of the Australian Government Committee's report on the implementation in Australian law schools of the recommendations of the 1987 Pearce Report.<sup>1</sup> In its report,<sup>2</sup> the Committee was critical of conceptions of teaching which involve seeing the teacher as an authority figure and the students as passive receivers of the legal rules discoverable in the records of past judgments.<sup>3</sup> The Committee was of the view that good teaching is active teaching, rather than the mere transmission of information, and that diversity and flexibility in teaching methods is desirable. It also regarded the teaching and learning of law as a mutual process between teachers and students and was critical of teachers who regard themselves as having a monopoly on wisdom.<sup>4</sup> The views of the Committee as expressed in its report are consistent with Le Brun and Johnstone's approach in *The Quiet Revolution*. Their book discusses ways in which to think about and approach the teaching of law in Australia. It does so within a context which acknowledges that it is no longer regarded as heretical to advocate an approach to the teaching of law which is student-centred and interactive in nature.

The book is valuable in that it has synthesised and applied educational theory and practice to the teaching of law in a way which puts the emphasis on thinking about what it is that the students are doing, rather than upon the content and coverage of the curriculum. In so doing, *The Quiet Revolution* has moved beyond the theory of what we should be doing, and has located that theory firmly within the discipline of teaching law in Australian tertiary institutions. Nevertheless the book has a firm theoretical base and contains an extensive bibliography<sup>5</sup> for those who wish to pursue some of the issues discussed in the text. The authors acknowledge in their preface the limitations of our current knowledge about 'how students actually learn law and use their understanding of law in their work as professionals'<sup>6</sup> and suggest that *The Quiet Revolution* should be seen as a step in the process of experimentation about teaching and learning law. Integral to this process is the requirement that we examine the nature of the law we are teaching, and consider whether the law really is the 'objective, neutral, value-free, non-gendered set of norms'<sup>7</sup> some have

<sup>1</sup> Dennis Pearce (Chair), *Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission* (1987).

<sup>2</sup> Craig McInnis and Simon Marginson, *Australian Law Schools after the 1987 Pearce Report* (1994).

<sup>3</sup> *Ibid* 44.

<sup>4</sup> *Ibid* 164.

<sup>5</sup> Marlene Le Brun and Richard Johnstone, *The Quiet Revolution* (1994) xxvii-lxxxv.

<sup>6</sup> *Ibid* xiii.

<sup>7</sup> *Ibid* 164.

thought it to be.

The text is divided into three parts with the headings of each being indicative of the general thrust of each part. Part I, which is entitled 'Parameters' and contains chapters one to three, provides the basic theoretical framework within which the book as a whole is located. Of particular interest is the way in which the authors trace the development of the discipline of teaching law, and the influence that English and American experiences have had on current Australian teaching practices. This part also reviews theories relevant to the teaching and learning of law in a way which is accessible for those who have little knowledge or experience in the area of educational literature. Consistent with their approach throughout the book, Le Brun and Johnstone first discuss theories of student learning before moving into a discussion of the complementary role of the teacher. The authors explain several of the more prominent learning theories, including student approaches to learning, how students organise their learning, the placement of learning in the overall teaching-learning context and the stages of the learning cycle. They then discuss the ramifications these theories have for the way we, as law teachers, view our role and how we can use these theories to inform our efforts to create an effective learning environment for our students.

Part II of the book is headed 'Practice' and is concerned with the 'nuts and bolts' of teaching practice. The four chapters contain a 'shopping list of ingredients'<sup>8</sup> from which a law teacher can choose in devising a subject design that will promote student learning. This part does not contain a recipe for good teaching practice because, as Le Brun and Johnstone suggest, this would ignore the complexity of the teaching-learning process. The chapters cover a variety of topics including, for example, how to set objectives for law subjects and courses. In regard to setting objectives, the authors stress that their setting involves much more than merely articulating the amount of substantive law we wish to cover in the subject or course. Rather, objectives should also address what we wish students to achieve in terms of their intellectual growth, their ability to rationally evaluate the law and the development and refinement of relevant generic and legal skills. In this context the authors also discuss the role of assessment and a range of assessment methods which will not only promote student learning, but assist in the evaluation of whether the outcomes of our students' learning are consistent with the objectives we have set for our subjects and courses.

