PhD students in Australia have typically been required to complete little or no coursework before working on their dissertation. However, while providing the student with an additional body of knowledge, coursework by itself does little to teach the student special skills either in research or writing. A combination of the two approaches is therefore required. This mixed approach — coursework plus thesis — is characteristic of most Australian higher degrees in law, whether PhD or LLM.

A student embarks on a thesis with particular strengths and weaknesses. In order to make the most of their studies, they have to find a supervisor who can address those weaknesses and help them overcome them. The starting point has to be the needs of the students, honestly and openly considered. One chooses a supervisor firstly by looking at oneself.

Students can expect their supervisor to give generously of their time. Supervision is a part of the job description of an academic as basic as teaching, research or publication. Furthermore, universities rely on their graduate students: they pay fees and attract funding. The supervision of students is not a chore but a privilege. Most failures by academics to meet this expectation are manifested in deception. One of the commonest is the acceptance of supervision itself, which implies a commitment of time and energy of which the academic may in actual fact be resistant or resentful. Supervision is time intensive. This is its nature, not its problem.

Conversely, it is the student's obligation to engage their supervisor and show them why their work matters. Students who feel inadequate may make little effort to communicate their ideas or enthusiasms to their supervisor. The result is a distant relationship which the student has done little to improve.

A student can expect guidance from the supervisor. It is a word which covers a multitude of virtues and can be thought of as comprising two aspects. The more immediate aspect involves a range of ways in which the supervisor can help the student as they think about their work, including suggesting appropriate readings and other people to talk to, giving advice on methodology and research, and so on. The more indirect aspect of this guidance involves mentoring which helps the student become more fully a part of the academic community.

More often than melodramas, students suffer from an absence of guidance — the supervisor's engagement with the student is limited to their periodic meetings and extends no further. The difficulty with the art of guidance lies in the fact that it must be both committed and unselfish. Between the two extremes of entanglement and disinterest lies the golden mean.

If a problem arises with their supervisor, it is first most important for students to make their concerns explicit. If the problems within the relationship are not too severe, a simple conversation may help. If the supervisor herself cannot advise on how to deal with particular research problems, she may well be able to put the student in contact with someone who can.

More serious problems require a more formal articulation. If students feel they are being treated dishonestly or without respect, they should always report their complaints to the head of department or some other appropriate person. If a supervision really goes wrong, there will be a specific mechanism to allow the student to change supervisors. Secondly, even in less serious cases, a student can find help elsewhere. Students who are having specific problems, most typically in areas requiring particular expertise, always ought to seek out other academics within their school or faculty to whom they can talk about their work.

The aim of supervision is not to provide students with answers but to encourage better questions. But the kinds of questions that are frequently asked about the relationship itself tend to focus on the unilateral allocation of blame and responsibility. Questions which focus on the relationship at issue and which therefore import mutual responsibilities and capacities are truer to the expectations of supervision and offer greater scope for changing and improving the quality of that relationship.

PRACTICAL TRAINING

History is past politics: a critique of the legal skills movement in England and Wales
A Boon
25 *J L & Soc* 1, 1988, pp 151–169

The past ten years has seen a rapid incorporation of 'legal skills' into the education and training of lawyers in common law jurisdiction, particularly in the vocational stage. The structure of training to become a lawyer, usually a law degree followed by a vocational course, a period of apprenticeship and continuing professional development, is the result of historical accidents and jurisdictional compromise between the profession and the academy which allows significant gaps in professional preparation. In order to achieve wider objectives, including developing the values of legal practice, there is a need for continuity and integration in legal education. This calls for unprecedented cooperation between the profession and the academy.

In the last ten years the legal profession has adopted new courses built around skills. This was a brave attempt to reverse a conservative pedagogic tradition. The 'know-how' embraced by the vocational stage went far beyond that required to manage the interaction with the client. It also embraced activities, such as advocacy and negotiation, which concerned action on behalf of the client. A heavy emphasis on legal skills is not novel. Viewed historically, a strong practical and craft element in professional preparation was always a key to the success of the profession.

With the eventual failure of the five-year articles, the last association with an educational tradition which had helped to secure professional power was university style education. Universities were also, however, experiencing change. Their use of transmission modes of teaching assumed that learners were an intellectually and socially homogenous group, an assumption which was manifestly less true as access widened from the late 1960s. The professional bodies colluded with a hidden agenda of traditional legal education, the belief that, by keeping the arts of practice 'secret' until admission, it was possible to maintain the fine balance between technicality and indeterminacy and, thereby, to maintain professional mystique. The rationalisation of technical skills threatened two fundamental assumptions: first, the idea that professional expertise was found and transmitted only within the body of the profession; and, second, the idea that a rigid distinction between academic and professional programs was inevitable.

Whereas the Socratic dialogue and case method had replaced non-interactive lectures in United States law schools, English law schools continued to rely on a didactic tradition of teaching 'black letter' or propositional law. From the 1970s until the present day, higher education has been under pressure to bring more generic skills into the curriculum and make courses more relevant to the 'world of work'. English academics also became more conscious of the composite skills of lawyering, for example research, analysis, and rule handling, and of the need to teach them in the context of university legal education.

The new vocational curriculum emerged from conflict, which meant that a number of compromises were struck. Underlying the 1990 changes was a desire to improve professional competence based on the growing numbers of complaints against solicitors, the increased competition from other professions and paralegal staff and the recognition that the profession is moving away from traditional general practice into a greater diversity of work.

