get their first taste of what it means to think like a lawyer.

The students are asked to compare the temporal direction of these considerations as opposed to their initial thoughts about how the case should have come out and why. The students immediately recognise that the temporal direction of the court's analysis is prospective. In making its rule of law, the court's focus is on the future implications of its ruling, not this particular case. Since the court is making law, the court's focus is on what is in society's best interests and how similarly situated parties will be affected, not just the parties before the court. The students recognise that their initial analysis of the case was completely retrospective, focusing almost completely on the facts of this particular case and not on the larger issue. To the extent the court's opinion is an example of thinking like a lawyer the students have been forced to measure themselves and their analytical abilities with those of the court.

Students must properly understand what the court did and why before they are in a position to critique what the court did and why. Having dissected and critiqued the opinion, the students need to know how to apply it. How does one apply a rule to a particular fact pattern? Intuitively most of them realise that you can break most rules down into segments or elements. In applying the elements to the facts, the students are advised to start with the elements that they think are most easily satisfied and work their way to the elements or parts of the rule in dispute.

By the end of this process the students have been exposed to the basic legal analysis skills and techniques they will need to think like a lawyer. By then, they realise they need to be more conscious of the relationship between the factual, legal, and theoretical considerations at stake in each case.

A number of students and professors say that the way law professors teach students how to think like a lawyer is like teaching students how to swim by throwing the students into the deep end of a pool. The author prefers to think that teaching law students how to think like a lawyer is like teaching children how to ride a bike. First and foremost, thinking like a lawyer is a process, an activity, which one can learn and master only by doing, like riding a bike. No matter how much or how well one describes the process, in the end one learns it only by trial and error. Some will master the process quickly, as if they were naturals, while others will struggle for quite some time. No doubt many would argue that the swimming analogy is better because students feel so overwhelmed by the process, it is like they are drowning at first. Once the students master the basics of balancing the different planes within the analytical template, then they can move on to the more creative uses of the process.

LEGAL EDUCATION GENERALLY

Legal education in Australia: currents issued and developments
The UTS Law Review No. 3, 2001
Halstead Press, Australia
242pp

This collection of 14 reports, articles and essays, contributed by prominent Australian legal education scholars, was published as a complete issue of the law review of a leading university. It is a significant addition to the critical reflection on the major problems confronting legal educators today, not only for those located in Australia but in the main shared in many overseas jurisdictions.

The objective stated by the editors is to present

> *a compendium of the critical questions and issues facing legal educators today from the perspective of law academics at the coalface of teaching practice. How do we address the challenges and opportunities thrown up by the advent of information technology? How can we maintain and improve our teaching practices in poor funding environments? Is there enough time left over to be innovative, and how can we encourage each other to become innovative teachers? (p5).*

In a brief overview of current status, Trimmer identifies the key issues for legal education as: (1) the funding crisis restricting the ability of law schools to respond to the challenges presented by current and future legal practice; (2) the impact on content and teaching of the commoditisation of legal practice and the application of technology; (3) the incorporation of skills teaching to add value to legal services; (4) the need for legal ethics training to pervade the whole curriculum; (5) the development of uniform standards in the content of the law degree; and (6) the need for training in technology to be accompanied by substantial investment in technology within law schools and law libraries.

Johnstone and Redmond describe the progress made with an ongoing research project commissioned by the Australian Universities Teaching Committee on learning outcomes and curriculum development in law. The first stage will be to collect survey data from law deans, students, teaching staff and from focus groups of key members of the legal profession and other stakeholders. The research questions have been grouped under four headings: curriculum design and review within a law school; influences on the curriculum; support for and management of teaching; and constraints on good curriculum design and teaching. The research report will be awaited with interest.

In a chapter entitled *Learning environments, economic rationalism and criminal law: toward quality teaching and learning outcomes,* Booth identifies the combined influence of the development of new teaching media and the impact of economic rationalism as having replaced the static classroom with more varied and flexible learning environments. She discusses a project she undertook to develop fresh learning and teaching strategies in the LLB subject Criminal Law. Her goal was to facilitate deep student learning by creating a high quality learning environment in which students could actively engage with the subject and develop lifelong learning skills.

Crofts in *Crossing the theory/practice divide: community-based problems solving* draws attention to the sharp dichotomy between theory and practice in legal education. She suggests that this clash between lawyer-oriented skills and general intellectual skills is rendered illusory if we broaden our conception of the law and the kind of lawyers society may want. She contends that society needs lawyers who possess both legal skills and the attributes of self-directed lifelong learners capable of dealing with change and influenced by an overview of the legal system and a sense of justice. Her paper focuses on the value of community-based projects as a mechanism for shifting away from the narrower rules orientation toward a broader view of the purpose of legal education, which encourages students to adopt a deep learning approach to the law.

In *Professional legal education: pedagogical and strategies issues* Hunter-Taylor argues that, despite changes due to various governmental and technological developments, along with significant changes in the structure of legal services, the main challenge for PLT educators is to develop and implement a more reflective, flexible and student-centred approach to professional legal education. They need to move away from their traditional instructive approach to learning to embrace interpretative methods. She examines and applies to PLT teaching the literature on reflective learning and critical reflection, leading to self-directed and flexible learning for PLT students.

In the next chapter *Transportable law degrees or transportable legal know-how: the fast/food chain store approach to legal work*, Le Brun poses the key question about the issue of transportable law degrees:

> *Is the effect of globalisation on legal practice an issue simply and solely of reciprocity or mutual recognition of formal qualifications, or is it centrally one of knowledge, abilities, attributes, values and know-how, of demonstrated legal competence to work successfully in a foreign jurisdiction and perhaps a legal culture? If the former, are we ignoring the differences of history, culture and economy that do affect the quality of legal services? If the latter, is it possible that we may be simply disseminating particular culturally specific ideas about what effective professional legal practice entails?*

In a very thought-provoking article using the example of Hong Kong, she concludes that the issue of transportable law degrees is central to the work of legal educators and that universities should actively participate in the debate lest it be left as the preserve of the regulators.

