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Introduction

This article started as a response to a decision by Deakin University's Law School late last year to embark upon a major recruitment of new staff.[1] That decision caused the writer to wonder what published sources of advice were available to assist aspiring legal academics in choosing and shaping a career. To date it would seem that whilst there is no dearth of sources about what law schools should teach,[2] or on the content and structure of the curriculum,[3] research on the selection and formation of academics is somewhat less common. This is changing. In 2003 a short biographical study of six law teachers, based on structured interviews, was published[4]

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1 Nineteen academic appointments were made in one round – a significant addition to the pre-existing base of 27 academic staff in the Deakin Law School. Deakin University School of Law Semester 1, 2004 *Student News*, 11-12.

2 On the vexed issue of whether or not legal skills should be included in the undergraduate legal curriculum, and on the alternative ways in which this might be accomplished, see L Taylor, "Skills-Kind, Inclusion and Learning in Law School" (2001) 3 *University of Technology Sydney Law Review* (special edition – Legal Education in Australia Current Issues and Developments) 85.

3 See M Le Brun and R Johnstone, *The Quiet (R)evolution* (Sydney: The Law Book Company, 1994) 381-383.

4 E Mytton, in "Lived Experiences of the Law Teacher" (2003) 37 *Law Teacher* 1 concluded, on the basis of a biographical study of six law teachers using thematic interviews, that they generally felt devalued and identified more with the legal profession than with more general academic culture and norms.

and in 2004, a major study of the identity of 54 law teachers became available.[5] There have also been significant studies on the particular issues encountered by female academics in the legal academy.[6]

In this article, the writer attempts a different approach to the interview studies referred to above. Through the construction of "ideal types"[7] of legal academics, an attempt is made to convey a range of experiences and contributions to the legal academy. In this respect the writer dares to emulate, at the "micro" level, the exercises in imaginative ethnography of William Twining, whose studies of the University of Rutland's law school and report on legal education in Xanadu are simultaneously enlightening, disturbing and profoundly witty.[8]

A cautionary comment about this approach is in order. It may very well be that an attempt to canvass significant issues in the formation and practices of legal academics by means of a purported acquaintance between the author and the ideal types selected makes for an uneasy mix between the fictional personal and the overriding abstractional intent. There is an inherent possibility of shifting the authorial voice between establishing the biographical details of the (fictional) legal academics and discussing the range of different issues in legal education that their "careers" illustrate. However, the effort

5 In F Cownie, *Legal Academics Culture and Identities* (Oxford: Hart Publishing, 2004), the author interviewed 54 legal academics in an attempt to both find out more about a profession "that has hitherto been subject to remarkably little scrutiny" (1) and, "in doing so, to find out more about the discipline of law itself".

6 One of the eight chapters in M Thornton, *Dissonance and Distrust; Women in the Legal Profession* (Melbourne: OUP, 1996) discusses women legal academics and F Cownie, "Women Legal Academics – A New Research Agenda" (1998) 25 *Journal of Law and Society* 102, provides both an outline of relevant sources and a discussion of the potential for further research in this area.

7 The term "ideal type" derives from Max Weber, who used it to refer to the deliberately exaggerated abstract constructs devised by social scientists against which real world examples could be evaluated – eg the concepts of bureaucracy and the "pure competitive market"; see B S Turner, *For Weber: Essays on the Sociology of Fate* (2nd ed, London: Sage Publications, 1996).

8 See W Twining, *Blackstone's Tower: The English Law School* (London: Stevens & Sons/Sweet and Maxwell, 1994) and W Twining, "Thinking About Law Schools: Rutland Revisited" (1998) 25 *Journal of Law and Society* 1. In *Blackstone's Tower*, Twining (at 79) laments that "law schools are almost invisible in English campus novels", and claims that even the lawyer Lewis Elliott, "the leisured foreground observer [in CP Snow's Oxbridge novels] is a failed practitioner put out to grass in Cambridge by kind friends" (at 25) and, in college, "was treated like a resident man-of-affairs, rather than as an academic: he was not expected to do research or to publish" (at 123).

will be worth that risk should more recent arrivals to the legal academy find that the ideal types encountered here raise, in hopefully an accessible way, a range of issues confronting them in their new careers. It is often difficult for neophyte legal academics just coming to grips with demanding and often concurrent teaching, administration and research tasks to also become readily familiar with the major debates in legal education and pedagogy. For this reason at least some attempted distillation and contextualisation of those debates and the major issues they raise may be timely. Additionally, of course, the writer hopes that readers more familiar with the specific issues of professional formation, legal pedagogy and education raised here will nevertheless find the attempt to imbed such discussions within the context of an exercise in imaginative ethnography an opportunity for rejuvenation and fresh reflections.

