ENROLMENT POLICIES

[no material in this edition]

EVALUATION

[no material in this edition]

FACILITIES

[no material in this edition]

FINANCIAL ASPECTS

[no material in this edition]

GOVERNANCE

[no material in this edition]

HISTORY

[no material in this edition]

INDIVIDUAL SUBJECTS/AREAS OF LAW

The golden arches meet the hallowed halls: franchise law and the law school curriculum

D Wright
45 J Legal Educ 1, March 1995, pp 119-129

Most new lawyers soon realise the artificiality of law school subject demarcations. Contractual representation issues overlap with trademark rights issues at both federal and state levels in the area of franchise law which also has identifiable clients and issues. Franchising accounts for 35 percent of all retail sales in the US and employs 7.2 million people.

A franchise law course is an effective way to introduce students to the concept of the interconnectedness of a range of law school subjects. However, a one semester law school course cannot cover all these interrelated topics, but it can show how legal issues and categories interact within a single discrete subject.

For the purpose of course design four principal subjects were identified as being at the core of franchise law: federal and state disclosure regulations, common law contract issues, trademark and service marks, and antitrust law. These were taught in this order over a nine week period. To assess students' grasp of these areas of law, a short answer format exam was used so as to avoid the trauma of a typical final exam. The exam functioned as a review before the next stage of the course, the hands-on exercises.

A franchise agreement was obtained and modified for the class and a hypothetical fact situation was used. Students then paired up, one acting for the franchisee and the other for the franchisor and set to work on negotiating the exact terms of the contract. Most groups, as expected, only managed to finalise one or two terms. However, the exercise clearly demonstrated how reasonable people can disagree on what are the many insignificant issues as to whether a franchisee would get three or five days to cure certain defaults on the franchise agreement.

The second hands-on exercise was a mock hearing on a contract that had broken down. This included nefarious deeds, such as sales of unauthorised goods, opening of a competing store with a similar trade address, taking kickbacks from suppliers and negotiating to open another store in the franchisee's exclusive territory. The students had to hand in submissions on the above which were then handed over to a judge the night before oral argument. Each team had 15 minutes to present their case and rebut the case of the other side.

Grading the students proved difficult, especially for the oral presentations. They were not graded on their ability to speak, but on the content of their oral submissions and whether they picked the correct level of generality for the proceedings.

Student satisfaction with the course was generally positive, apart from complaints of the spacing of material, heavy workloads and confusion. However, most found it to be a positive experience and that franchise law might be an interesting career prospect for them.

A practitioner's perspective on the teaching of product liability law

S D Schotland
45 J Legal Educ 2, June 1995, pp 287-289

The teaching of product liability law could benefit from the integration of litigation practice issues and perspectives. Whilst the eminent casebook, Henderson & Twerski's *Product Liability: Problems and Process*, is a landmark, it is of little use to the practitioner, with only eight of its 800 pages being dedicated to litigation practice issues. Despite the fact that 90 to 95% of cases settle, no part of the book deals with settlement, mediation or arbitration.

The author's approach was to begin his product liability course with traditional classes and to devote the second half to practical issues that arise in product liability litigation, namely damages, discovery, settlement and mass tort case management.

The damages section of the course introduced students to factors affecting the sum of damages, such as contingency fees, the jury system, pain and suffering as well as punitive damages, medical expenses, economic loss, the presentation of these issues by a plaintiff's attorney and defensive strategies open to the defendant. The discovery section covered an overview of the advantages of the different discovery vehicles and their relative strengths and weaknesses. The settlement component of the course discussed the advantages of settlement and how tactically to improve the client's position. The mass tort case management section addressed the legal framework for class certification and the requirement of a predominance of common issues. The practical realities preventing the certification of nationwide classes was discussed, as well as multi-district litigation.

The practice of product liability is largely litigation based and the introduction of the litigation component in the classroom is well worth the effort.

INHOUSE CLE

[no material in this edition]

INSTITUTIONS & ORGANISATIONS

REVIEW ARTICLE

Blackstone's tower: the English law school
W Twining
Stevens & Sons/ Sweet & Maxwell, 1994

This eagerly awaited book from Professor William Twining was written contemporaneously with his preparation of the Hamlyn Lectures which he delivered in 1994. Twining is the Quain Professor of Jurisprudence, University College, London.

As the product of one of the most eminent thinkers on the function of law in society in general and the discipline of legal education in particular, Twining's book could be confidently assumed to contain a wealth of information and opinion on a wide range of important issues. In this expectation we have not been disappointed.

However, for this review the principal focus will be upon what he has to say about law schools, legal education and legal scholarship.

In the preface he indicates that a central theme of the book is that law as a discipline has become somewhat isolated from the mainstream of our general intellectual life and that this is in part explained by the peculiar history and culture of the institutionalised study of law as it has developed in England and of its primary base, the law school.

Chapter 1 contains much of Twining's thought about how law operates in society. He explains why he chose the title *Blackstone's Tower* and then, to illustrate the all-pervading nature of law, outlines an exercise he regularly sets for first year law students in which they are asked to read a newspaper and identify all the passages which deal with the law or are law related. He also indulges in what he calls the bookshop fantasy to demonstrate the puzzling relationship between law as a discipline and law in culture and society. He adopts what he labels 'the broad and deliberately vague conception of law as a social institution specialised to the performing of certain tasks or meeting certain needs in human groups, especially those groups which we call societies'.

In Chapter 2 Twining provides a detailed examination of the history of English law schools. He identifies as a recurrent theme that runs through historical debates about legal education the low prestige of law schools and the low status of academic lawyers, both within the university and in the eyes of the legal profession. The dilemma for law schools is that they tend not to be perceived as performing the role of professional schools and for a long time law's credentials as a proper university subject were questioned by colleagues in science, social science and the humanities. There is a particularly useful reassessment of the Ormrod Report and its legacy for legal education. He concludes that in 1994 'there is a sense that, despite a period of adversity, law as a discipline...is generally more diverse, more interesting and more ebullient' than it was at the time of Ormrod in 1971.

In the next chapter Twining essays the difficult question of 'what law schools are for'. He isolates two main conceptions of the role of law schools: as a service institution for