

that require careful contextual analysis. The social differences among students and classrooms affect the interactions and learning that occur in law school classes in ways that can be characterised as 'underdeterminate': that is, gender and race are important, in some ways formative, but not completely determining aspects of classroom exchanges.

INDIVIDUAL SUBJECTS/ AREAS OF LAW

The curriculum and teaching of property law in Australian law schools

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5 Aust Property Law J 1997, pp 213–226

In a rapidly changing university environment, how do Property Law teachers deliver a complex and important subject in a way that is interesting, cost effective and of practical relevance to both students and the community?

During first semester 1997 a total of 16 Australian law schools were approached to provide a course outline or a synopsis of their current Property Law course. Upon inspection, problems became apparent: in pursuit of coverage, there was a failure to adequately introduce students to the paradigm legal problem — the application of a relatively tightly organised set of facts to the infinitely varied circumstances of social and commercial life; a general coverage which leads to a superficial overview of the entire area; a failure to inculcate various practical skills such as client interviewing, the use of land title office documents, drafting, use of plain English, negotiating and mediation skills; a failure to develop research skills that will assist the students re-

solve any problem; an increasing volume of legislative and case-law material which renders it near impossible to obtain any satisfactory overview of the area; and the difficulties that students have in identifying with the subject matter.

In the pursuit of coverage, lecturers are forced to err on the side of providing an overview, a generalisation of the many varied topics that exist within the standard Property Law text. A generalist approach often leads to a superficial coverage of the whole spectrum of Property Law, leaving the students without a feel for any particular issue.

For those who may contemplate changing the Property Law curriculum, sources of advice or inspiration are rare. While texts on teaching and learning are replete with articles and ideas about techniques and conceptual approaches, the literature offers little insight. A different tack is to leave the content and structures of the curriculum relatively unchanged and seek change in the way students can tackle the subject. An example could be an approach which combines mastery learning with principles of reinforcement learning theory and computer based learning.

Approaches should fall clearly within the 'making learning possible' model of teaching, as opposed to the 'disseminating knowledge' model typified by current Property Law courses. The aim is to focus more on developing lifelong learning competence, including generic employment-related skills, rather than preparing a research elite.

One approach is to present the students with a complicated scenario which continues to unfold as they progress in the course. This approach is designed to acknowledge the mys-

tery and confusion of the subject, while encouraging students to investigate and discover Property Law. The mission of our intrepid investigators is to unwrap, explore and analyse the various threads from week to week. As the students' investigation continues they build up an assessable workbook or case file. In essence this would be adopting a problem-based learning methodology where a didactic lecturing approach would be replaced with students engaging in the dynamic solving of a series of problems. The problem-based learning method being contemplated would be more in line with its wider university meaning than an expansion upon the traditional law seminar problem.

The second approach, probably far more radical, is to dispense with the tyranny of a never-ending case list. Students would learn about Property Law via the mastery of a small number of key cases associated with learning modules designed to equip them with understanding of certain concepts and foundation skills for a property lawyer in the twenty-first century. Many of the issues raised in Property Law can be considered within the context of six cases. Importantly, this teaching method will allow for a fuller discussion of why the parties got to that dispute, the role of law in society in resolving disputes and the human cost involved in litigation. Furthermore, this could be done with a number of professional skills emphasised and would combine not only intellectual rigour but practical application.

As Property Law academics, we face difficult challenges. The subject generally falls part way through the degree, too far from the start to be something new and interesting, too far from the finish to be motivated by completion. Similarly students

have difficulty relating to contingent remainders, covenants, easements, the doctrine of tenure, executory interests and the rule in *Shelley's* case.

What should lawyers know about economics?

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48 *J Legal Educ* 1, 1998, pp 120–124

Law and Economics is now part of the curriculum at many American law schools. Because law schools inexplicably do not generally require a background in economics, such courses usually must teach some principles of economic analysis before applying those principles to legal questions. Law-and-economics scholars and economists were asked in this study what they thought lawyers should know about economics. Teachers and students of torts, property and contracts felt the impact of the first wave of law-and-economics scholarship, but every area of law from admiralty to procedure is increasingly subject to economic reasoning.

To find out what law-and-economics scholars and economists think lawyers should know about economics, surveys were conducted of random samples of members of the American Law and Economics Association and the American Economic Association.

Four concepts ranked well ahead of the others as those which students ought to know: opportunity cost; the Coase theorem; marginal analysis; and market equilibrium. Missing from the top tier are concepts at the centre of modern microeconomics, such as principal-agent theory and property rights economics. Macroeconomic topics are also noticeably absent. This suggests that the respondents were satisfied with exposing

law students to an abbreviated introductory microeconomics course, rather than familiarising them with recent cutting-edge law-and-economics scholarship.

A similar focus is apparent in the suggested readings. For the most part, the readings suggested are relatively non-technical articles comprehensible to most law students. The desire to choose materials within the competence of law students may have led to the selection of older articles—articles written before the mathematization of economics.

Teachers can use the suggested articles to introduce students to concepts. The non-Coase readings come from a variety of areas, from torts to property rights to finance. The wide range of subject areas suggest materials that could be used in substantive courses to provide a law-and-economics perspective, particularly for students who have mastered basic economic principles either in their undergraduate course work or in a law-and-economics course.

Education law: the chrysalis in the undergraduate law curriculum

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32 *Law Teacher* 2, 1998, pp 169–184

Do parents have a legal right to choose the school that their child will attend? Must a local education authority name a school in a child's statement of special educational needs? If a pupil at school receives a poor education, is the legal education authority liable in tort to pay damages to the pupil? These are just a few of the current issues arising in Education Law. In spite of its dynamism, topicality and growth, Education Law has been virtually ignored as an academic discipline for law students, even though it has formed a framework for students of educa-

tional administration. It has been regarded as an arcane aspect of administrative law, chiefly of interest to lawyers working or practising in the area of local government law.

This is no longer the case. Education Law has gone beyond the boundaries of administrative law. Although the structures and process of educational provision are central to the subject, education law is also concerned with aspects of family law, the law of tort and human rights.

Detention and other forms of punishment by teachers have been subject to the law of tort. However, the tort of negligence has recently been extended to the quality of the educational support provided. In the context of human rights, religious freedom, for example, is normally regarded as a fundamental human right which may in future form the basis of litigation in other courts by parents or others who wish to challenge the religious education provided by a particular school.

The second reason why Education Law is no longer merely an arcane aspect of administrative law is that it has emerged as a specialist area of law for practitioners because of resort to the law by parents, students and teachers. It is also becoming part of the undergraduate curriculum for an increasing number of law students, as well as being taught on postgraduate programs. Education Law should now be offered to more law undergraduates.

Education law is now demonstrably a subject in its own right for the following reasons. First, there is a set of coherent legal principles, which have been developed in considerable detail and have acquired distinctive features. Secondly, there are distinct complaint procedures. Thirdly, Education Law applies to identifiable