The three archetypal law teachers chosen include a dedicated and successful career academic, an early career changer who became a practising lawyer for a time and then an experienced law teacher, and a retired judge who has had a long commitment to legal education and who now has the time, as well as the inclination, to do something about it. The integrated references to research about aspects of legal education should help readers evaluate the extent to which the legal academics presented here are representative figures from the legal academy. Although the writer purports to know (in the sense of personal acquaintance) the types of legal academics introduced in this article, his colleagues, past and present, as well as his former law teachers, are all sincerely assured that the Weberian process of constructing ideal types ensures any resemblance to a given individual is at most a matter of coincidence and conjecture. In any case, the depiction of the types of legal academic presented here and their contributions to the legal academy, is arguably more flattering than Becher's conclusions as to how legal academics in England are perceived by their colleagues in other disciplines. Becher writes that:

> [T]he predominant notion of academic lawyers is that they are not really academic … [but are] … "arcane, distant and alien: an appendage to the academic world" … Their scholarly activities are thought to be unexciting and uncreative, comprising a series of intellectual puzzles scattered among "large areas of description".[9]

9 A Becher, *Academic Tribes and Territories*: *Intellectual Enquiry and the Cultures of Disciplines* (Milton Keynes: Open University Press, 1989) 30, cited in Twining (1994) supra note 8 at 201.

Readers should be forewarned that the application of Weber's term "ideal types" in the current context is not unproblematic. The extent to which an ideal type is more than a composite result derived from "the one sided accentuation of one or more points of view and by the synthesis of a great many diffuse, discrete, more or less present and occasionally absent individual phenomena" is a matter of some debate amongst scholars of Weber's work.[10] Resolution of that debate is beyond the confines of this article, but the debate as to what constitutes an ideal type is acknowledged by the interrogatory conclusion to the title of this article. What is clear, though, from the learned commentary about Weber's concept is that the sampling of reality extracted to form composite or ideal types will depend on the values and experiences of the individual researcher. Indeed, Weber contended that the constructs he called "ideal types" were justified so long as the special purposes of such constructions were clearly stated.[11]

Following Weber's structure in this regard, it should be said then that the ideal types presented here deliberately emphasise, both the differing formative experiences and careers of a producer of voluminous doctrinal research, a committed teacher but only occasional publisher and an adjunct appointee exempted from any research obligations. Such exaggerations, for polemical purposes will admittedly contrast with the concurrent research, administration and teaching realities that are more often the contemporary norm. Ideally though, the approach adopted will serve to both emphasise the deliberate idealisation of the types advanced here and to suggest alternative possibilities for configuring the roles of legal academics. Consequently, no attempt is made to claim comprehensiveness in terms of the ideal types selected. Rather the justification of the types selected are that they are abstractions drawn from the writer's experience, but then much modified by imaginative extensions, conflations and distortions to advance a discussion of significant issues in the formation of legal academics and the issues in legal education with which they contend and advance.[12]

10 See, eg, F Parkin, *Max Weber* (London: Tavistock, 1982) 26-37; R Bendix, *Max Weber – An Intellectual Portrait* (London: Methuen, 1959) 271-281; E Shils and H Finch (eds), *Max Weber on the Methodology of the Social Sciences* (New York: The Free Press, 1949) and L Coser, *Masters of Sociological Thought Ideas in Historical and Sociological Context* (2nd ed, Prospect Heights, Illinois: Waveland Press, 1977) 223-224.

11 Bendix, id at 274.

12 For a wide-ranging combination of more general advice about developing and enhancing an academic career that effectively combines episolatory

Jane Smythe – Career Academic

After graduating from a selective girl's high school, Jane Smythe attended Melbourne University in the late 1970s, graduating LLB (Hons) and BA. Jane completed a double degree before this was common.[13] Her double degree was a compromise to please Jane's father, a bank manager. Jane's real interests were in French and German but her father told her there was no "real money" to be made there. Despite her mediocre results in first year law, one of her professors saw Jane's potential and took a keen interest in her progress. From her second year onwards, Jane achieved outstanding results and especially enjoyed electives in media law and anything with an international dimension.

Jane soon realised she wished to be an academic. However, her mentor advised her to do her Articles and to be admitted to the Bar as he had always regretted only being academically qualified in law. Jane took her Articles at a major commercial law firm. I met her at that time. We were paired together in the Mystery Mixed doubles at the Mildura Easter Tennis Tournament and ended as runners-up in the event. Our styles complemented each other quite well. Jane is a strong, aggressive "crash or crash through" player whilst my game is a more subtle, one of placement and tactics. We got on well off the court too and have kept in occasional contact since that time.

Following her Articles, Jane decided to study overseas. Following her professor's advice she took an LLM at Harvard. Jane was able to go to Harvard because of a scholarship supplemented by money her parents had invested in an endowment policy from the fees they saved from Jane not attending a private school. Although offered admission to other prestigious law schools, Jane chose Harvard because its program was both broad and assessed mainly by a "mini-thesis" style research paper in each subject. This suited Jane's interests in research. Jane diligently revised these research papers, presented them at conferences and had them published in prestigious refereed journals. She realised quite early the importance of relentless recycling in becoming a successful academic. By the time she was 25 Jane had an enviable record of publications.

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and exhortory approaches, see D R Sadler, *Managing Your Academic Career Strategies for Success* (St Leonards, NSW: Allen and Unwin, 1999).