The objective of Taylor's chapter *Skills: skills-kind inclusion and learning in law school* is to review the writings in all their variety on skills training in the undergraduate law curriculum in Australia. Within 41 pages she manages to identify and analyse the relevant literature, which she presents under a number of headings: the contemporary legal education context; the range of conceptions of the role of university legal education; the skills that have been recommended for inclusion in the curriculum; the models for integrating skills training into the law curriculum; and the teaching and learning methodologies that have been adopted to best teach skills. This chapter is an excellent overview of the intellectual foundation for the use of skills training in the undergraduate curriculum.

In the chapter *Reading is critical*, Taylor, Bonanno, Harvey & Scouller aim to review the literature on legal reading and to present an approach to reading the law taken in a legal reading program designed to develop critical skills and trialed at the University of Sydney.

We then move on to a set of chapters which are called essays. In the first, *'You can lead a horse to water...': introducing online education*, Childs and Taylor describe an online program introduced at the University of Technology, Sydney to facilitate flexible delivery and learning. The authors reflect upon the online mentoring process, as well as their own experiences and judgments on the success of their online discussion groups.

The following chapter by Gray reports on her interviews conducted with two senior legal academics who have recently been judged as stellar performers in teaching excellence in Australian law schools. As models for their peers, their comments on the attributes of a good law teacher, the importance of an understanding of educational theory, the use of technology in teaching and proposals to divide law faculties into specialist teacher and specialist researcher roles should prove to be of great value to others focusing their efforts on enhancing their own teaching skills.

Another chapter looks at arguments in favour of an integrated approach to the teaching of ethics to business students. Lancaster describes the effort by one university to integrate the teaching of business ethics into a first-

year Business Law course, causing students to engage in an open and reflective discussion on moral issues as they work their way though the legal principles.

Monahan and Olliffe examine the movement toward competency-based legal education and training and the implications for admission purposes. They review the published academic and vocational requirements for admission and competency statements for entry level lawyers published by relevant bodies, including the role for skills training. They note that the Council of Australian Law Deans now supports the thrust toward competency standards.

In the final chapter, *Alternative learning strategies for legal skills and vocational training*, Spencer and Monahan advocate the abandonment of the quantitative approach toward vocational training which consists of an investment in a pre-determined amount of time and resources. Instead they favour an approach based on producing high quality law graduates using alternative means of educational delivery rather than traditional face to face methods. They explore the ramifications of using experience-based learning, computer-based learning, learning in groups and flexible learning strategies, combined with a streaming process, to achieve these more efficient outcomes.

Legal education in Australia is an important contribution to the debate about the purposes, functions, methods and outcomes for academic legal education and vocational training in Australian law schools and practical training institutions. It will provide much food for thought to the reader. Beyond Australia, it will apeal to those in other countries who are assailed by the same concerns about ensuring the production of the best quality law graduate with the maximum utilisation of limited resources.

Editor

Recent trends in European legal education: the place of the European Law Faculties Association
N Reich
21 *Penn St Int'l L Rev*, 2002, pp 21–38

Legal education in Europe has undergone important changes in the last decade, even though we cannot observe a convergence with the American model of professional education so ably monitored by the Association of American Law Schools. The changes are superimposed to some extent on the traditional model(s) of legal education in different European jurisdictions.

The traditional model of legal education in Europe was characterised by a great diversity. Legal education depended, to a great extent, on national policies with regard to law in general and the legal profession in particular. Legal education in universities on the continent derived from the Roman law tradition — law being regarded as an academic and scholarly discipline to be taught by a specialised and highly prestigious professorial staff. In common law countries this was not always so and it became a result only of developments in recent years. The nationalistic wave coming from the French revolution and the codification movement had a special impact on legal education: it became an integral part of the nation state. This focusing of legal education on the nation state resulted in strong tendencies towards protectionism and closure of the legal profession: legal education was to be conducted in one language; in one legal system, namely the national law giving exclusive access to the national legal profession, namely as a lawyer. The European model was uniform in one respect: education in the university, or rather in specialised law faculties, was always an undergraduate education. In recent years, educational content regulation has been softened due to the case law of European and national constitutional courts, mostly relating to freedom of speech and free provision of service issues, but entry is still tightly controlled.

The most important trends in European legal education could be regarded as its Europeanisation, Competition, and 'De-Sovietisation.' The Europeanisation of legal education comes from two sides: from both the university side and the side of the legal profession. Under the ERASMUS-SOCRATES program the idea was that law schools would cooperate across borders in the European Union (EU) to allow for student exchange and mutual recognition of credits through the ECTS (European Credit Transfer System). On the side of access to the legal profession, the recognition directives of the EU allow a lawyer established in one EU country to practise law in another EU country under his home and/or host title, either after an additional exam or period of study determined by the host country or after three years of actual and continuous legal practice there.

The opening of the legal profession and legal academia to competition has probably been the most dramatic development in European legal education in the last ten to fifteen years, and it is here that the American model has had the greatest influence. The first such development was the popularity of LLM programs offered by highly qualified US law schools and which host some of the best European law students. Many European law faculties followed suit and have now developed their own postgraduate programs.

De-Sovietisation is a term meant to describe a process that has occurred in the past 10 years in the countries which became fully independent after the collapse of the former Soviet block. The impact of the dramatic change in substantive law on legal education is, however, not yet clear. On the one hand, most countries have developed new models of legal studies. Private law schools financed through the substantial tuition payments of their