The selection of skills for the vocational stage responded to different concerns. Interviewing and advising addressed the problem of complaints against client communication. The inclusion of practical legal research, despite the fact that research is a central skill for the undergraduate stage, reflected concern expressed by law firms regarding the skills of trainees. The inclusion of advocacy was a practical manifestation of the desire to penetrate the de facto monopoly of the market by barristers. Even accepting these diverse motives as valid, there are areas of activity with equal or more pressing claims to inclusion. An obvious example is Alternative Dispute Resolution.

Although methods for delivering skills are extremely diverse, the skills curriculum often represents a continuum. At the poles we find 'atomistic' and 'holistic' approaches. We now have a curriculum at the professional stage built around instruction and performance. The essence of atomism is the breaking down of 'tasks' into 'behaviours' which can be presented as standardised outcomes. Even in more enlightened programs, the curriculum is dominated by a cycle of demonstration and rehearsal whereby performance and assessment is monitored against checklists. Of the available pedagogic choices the missing element is inquiry. This is an omission which the vocational stage is ill-equipped to remedy. The obvious pressures towards atomistic approaches at the vocational stage are the need for accreditation of competent performance combined with time pressures. Less obviously, atomism is a superficial response to the demand for rigour and reflects a fondness for positivist and authoritarian traditions.

The failure of the skills movement in the United Kingdom to harness coherent theories of lawyering was rooted in the need to establish educational justification for an alternative curriculum in the universities. In the climate of that time professional responsibility was perceived to be an irrelevance. The colonisation of the area by the profession bridged the gap created by the increasing separation of professional preparation from practice but undermined the legitimacy of skills teaching at the undergraduate stage. The atomistic approach of the vocational courses further prejudiced the academy against the expansion of undergraduate skills. Clinicians were partly responsible for these results because we submerged values in favour of method. In emphasising the value of 'learning by doing', we prioritised action over inquiry. In preparing students to act like lawyers, we prioritised competence over reflection. The problem was not in the intentions of the innovators but in the failure to develop

the connections between theory, practice, and values.

It has been said that legal education lacks clarity and focus, that the curriculum tends to reflect the concerns of the time or, more accurately, the problems of yesterday. Skills teaching established its support because of its possibilities: to develop connections between theory and practice; to develop a model of reflective practice; and to build an awareness of the lawyer's responsibility for promoting justice. History and politics have conspired to deprive students of the potential that skills offer of a solid foundation for legal practice or lifelong learning. What legal education provides is an often incomplete and idiosyncratic foundation for the next stage.

Without some intervention, the prospects of a more integrated or rational system are remote. This means that a common preparation in skills will remain isolated at the vocational stage. The lack of solid theoretical foundation for skills teaching and the university preoccupation with research, rather than teaching, provides little incentive to change. Academic and vocational course teachers will remain aloof, thus proving that their concepts of education and research are incompatible. The vital areas between theory, substantive law, and practice will continue to be relatively unexplored.

The gaps can only be filled by a holistic approach, in relation to structure, content and methodology. The vision remains elusive and, as suggested at the outset, could only be realised by an unprecedented level of cooperation between the academy and the profession. The lesson of history is that this will not occur.

SKILLS

Group development: the integration of skills into law
S Prince & E Dunne
32 *Law Teacher* 1, 1998, pp 64–78

The need for higher education to provide graduates with transferable skills, including teamwork, has been widely advocated by employers. A change in the conception of the role of higher education, towards graduates who are better equipped for the workplace, is of international concern. However, creating graduates who are best fitted for employment may not generally be agreed as a primary aim of an undergraduate degree, especially in the field of law.

Exeter University in the United Kingdom is committed to incorporating a personal transferable skills strategy into academic learning. Specific educational objectives include encouraging independent learning, the development of a range of skills of particular importance to law and the ability of students to recognise and analyse legal issues through the use of substantive law. Emphasis is on understanding and interpretation of the law, combined with academic progression through each stage of the degree course.

To improve the quality of the learning environment and move away, in part, from didactic approaches, the law department introduced a program of workshops. These address techniques and skills necessary for a foundational cognition of the law, while facilitating the development of both legal and interpersonal skills within the context of different areas of substantive law. In the process it is hoped that the false dichotomy between 'academic knowledge teachers' and 'skills trainers' is reduced, since students are encouraged to articulate their knowledge and understanding of the law through the integration of skills.

A 'management style' Program in Team Development introduces first year law students to the benefits of working together in groups. They are divided into groups of ten to prepare and attend two or three workshops per term in each of their core legal subjects. Within the supportive environment of these organised groups, students can practise skills and test out exploratory ideas with their peers, in numbers which are not as intimidating as in lectures or seminars. Within a well-organised group, ties of mutual support and respect are likely to be created, thereby encouraging independence from teachers.

A one-year trial of the workshop system suggested that it was effective, because student responses were positive and continued exposure to and practice of the required skills had made them more confident and more willing to appreciate and take on future challenges. However, tutors felt a need for further development and decided to introduce a day's training in team development, undertaken within the group which would later be the workshop group for legal studies. The Exeter program had three explicit aims: to emphasise the benefits of effective teamwork; to give students a framework and process for purposefully tackling group projects; and to help build an identity for each group. However, expectations were limited. This could serve only as an introduction to a structure and to processes which could be applied, and more importantly transferred, to legal academic education.

As a follow up to the team development day, each workshop group was allocated one of five different tasks to be undertaken as a group, requiring research and analysis of a general legal theme. The aim was to determine