13 See D E Pearce, E Campbell and D Harding, *Australian Law Schools*: *A Discipline Assessment for the Commonwealth Tertiary Education Commission* (Canberra: AGPS, 1987 [Pearce Report], 5 vols) para 25; supra note 5.

Back in Australia, in 1984, Jane was appointed to a tenured lecturing position in an established law school. She taught a basic torts course and a very popular elective in her speciality, comparative media law. In recent years, Jane has added telecommunications law and transnational law as areas of expertise. All these areas allowed Jane to use her languages in her research and gave her frequent opportunities to travel to Europe on study leave and for conferences.

Jane taught her subjects effectively, albeit always from a prepared script which over the years she efficiently updated to the extent required by recent developments. She once described the attributes of a good law teacher as being someone with the capacity to explain the law clearly and comprehensively and who on occasion might be interesting and amusing.[14] She showed interest in bright students, even inviting them for coffee to discuss their progress and career plans. This caused some discontent and even rumours about the nature of her relationships with some of the favoured students which Jane ("stuff them") ignored. For four years, she served as editor of the Law School's journal, which again involved her working closely with the students on the editorial committee.

However, Jane put her real efforts into research, university committee work and outside consultancies. She stated that if she had really wanted to teach she would have opted for an easy life and become a school teacher. Once the teaching terms finished, Jane was rarely to be found at university and even during term her office hours were quite limited. The convenor of a women's careers seminar she attended at Harvard had advised her on the need to be "strategic" and "focused" in her career progress. Following this advice, Jane made sure she

14 In doing so, Jane closely echoes the deliberately "down to earth" advice of G McGinley in "Teaching the Law" in J Corkery (ed), *A Career in Law* (2nd ed, Sydney: Federation Press, 1989) 130. That "the law" can be so conveniently cabined, cribbed and defined (to adapt Shakespeare's *Macbeth*, III, Sc 4, l 24) is a breathtakingly huge assumption. As M Davies, *Asking the Law Question*: *The Dissolution of Legal Theory* (2nd ed, Sydney: Lawbook Co., 2002) writes (at 33): "It is not just that different systems have different rules, doctrines, or principles, or even totally different systems of classifying substantive law: there are ways of understanding law which simply cannot be explained in the terms of modern Western theory." As Davies indicates more generally in her work, even within Western theory there are different understandings that appear not to be encompassed in Jane's doctrinal approach to the understanding of law. That understanding, Davies explains, is based on the fallacy that "there is something inherently necessary and right about the process of legal reasoning which emerges in decided cases" (Davies, id at 44). See also her discussions, inter alia, of "Critical Legal Studies" (166-195) and "Feminism and Gender in Legal Theory" (197-256).

got on to key committees and then developed a "knack" for only attending when significant items were being discussed. She was always careful to avoid the more routine and time consuming aspects of serving on committees and in getting "bogged down" in administration. However, unlike many law academics, Jane also put energy into working for the general interests of the university and developed good university-wide contacts. Unless behind on her self-imposed research deadlines, she was in regular attendance on Friday afternoons at the Staff Club as well as at lunch there once or twice a week during term.[15]

Jane's real priority was her research. Jane's work ethic was prodigious. She claims to have been at her desk by 5 am six days a week to ensure at least three or four hours of research was accomplished before any other task could intervene. In addition to publishing more articles and working on her PhD, Jane was a particularly prominent co-author of some well regarded case books. Jane enjoyed this form of work because most of the tedious tasks were done by her research assistants whilst, for the equivalent of about 15 pages of continuous text, she got her name before the legal, academic and student community. Consultancies, including a stint over five years as a part time Law Reform Commissioner, ensured she was well known and generally well regarded by the wider academic community. In 1992 Jane completed her PhD with the title of "From *Zollverein* to a Unitary Legal Regime: The Resolution of Core Legal Issues in the Formation of the European Economic Community".

After finishing her PhD and, quite exceptionally for her, Jane delivered two papers outside her areas of expertise. She claims she felt it was time for "a little frivolity" and, in that mood, delivered a paper called "The Tyranny of DEET's Stance" to the Australian Society of Tertiary Administrators (ASTA). Her paper was both a blistering attack on the Dawkins reforms and an obvious play on the title of a popular work by a subsequently controversial historian.[16] The paper

15 L Ponoroff, "Law School/Central University Relations: Sleeping with the Enemy" (2002) 34 U Tol L Rev 147 contends that many law schools' faculty feel misunderstood and under-appreciated by the central administration of universities on such matters as salaries being below market forces. Consequently, according to Ponoroff, legal academics are prone to seek extra-mural gratification by means of legal practice or consulting or other forms of community service. Ponoroff counsels law deans to avoid this isolationist mentality in favour of a mutually constructive relationship with the central administration because no law school can shine if embedded in a lousy university.

