

## LAWYERS FIRST AND TEACHERS SECOND?

*Effective Learning and Teaching in Law,*

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This book is published in association both with the Times Higher Educational Supplement and the Institute for Learning and Teaching in Higher Education (ILTHe) and is edited by a group based at the UK Centre for Legal Education in Warwick, whose overall aim is expressed on its website as “promoting the development of learning and teaching in legal education at both the academic and vocational training stages”.<sup>1</sup> Given the number and diversity of educational programmes within this sector, the editors have taken on a vast task in taking on as the aim of the book as a whole that of promoting “an approach to legal education that is founded on the development and recognition of the law teacher as a professional educator”<sup>2</sup> and in seeking to achieve all of this in a compact paperback.

It is perhaps for that reason that the content is so heterogeneous, comprising in nine chapters the revision of legal education (chapter one); an introduction to teaching methods within the “active” and “experiential learning” canon (chapter two); discussion of assessment (chapter three); innovative use of electronic resources (chapter four); a case study demonstrating teaching of ethics using a reflective model (chapter five); the Human Rights Act (chapter six); law teaching for other programmes (chapter seven); the impact of ADR on legal education (chapter eight) and overall change in the context of legal education (chapter nine). The focus is on the academic stage of legal education, with explicit references to the vocational stage appearing in any detail only in the description in chapter four of use of electronic resources in the Scottish Diploma in Legal Practice and chapter five’s discussion of a component of the Bar Vocational Course in England and Wales. To a vocational teacher, this emphasis is perhaps most marked in chapter eight, whose concept of the law classroom as focused on a litigious “model of conflict”<sup>3</sup> founded in Donald Schön’s paradigm of “technical rationality”<sup>4</sup> would be belied to some extent by an examination of the place of ADR in the BVC and LPC curricula.

As a collection of essays, the text does not and, it is suggested, cannot, set out to be a teaching manual (although some chapters, in particular chapter seven on service teaching for non-law disciplines do give checklists and guidelines that are of more practical value) or even to expound systematically or in detail any particular educational theory or group of educational theories. A contribution from the student perspective, whilst difficult to obtain, might have been an illuminating contribution.<sup>5</sup>

<sup>1</sup> U.K. Centre for Legal Education, University of Warwick: <http://www.ukcle.ac.uk/about/index.html>.

<sup>2</sup> Preface, p. xi.

<sup>3</sup> p. 167.

<sup>4</sup> See Schön, D.A., “Educating the Reflective Legal Practitioner”, (Fall, 1995) 2 *Clinical Law Review*, 231, *Educating the Reflective Practitioner*, (Jossey Bass, 1987), *Educating the Reflective Practitioner*, presentation to 1987 meeting of the American Educational Research Association (<http://www.pcd.stanford.edu/other/schon87.htm>, accessed 23<sup>rd</sup> January 2002); *The Reflective Practitioner*, (Ashgate, 1983). Inaccuracies in Schön’s idea of what goes on in a law classroom in the U.S. at least have, however, been identified: Neumann jr., R.K., “Donald Schön, the reflective practitioner and the comparative failures of legal education”, (Spring 2000) 6 *Clinical Law Review*, 401.

<sup>5</sup> In its absence, perhaps the most vivid subjective description of the process of undergoing a legal education process remains that in Turow, S. *One L (the turbulent true story of a first year at Harvard Law School)*, (Warner Brothers, 1988). In this jurisdiction, valuable and contemporary student perspectives are set out in Boon, A., and Whyte, A. (University of Westminster, 2002), “Legal Education as Vocational Preparation?: perspectives of newly qualified solicitors”, <http://www.ukcle.ac.uk/research/boon.html>.

It does, however, provide, embedded in the various discussions and examples, an introduction to many of the shiny names of what might be called the school of professional education although, and particularly in the context of the Law Society's Training Framework Review<sup>6</sup> with its suggestion that a competency-framework for legal education might be appropriate, the work of Michael Eraut<sup>7</sup> might be a notable omission.

The underlying intent of the editors is one of raising awareness, not about law or legal practice which are taken as givens, but of education: for those of us who teach, our "other" profession. A key comment is made in chapter one:

The development of legal education in the United Kingdom is hindered by the absence of professional identity amongst law teachers and their ambivalence about whether they are a subset of the legal or HE teaching professions.<sup>8</sup>

This dilemma, whilst clearly not confined to those involved in legal education as opposed to other fields of professional education, is one of particular significance to lawyers. Keeping up with one's substantive field as a lawyer is difficult enough without also seeking to remain informed about changes and developments in educational theory. It takes a certain humility, on the part of the law teacher, to recognise that there is work on "professional" education from which one can learn in many other fields, notably nursing and, not surprisingly, teaching. Perhaps the fact that participation in PGCE and similar programmes are increasingly required of new lecturers will help to redress that balance, at least in new entrants, to whom this text might provide a helpful bridge between in-depth study of theory and practice in a generic higher education context and application in the legal field. For the old hand, for whom a context-specific discussion might be more palatable, whatever ideas, arguments or law-specific debates might be prompted by a reading of the various essays, signposts are given towards educational theories established in general or other contexts such as those of Bloom, Kolb, Boud *et al*, and Schön as well as a (re)introduction to the small range of specialist journals and texts dealing with legal (generally, in this jurisdiction, with academic legal) education. A collection of essays, however carefully compiled, and however fascinating its descriptions and examples can only provide a taster or a gateway into a wider world. Those of us who teach are doubly professionals: if this text reminds us of that and leads even some of us to pursue that "other" (and by implication generally subsidiary) profession with the vigour with which we keep up with the law reports, it will have met, and perhaps even exceeded, the editors' intentions.

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<sup>6</sup> Law Society of England and Wales, (2001), *Training Framework Review Consultation Paper*, Law Society of England and Wales, <http://www.lawsociety.org.uk/dcs/pdf/trainingconsultation.pdf>. See also Boon, A. and Webb, J., *Report to the Law Society of England and Wales on The Consultation and Interim Report on the Training Framework Review*, 1<sup>st</sup> February 2002 also at the Law Society website.

<sup>7</sup> Eraut, M., *Developing Professional Knowledge and Competence*, (1994, Falmer).

<sup>8</sup> p. 15.

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