

## CURRICULUM

### Law and Economics

Sir Anthony Mason  
17 *Monash U L Rev* 2, p 167

The author considers the increasing importance of economic analysis in today's world and the impact that this has had on law. Economics has impacted on law in the form of New Managerialism, yet it has had very little impact on substantive law, whose decisions, nonetheless, can cost the community a great deal of money. The increase in common law and civil litigation has had widespread economic ramifications. The expanding liability in negligence has led to the insurance industry crisis and caused an increase in insurance costs. The expansion of administrative law has also increased government costs.

Given these economic costs, the author considers the question why economic analysis does not make a greater contribution to the formulation of legal principles. He concludes that such analysis should not determine whether liability is to be imposed on a defendant, but that it is for the political process to decide whether the community is unable to afford the dictates of justice as enunciated by the courts.

## ENROLMENT POLICIES

### In Praise of the Struggle for Diversity on Law School Faculties

R Kennedy  
22 *Seton Hall L Rev* 4, (1992) p 1389

The author discusses and supports the "diversity" movement, that is, the movement to open institutions of higher education to persons from historically disadvantaged groups. The article focuses on law schools and racial demarcations and concludes that the movement is generating important reforms in this area, but that much still remains to be done.

## EVALUATION

### On Beyond Truth: A Theory for Evaluating Legal Scholarship

E L Rubin  
80 *Cal L Rev* 4 (July 1992) p 889

The author opens the discussion by suggesting that the absence of an evaluative theory has had unfortunate consequences for the development of legal scholarship. He contends the lack of agreed-upon criteria for considering scholarship has stunted debate over substantive issues and encouraged the use of unexamined intuition as a basis for judgement. In formulating an evaluative theory to resolve this deficiency, the author applies the epistemological approach of several modern continental philosophers -

Habermas, Gadamer, Heidegger and Husterl. The article recommends that scholarship be judged using the criteria of clarity, persuasiveness, significance and applicability. The author also suggests that evaluators consider the doubt and anxiety they feel when confronting a work from a subdiscipline that is different from their own.

### Pre-Figuration and Evaluation

P Schlag  
80 *Cal L Rev* 4, (July 1992) p 965

In this response to Professor Rubin's article, the author argues that a prescriptive theory of evaluation does not free an evaluator from the bias inherent in his own pre-figurations. On the contrary, the belief that better evaluative criteria will advance the cause of finer evaluation is itself an effect of flawed and unrationised pre-figurations of conventional legal thought. The author argues that the evaluation question and its attendant disputes arise from a more significant development and the unravelling of the dominant paradigm of legal thought, the decomposition of nominative legal thought.