16 The work referred to is G Blainey, *The Tyranny of Distance*: *How Distance Shaped Australia's History* (Melbourne: Sun Books, 1966) published to great acclaim in 1966 and subsequently reissued on many occasions. Jane claims

went down so well that the following year she was invited to give the ASTA's key-note address. Her paper, the "Great Training Robbery", was a savage yet humorous attack upon the aspirations of TAFE colleges to grant degrees and abandon their traditional role of attracting and training apprentices for the trades. Her prediction of a consequential shortage of skilled tradespeople due to an over-promotion of "university places for all" is now commonplace. At the time, though, it was remarkably prescient, at least for those unfamiliar with the unacknowledged derivations in her paper from a series of articles in *Le Monde* predicting similar shortages in France. Jane, though, has assured me that lack of originality is no "insuperable handicap" to being a successful legal academic.

These two conference papers with their provocative titles and subsequent reproduction in the wider Higher Education press, helped make 1994 a big year for Jane. By then, she had worked her way through the academic ranks to the position of Reader in Law. In that year, following her wider acclaim, she was appointed Foundation Professor and Dean of a new law school, established in defiance of the Pearce Report's conclusion that the undergraduate legal education market was already adequately supplied.[17] In the same year Jane also married Hamish, an Anglican Vicar she met on a skiing holiday. Hamish went part time the following year to care for their baby, Joshua. Jane's academic career scarcely missed a beat. She sought to make "*my* law school" different from the start. She resolved to use modern technology to minimise the need for lectures. Within a few years lectures were an exception in foundation law subjects. She had established a consortium with other law schools to establish self-paced instructional packages based on a common curriculum shared by the participating law schools.[18] These self-instruction packages

that "Geoff" expressed himself as "quite delighted" by both her title and the sentiments expressed in her paper. The reference to "Dawkins" is to the Hon John Dawkins, who as Minister of the Department of Employment, Education and Training (DEET) from 1987 to 1991 in the Hawke Labor Government, introduced to less than universal acclaim, a series of far reaching reforms in tertiary education that formally abolished the pre-existing binary system of universities and advanced colleges.

17 The Pearce Report, supra note 13, para 15.4, stated that in what it predicted to be an emerging period of consolidation, there was no need for another law school in Australia, apart from perhaps an additional one in Queensland.

18 The members of the consortium satisfied the Trade Practices Commission (the predecessor to the ACCC) that the public interest in resource efficiencies justified authorisation under the provisions of Pt VII of the *Trade Practices Act 1974* (Cth). On the application of the TPA to the activities of universities generally, see P Clarke, "University Marketing and the Law: Applying the Trade Practices Act to Universities' Marketing and Promotional Activities" (2003) 8 *Deakin Law Review* 304.

included CDs and video clips, power point slides and so forth. Jane then interested one of the major law publishers in taking over the publishing of the material. This ensured the materials were produced to a high standard and many of the production costs were transferred away from the university's in-house learning services units to the students. More recently, much of the content of these packages is delivered over the Internet. Students check their understanding by computer mediated and assessed tutorials and weekly live Socratic seminars[19] in small groups of 15 to 20. Students may only attend these Socratic seminars once they have a print out showing they have satisfactorily completed the appropriate computer mediated "pre-seminar" preparation. Jane refers to this on-line delivery and testing of material as RAP – the Readiness Assurance Process. She claims that this approach enhances the educational value of seminars with lecturers reporting much less need to use the seminars to give extra lectures and with increases in both the amount and quality of student contributions in seminars suggesting a shift to deep rather than surface learning.[20]

19 On the use of Socratic seminars in the teaching of law to enhance independent thought, analysis and the ability to apply legal rules, see Le Brun and Johnstone, supra note 3, at 283-284, and for criticisms about and adaptations of the model, 285-288. Feminist writings that suggest the Socratic method, at least as practised in many law schools, may tend to disparage and silence many female students, are cited at 396, n 55. Evidently, the effect of Socratic style inquisitions is less discriminatory in French law schools, as the icy formality commonly adopted by law teachers in France causes apprehension to male and female students alike. See A Nollent, "Legal Education in France and England: A Comparative Study" (2002) 36 *Law Teacher* 277.

20 The terms "deep" and "surface" learning are discussed, with particular reference to higher education, in P Ramsden, *Learning to Teach in Higher Education* (London: Routledge, 1992) and more succinctly, in Le Brun and Johnstone, supra note 3 at 59-63. Essentially, deep learners aspire to the personal understanding and integration of new material into an holistic framework. The surface learner is more likely to engage in rote learning to reproduce information learnt and is primarily motivated by a desire to avoid failure. Surface learning is often, then, a strategic response in situations where students are overloaded, when assessment criteria are unduly stressful and/or unduly reward the recall of trivial information. P Baron, in "Deep and Surface Learning: Can Teachers Really Control Student Approaches to Learning in the Law?" (2002) 36 *The Law Teacher* 123 argues that the curriculum should be constructed to enhance deep learning but that those who wish to engage in more passive learning should be left to do so. Halstead et al report that removing the "lucky dip" from examinations by a prior disclosure of examination topics, but not the actual questions, encourages a greater research and deep learning orientation amongst cohorts of globally dispersed off-campus law students: P Halstead, J Evans, B Mitchell and S Williams, "Deep or Shallow Approaches Taken by Undergraduate Distance Learning Law Students of the University of Wolverhampton" (2002) 36 *The Law Teacher*

