

forms and the response rates generated.

Within the compass of this very brief review, it is impossible either to probe the validity of the research design or to do justice to the author's findings and the conclusions and to their significance with respect to the research objectives of the study. De Groot is left to cope with the unfortunate outcome that, although the data he collected enabled answers to other questions to be ventured, no conclusion could be reached on the main research question of which of the two approaches to professional education can be regarded as the better. Whether this was because no significant differences in the competency levels of the two populations indeed existed, which would seem unlikely, or because the research design lacked the sensitive measures needed to pinpoint the differences, this reviewer is unable to say.

Editor

PURPOSE

[no material in this edition]

RESEARCH

Producing a competent lawyer: alternatives available

J K de Groot

Centre for Legal Education, 1995

[See Practical Training]

RESOURCES

[no material in this edition]

The assistance of the Librarian and staff of the libraries of the Law Society of New South Wales and the University of Sydney Law School is gratefully acknowledged.

SKILLS

A more realistic approach to teaching appellate advocacy

F Tuerkheimer

45 J Legal Educ 1, March 1995, pp 113-118

Appellate advocacy courses rarely reflect real advocacy and do not address or alert students to the real-life challenges of appellate advocacy. The University of Wisconsin has avoided this problem.

A traditional appellate advocacy course provides students with a lower court's decision and instructions to brief and argue the case in the appellate court. The briefs are short on facts and so there is little need to select out relevant from irrelevant facts. The case law discussion in such courses is by far the largest part of the brief and oral argument is heavily focused on legal analysis. Whilst there is nothing wrong with requiring students to research open ended issues of law, this is more like a district court motion rather than an appellate case.

Appellate cases consist of trial transcripts, extensive submissions on summary judgments and pre-trial hearing transcripts. The work of an appellate advocate is fact-focused. The judges know the law. Appellate judges are not, however, experts on the record of the particular case being heard. This is the major demand in appellate advocacy. The appellate advocate

must master the record developed in the trial court in the context of the applicable case law to show why the decision of the lower court should be affirmed or overturned.

The solution to teaching trial advocacy is to teach it as a two-semester sequence. In trial advocacy students conduct the 'real' trial and the trial is recorded. The instructor is the judge and errors are built in which would form the grounds of appeal and other unintentional errors on the part of the instructor/ judge are appealable. The author provides a table, indicating how the students are arranged in two teams and the tasks each student must perform. The next semester is devoted to appellate advocacy. The two teams are now abandoned and students are arranged in pairs, one from the winning side of the trial and the other from the losing side. The assumption is made that the plaintiff won at trial and so each pair of students consists of an appellant and a respondent. The record for the appeal is the record of the trial from the first semester. Students are given four weeks to prepare and submit their briefs. Lecture supplements are also run concurrently.

The appeal is before a panel of three, the instructor who has an intimate knowledge of the case and two outsiders who have little knowledge of it. This creates a very realistic situation as the students come before a panel whose knowledge of the case is not uniform.

The advantages of the course are that it is realistic and students must constantly demonstrate their knowledge of the record. They learn the value of the record as they proceed through the course and emerge as expert in the finite world

of the record. The course reflects the real demands of appellate advocacy.

STATISTICS

[no material in this edition]

STUDENTS

[no material in this edition]

TEACHERS

Law office sabbaticals for law professors

E D Re

45 J Legal Educ 1, March 1995, pp 95-98

Roscoe Pound observed that since apprentice-type law schools had been replaced by the university law school of today with full-time teachers, the faculty should not forget that they are training for a profession. Were this to be forgotten, then they may be bringing up a generation with no conscious responsibility to the law and no deep conviction of the profession pursuing a learned art as a public service.

Since the law school has assumed the responsibility of training lawyers, law school teachers are the mentor substitutes or the role models for students. Law schools should teach graduates to be good counsellors and devote substantial time to interviewing, negotiating and settling disputes.

As MacCrate noted, there is a gap between the teaching of law and the practising profession which must be narrowed. Law professors can no longer teach substantive law, but must begin teaching preventative

law and inculcate their students with ethical values and professional responsibility.

Many of the best law students are likely to be tomorrow's law professors and many will begin teaching without ever having practised law. The author proposes that this type of law professor should go on a sabbatical to a law office, to learn about the daily practice of law and the practical aspects of the trial and appeal cases. Such a sabbatical would not be overly expensive or difficult to attain, as most law firms would welcome the substantive expertise of a law professor. In this way law teachers will learn about the difficulties that their graduates will have to face and gain an appreciation of the countless skills that must be mastered for successful practice.

Law teaching reconceptualised

M Le Brun & C Bond

6 Legal Educ Rev 1, 1995, pp 23-36

For many years programs designed to improve the quality of teaching in higher education have focused on how to teach, that is the techniques of teaching. The Australasian Law Teachers Association (ALTA) teaching workshop was no exception. Teaching is seen as a 'bag' of skills collected and performed and readily transferable to any subject. The doctrine being taught is therefore divorced from the teaching. What must be realised is that good teaching is grounded in a marriage of doctrine and pedagogy.

The article outlines the redesign of the annual ALTA teaching workshop, using the above holistic model of learning, in which teaching as a practice is not only

embedded in the epistemology of education but also in that of law.

Law teaching workshops began in Canada over 15 years ago and in Australia in 1988 and have evolved to meet the perceived needs of legal educators. Utilising the educational theory and methods developed in the mid-1970s, the workshops have looked at how the learning context produced by teachers affects the learning outcomes of students. However, ALTA workshops have remained teacher-centred with an emphasis on teaching methods, techniques and devices without addressing the knowledge that is central to learning and teaching. Student learning was addressed primarily through the exploration of learning styles and the use of inventories. There was no pedagogy of law.

The task the authors faced was to redesign the workshop, using a model that captured the dynamism of the inter-relationship of teaching and learning, rather than one which reflected the more static conception of education as teacher-centred. The workshop aimed to enable participants to examine their conceptions of teaching and learning and explore their teaching practices in order to integrate the disciplines of law and legal education.

As well as devising a simplified model for the conceptions of learning and teaching, working principles to be used when teaching were developed, such as drawing on the skills, attitudes and values prized in good legal practice, the consistent restatement of learning outcomes and encouraging participants to take responsibility for their own learning. A 6-day workshop plan summarising the objectives for each session was presented. It is recognised that,