Other topics covered in Part II include: the use of the media in teaching, structuring classes and a discussion of a variety of teaching methods which promote student learning. In the chapter on teaching methods, Le Brun and Johnstone not only discuss how to improve the perennially favourite law teaching method, lecturing, but also encourage law teachers to broaden their range of teaching methods so that, as appropriate, they span the full range of the authoritative to facilitative roles that a teacher might adopt. This chapter explores different types of teacher-controlled discussion classes and student-led discussion classes. Also examined are various methods for promoting student learning in groups and classroom activities in which students model lawyering.

<sup>8</sup> Ibid 148.

The third and final section of the book is headed 'Possibilities' and reflects the authors' commitment to the proposition that 'teaching and learning are extremely complex processes, and that good teaching requires a constant search for better ways to promote student learning'.<sup>9</sup> The section contains two chapters respectively on evaluating and improving law teaching, and on the face and form of legal education. The chapter on evaluation and improvement confronts head-on the difficulty of maintaining a balance between teachers' individual concerns about improving their teaching, and the concerns of management in terms of establishing criteria for promoting staff, diagnosing teaching difficulties and satisfying, often externally set, performance indicators. The chapter focuses, however, on the evaluation of teaching for the purposes of improving teaching and learning. To this end it discusses a range of evaluation techniques, such as surveys, peer and self-evaluations and using students' journals and diaries to gather information about the content of our courses and the way we teach.

The final chapter of *The Quiet Revolution* is essentially about the future of legal education in Australia. In it the authors suggest that, as in the past, the nature of legal education will continue to change and develop. The catalysts for change will come from various directions and will often involve the resolution of conflicting demands from industry, the profession and students themselves. The likely reduction in available resources and the competition between law schools for both resources and students will also affect the nature of the legal education we will be offering our students. Le Brun and Johnstone suggest a range of areas which will require further research if future changes in legal education are to be beneficial in terms of our students' learning and understanding of the law. For example, we need to know more about our students' competency and knowledge levels at the time they enter law school. Similarly, we need to know more about how those who are legally trained manage their own learning after they graduate. The relevant research, however, should not be restricted to the discipline of law since teachers in other disciplines (eg mathematics and medicine) are also developing theories and models for teaching which may be of assistance in promoting student learning of law. Nevertheless, they suggest: 'As our understanding of learning may, in fact, be discipline specific, individuals educated in law are well placed to conduct research into how law students learn.'<sup>10</sup>

As indicated above, *The Quiet Revolution* is firmly grounded in theories of teaching and learning and of the nature of law itself. It has also been informed by the practical experiences and requirements of law teachers. This is reflected in the dialogue which occurs between two fictional characters, Pat and Alex, throughout the course of the book. Many will hear echoed in that dialogue their own and their colleagues' comments. In the foreword to the book, written by Professor Neil Gold, and in the authors' discussion of the background to the book, the book's genesis in the Australasian Law Teachers' Association (ALTA) Teaching Workshops is described. These Workshops have been held annually since 1987 and the authors' experiences as coordinators and facilitators for the 1987-1993 Workshops have

<sup>9</sup> Ibid 335.

<sup>10</sup> Ibid 392.

assisted them in bringing a practical perspective to what it means to be a law teacher in Australia today. Although Marlene Le Brun and Richard Johnstone are unfortunately no longer involved in the organisation of the annual Teaching Workshops, *The Quiet Revolution* has become the central source material informing and underpinning the current Workshops. The book also provides a valuable resource for faculty and school-based teaching and learning workshops.

In their preface to the book, Le Brun and Johnstone indicate that the title of the book comes from a letter written by Professor Jim O'Donovan after his attendance at the 1991 ALTA Teaching Workshop. In his letter, Professor O'Donovan expressed his opinion that thousands of students will benefit from the experiences of law teachers who attend the Workshops. *The Quiet Revolution* will similarly benefit students as it assists law teachers to adopt an interdisciplinary approach to the development and improvement of Australian legal education.

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