Jane's heavy emphasis on technology for what she calls "transmission" or "informational teaching" has met with mixed responses. This system is resource efficient and has many supporters, particularly amongst mature age students who appreciate the time-shifting flexibility of self-paced learning.[21] Many younger students and some of Jane's staff find it too mechanistic. Students complain that it adds to their experience of finding their time at law school alienating and gives the impression that law academics seem generally "uncaring". Jane confronts any criticism with the mantra of "blame that bloody Dawkins" and says that we need to do something to bring law schools up to date. She claims that efficient teaching of large classes of first year subjects allows more resources to be placed into valuable electives in later years that have lower student numbers.[22] She also makes it clear that she wants "***my*** staff" to do more research and thinks that adequate teaching

184. These findings support Ramsden's (1992, above) contention that "from our students' point of view, assessment always defines the actual curriculum" (at 187).

21 Taking transmission-type teaching out of the classroom to preserve precious class time for face to face interaction is practised and endorsed by P Wangerin in "Technology in the Service of Tradition: Electronic Lectures and Live-class Teaching" (2003) 53 *Journal of Legal Education* 213. The danger that computer-based teaching of law may be more suited to teaching jaded doctrinal "black letter law" rather than critical socio-legal approaches is explored in P Alldridge and A Mumford, "Gazing into the Future Through a VDU: Communications, Information Technology, and Law Teaching" in A Bradney and F Cownie (eds), *Transformative Visions of Legal Education* (1998); 25 *Journal of Law and Society* 116. The need to implement any computer-mediated system with care and to provide students with support and direction is stressed by B Richards in "Alice Comes to Law School: The Internet as a Teaching Tool" (2003-4) 14 *Legal Education Review* 115. The author documents the hard-won acceptance of the Adelaide Law School Intranet for Collaborative Education (ALICE), which initially it seems, could be characterised, if somewhat obviously, as ALICE in Blunderland. Perseverance and the appointment of a specialist staff member to deal with on-line issues seem, however, to have paid off and gradually won over a culture of entrenched student opposition to the innovation.

22 The value of placing disproportionate resources in later level elective courses with small numbers is debatable. M Gulati, R Sander and R Sockloskie in "The Happy Charade: An Empirical Examination of the Third Year of Law School" (2001) 51 *Journal of Legal Education* 235 report a high level of disengagement at third year level despite the high proportion of resources channelled into that stage, and thus argue that the final year in law school is not really serving as the culmination of legal training. Further research is probably needed as to whether or not that experience in the USA, where three years of full time law school comes after the completion of an undergraduate general degree, is similar in Australian law schools.

is "good enough" as "over-servicing" students can be harmful to an academic's promotion prospects.

Jane is also opposed to too much teaching of legal procedure in universities. This is perhaps not surprising given her own professional formation was at a time when Australian law schools had shifted from an apprenticeship model to a view that the study of law should be a form of liberal education.[23] However, as a dean, Jane was forced to concede that there should be some place for a concurrent skills program but thinks this should be limited to the development of generic skills that will best prepare students to adequately and flexibly respond to the many "generalist" career opportunities open to law graduates. Jane is adamant that much legal practice in the future will take place in MDPs[24] and that, in any case, for half of her school's graduates, a law degree serves the function of an arts degree but with a wider vocational appeal to employers.[25] In addition, Jane claims employers rarely consider the legal skills issue, concentrating more on an applicant's grades, the prestige of the law school attended and the general impression applicants give of their ability to "fit in". She also recalls reading a comment from an IBM executive that his firm prefers to recruit graduates from any discipline who have first class minds and then do their own in-house IT training and she believes the large law firms echo this view.

Although Jane denies it, it is possible that her opposition to extensive concurrent skills training in undergraduate legal education also has a commercial basis. Soon after Jane became dean, her law school became part of a consortium of three law schools in different States that offer a full fee-paying post-graduate diploma of legal practice as an alternative to taking Articles for admission as a legal practitioner. Most of the diploma is taught on-line and has become popular with law graduates seeking admission to practice and also promises to be lucrative for the members of the consortium once the high start-up costs are recovered over the anticipated six-year life-span of the core curricula materials. Against the charge of

23 L Taylor, supra note 2, citing D Chesterman and D Weisbrot, "Legal Scholarship in Australia" (1987) 50 *Modern Law Review* 709. See also the Pearce Report, supra note 13, para 25.2, noting that until 20 years ago most law lecturing was done on a part-time basis by practising legal practitioners.

24 Multi-disciplinary practices: Jane's conversation is peppered with acronyms.

25 Jane's figures agree with those of Sir Anthony Mason in "Universities and the Role of Law in Society" in J Goldring, C Sampford and R Simmonds (eds), *New Foundations in Legal Education* (Sydney: Cavendish (Aust), 1998) ix.

market opportunism,[26] Jane points to her long standing view that, at most, only generic skills should be taught within the LLB degree, especially as many graduates are destined to work in multiple jurisdictions within and beyond Australia. She maintains that the realities of the global market for legal services means that no longer can an Australian law school think of itself as merely fulfilling the narrowly conceived professional concerns of the local law society. Rather, given the resource constraints on law schools, she is quite adamant that, all things considered, "efficiency criteria" dictate that the more specialised and resource intensive legal skills should be taught only to those who at that stage of their legal education have made a considered decision to start to practice in a particular jurisdiction.[27]

Fundamentally, Jane agrees with the recommendation of the Ormrod enquiry in the United Kingdom in 1971,[28] that legal education should be constructed as a continuum between the academic, vocational and professional with the role of undergraduate legal education being mainly concerned with the academic part of this continuum. In practice, as a law dean, Jane has been forced to adopt the greater integration or overlap in this continuum advocated by the subsequent

26 That there is a market is indisputable. A survey undertaken in the UK by V Bermingham and J Hodgson, "What Lawyers Want from their Recruits" (2001) 35 *The Law Teacher* 1 at 29 found that 78% of law students intend to take some form of practical training to qualify for admission after completing their LLB. The authors conclude that although only 50% of law graduates actually practice at some time or other, that may say more about the unexpected difficulty of entering the profession than changes in the desire of students to practice.

27 On this matter Jane has allies. Twining (1994), supra note 8 at 74 claims that in the United Kingdom, at least, a legal education market crowded with new entrants means that only 30-40% of law graduates will have even the chance to qualify for admission to legal practice. In A Bradney, *Conversations, Choices and Chances: The Liberal Law School in the Twenty-first Century* (Oxford: Hart Publishing, 2003), the author points out the lack of homogeneity in the legal profession and the consequent difficulty in providing a comprehensive legal skills program as part of the LLB curriculum. Not only is there a gulf between the work and training needs of legal aid solicitors in the provinces compared to solicitors working for big corporates in the city, but within those large city firms themselves, internal departments with their specialisations make for very different law jobs. Bradney writes (at 102) that the division of legal labour becomes ever more minute, so that "within those London firms, jobs are more and more focussed on particular areas of legal work, 'in the Energy Group, but only on gas projects (and then only off-shore gas)', so that to say … that this disparate group of workers … are all solicitors indicates little more than a formal as opposed to substantive similarity in the work that they do".

28 Cited in L Taylor, supra note 2 at 91.

ACLEC report in that country.[29] Jane concedes that the issue of concurrent skills training during the LLB has been enduringly controversial and suggests extra electives could be provided for those students who wish to "head off in that direction".[30] In fairness, it should be acknowledged that Jane's grudging, gradualist and generic approach to legal skills in the undergraduate law curriculum is both popular with her colleagues and is not without influential support from legal scholars.[31]

At the personal level, Jane readily admits she is ambitious but claims to have a good sense of humour and an ability to not take herself too seriously. These latter and self-proclaimed qualities are not always easy to discern. Within a year or so of becoming a law dean, Jane was furious that she was listed as a 100/1 outside chance to obtain an appointment to a vacancy on the Supreme Court in her State. What upset Jane was not so much these long odds in themselves, but that the State's Attorney General, a person whose legal ability she despised, was quoted at 50/1 for the position. As neither Jane nor the Attorney General had practised at the Bar, the exercise was of purely theoretical interest, but Jane nevertheless took umbrage at the disparity in their rankings.

Still, there was another chance of high office awaiting Jane. Two years ago, following her innovative and resource maximising work as a law dean, Jane was appointed Vice Chancellor at an interstate university. Judging by the reports in her former university's newsletter, which also included an edited account of her address, Jane's valedictory oration was a major occasion, attended by many prominent members of the legal profession as well as an unusually high number of people from the university community and the general public.

29 Id. ACLEC is the acronym for The Lord Chancellor's Advisory Committee on Legal Education and Conduct.

30 C McInnes and S Marginson, *Australian Law Schools After the 1987 Pearce Report* (Canberra: AGPS, 1994) 159-160 cite a report of a survey of Australian Law Schools by a NSW Curriculum Committee in 1992 that shows the compulsory core of the law curriculum for double degree students ranged from 54% at Melbourne to a high of 88% at QUT.

31 For a recent sustained argument as to why vocational concerns should be eschewed in the undergraduate law curriculum, see A Bradney, supra note 27. Bradney advocates, both generally, but especially at 101-104, that there should be no core legal curriculum and that technical legal information should not be acquired for its own ends. He contends that a general or liberal law school curriculum avoids the limitations inherent in a vocational curriculum because it puts students in a position to address a wide range of tasks. This in turn is more likely to develop transferable knowledge and skills. He counsels against excessive deference to top legal firms and the profession generally because "stakeholders" tend to conceptualise legal education in vocational terms.

Much of Jane's address was conventional, recording the sense of privilege she felt at being the law school's foundation dean. However, she then turned to the issue of the implications of her career for other female academics, both in law schools and more generally. In a remarkably frank and public apologia, Jane regretted that in many respects she had failed to show an appropriate degree of "sisterly solidarity" with her female colleagues. In part, this was due to having only one child and then only after "climbing the career ladder" and with a husband "doing a magnificent job" as her child's primary carer. Not for her, Jane said was the incessant juggling of career and family, the anxious glance at a watch and abrupt departures from meetings for a hurried trip to the Child Care Centre at the end of the day and all the diminished opportunities for the networking that Jane asserted, is a sine qua non for major academic advancement.

In her defence, Jane claimed that as a first generation modern feminist, she had no choice but to play by the "boys' rules" at a time when very few female academics in any discipline in the country got to even senior lecturer. Male mentors had made her aware of what counted for academic advancement and she admitted that she had consciously avoided becoming enmeshed in "academic housekeeping tasks" such as student support and organising collegial activities. Jane concluded her address by acknowledging that whilst much remains to be done to counter generations of entrenched discrimination against women in both academia and the legal profession, at least she and other pioneers of her generation had dared to participate in male dominated professions rather than try like earlier feminists to forge separate professional identities by "professionalising the domestic".[32]

32 In her address Jane explained that she used this term to refer to the "turn of the century" (ie early 1900s) professionalisation of fields such as nursing, kindergarten teaching and the general domestic science movement that gathered momentum as part of a middle-class feminist mission to rescue the working classes from squalor and to ensure that the country's social and legal fabric was not endangered by a decline in the size of middle-class families. Jane referred to K Rieger, *The Disenchantment of the Home: Modernizing the Australian Family, 1880-1940* (Carlton: MUP, 1985), in support of this thesis. As to Jane's admission that much remains to be done to promote the careers of female academics, it appears this is still the case in the United States after a decade or more of affirmative action and family-friendly policies. See D L Rhode, "Midcourse Corrections: Women in Legal Education" (2003) 53(4) *Journal of Legal Education* 475, who observes (at 475) that in the USA until the early 1970s only 3% of law students were women and that whilst the figure is now 50%, women faculty are still clustered in the least influential and least secure roles in the law school, with both their disproportionate family responsibilities and academic "housekeeping" work impacting on research, teaching and committee obligations (at 482-483).

Jane's career continues to be one of negotiating contradictions. Ironically, given her earlier stance on the Dawkins reforms, the university Jane now heads was created from an amalgamation of a number of former colleges of advanced education following the implementation of those very reforms. Jane is quite untroubled by this and explains that "one has to be adaptable". Her husband, Hamish wryly comments that if Jane should ever tire of being a Vice Chancellor, she could always seek ordination in the Anglican Church and apply for the post of Vicar of Bray.[33] Jane, quite unfazed, seems to regard this observation as a compliment.

As Vice Chancellor Jane has recently announced cuts to the teaching budget of her new university because of savings achieved by introducing "Open University" style on-line video and computer teaching in large core first year subjects such as economics, psychology and in law subjects of torts and contract. She sees universities of the future employing less tenured teaching staff. These staff will be "outcome facilitators and managers" who will organise the work of sessional staff, including many from the professions. She cites in support of this her own teaching experience where she organised visits from members of the profession in the mediation legal skills unit she was obliged to teach, which she supplemented by playing a few videos and devoting a half of a lecture to preparing students for a mediation simulation. She once admitted to me that much of this organisation could have been done by any competent "admin person" but doing it that way rather than teaching aspects of mediation herself left her time to "get on with the things that really count". Jane predicts that within a few years tenured law staff will be more involved in income generation by way of consultancies, compliance work and the like with the "more mundane teaching tasks" left to junior and sessional staff.

I recently accepted an invitation to visit that Jane issued in response to my congratulatory note when her appointment as Vice Chancellor was announced. We played tennis on the private court attached to the university house that comes with her job. Her "kick" serve is as venomous as ever but her game generally is a bit rusty – one of the many sacrifices, she says, of her "rise to the top" – a recurrent phrase with her. She laments that she has many "contacts" but far fewer friends, and thinks she will give the job "everything" for "5–8 years" and then become a semi-retired "law and higher education consultant" and also

33 Hamish is referring to the once popular ballad of that name lampooning the Vicar of Bray's self-interested zeal for each new form of established religion from Charles II to George I to ensure he retained his living.

put some time into "quality relationships". In the meantime she thinks her $400,000 plus annual salary "somewhat" makes up for the fact that for some years her former students, who went to the Bar or into the "corporates", earned far more than she, even after she topped up her "academic pittance" by some 20% or so with consultancies. Currently she and Hamish intend to take some "luxury if short" holidays and just after Christmas are off for a fortnight's skiing in Colorado. She remains grateful for her father's insistence that she had a "vocationally solid" qualification, without which she believes she would have ended up like some of her BA uni "mates" with PhDs in French or German teaching TAFE conversational courses to "bored housewives" and "redundant executives".

Rick Palmer – Dedicated Teacher

Rick Palmer has just turned 50 and is a senior lecturer in a law school that also teaches business law to commerce students. I met him at an ALTA[34] conference in Christchurch in the early 1990s and after discovering a shared interest in things Hispanic,[35] had some good late night chats. We kept in touch and I have seen him quite often since moving to Melbourne seven years ago. Rick's name was originally Ricardo de Palma, but on coming to Australia from Galicia, in the north of Spain after the Civil War (1936-39), Rick's parents changed their name to Palmer in the early 1950s because they found it hard to stomach the "new Australian" jibes on top of their persecution under that "bastard" Franco. As editor of the regional socialist newspaper *El Trabajero*, Rick's father had experienced some especially "rough treatment" before the family left Spain.

Working in factories, Rick's parents could not afford to pay the high university fees that were still in place at the end of the Menzies era. Instead, Rick got a university education (BA, Dip Ed) with majors in history and psychology through the Education Department scholarships that paid the fees, a book and small living allowance in return for bonding students to teach for three years. Rick actually stayed four, teaching history, doing some counselling and taking a few law subjects part-time in the last two years. Recently married, he then quit his teaching post, even though he enjoyed it, because he had always wanted to study law. His wife of three years worked as a kindergarten director to put him through and Rick did some

34 Australasian Law Teachers Association.

35 The writer, on a Rotary Post-Graduate scholarship in 1976-77, was an *Investigador Visitante* (Visiting Researcher) at *El Colegio de Mexico*, a centre for postgraduate research in the social sciences in Mexico City.

part-time TAFE teaching. Whilst teaching, Rick had a close friendship with an ex-Jesuit priest who, to Rick's surprise, aroused his interest in issues such as liberation theology and contextual approaches to studying the Bible advocated and advanced by such theologians as Kierkegaard and Bultmann.[36] These discussions were to greatly influence Rick's philosophy of teaching when he became a law teacher. At the time Rick was very grateful for these conversations as they helped him to escape the tedium of staff room conversations about misbehaving students and, during winter, football.[37]

However, Rick's arrival in the legal academy was still some way off. As a law student, Rick's academic record was somewhat patchy. As a part-time student for his first two years, he put his effort and limited time into those subjects that interested him – constitutional, family and child welfare law. After Articles (a year of "boozing, gossiping and photocopying") that convinced Rick that a course in the systematic training of legal skills should replace the "hopelessly outmoded" apprenticeship model for those seeking admission to the Bar, Rick joined a practice belonging to an elderly practitioner in a regional town some 110 kms from Melbourne. After two years, Rick bought the practice and worked in it for another six years. He and Mandy, his wife, had two children. The stresses of running a growing general legal practice saw them separate after Rick's brief affair with one of the family law clients. Rick, something of a perfectionist, was often frustrated by the multiple demands involved in running a legal practice and felt there was never enough time to research legal points adequately. Along the way, he took a few LLM coursework subjects, deliberately choosing those subjects with examinations as the sole or at least major form of assessment, so that he could cram desperately towards the end of the semester.

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36 Whilst I understood Rick's reference to liberation theology and its strong social justice impulse, his reference to the two theologians rather "stumped me". It seems that Soren Kierkegaard (1813-55) developed a form of "existential dialectics" that led him to the position of denying the possibility of an objective system of doctrinal truths. Rudolph Bultman (1884-1976) pioneered a program of de-mythologising the stories in the New Testament, urging that the events narrated there had to be understood in their "life-context" (Sitz im Leben). (See the appropriate alphabetical entries in F L Cross, *The Oxford Dictionary of the Christian Church* (2nd ed, 1978).) Were they in law faculties today, both men would undoubtedly be at the forefront of the view that law faculties should teach and reflect socio-legal approaches to the law and would reject what they would see as a pernicious and artificial doctrinal approach.

37 Rick, reared in an intellectual family where food and debate were both part of a meal, scathingly refers to "S'portugeese" as the lingua franca of Aussie men.

Rick did well enough in his LLM so that, combined with his practical legal experience and teacher training, he was appointed at the age of 37 to a new "post-Dawkins" law school. After finishing his LLM two years later and self-publishing a "plain English" textbook, "Business Law – The Essentials", he was appointed senior lecturer at 41 and is now at the top of the scale, earning over $70,000 pa. He accepts that many of his students will earn more than he does, although he thinks that some of his complaining academic colleagues fail to take into account the benefits of various leave entitlements, comparative job security and autonomy, employer superannuation, an office and some administrative support.

During his forties, Rick was quite active on some university committees, especially the Staff Association and some committees directly benefiting students. He also kept long office hours and was regarded by students as someone always available for a chat. Rick believed that many law students found the study of law, and law school itself, alienating, and thought that "any true teacher" should do what they could to redress these issues.[38] Strangely amongst law teachers, Rick also regarded his teaching of business law students as of equal importance to teaching LLB students and rejected the tag of "service teaching" often applied to this activity.[39] His view is that the number of students studying business law greatly exceeds those studying a law degree and teaching them what he calls legal awareness is an important and educationally challenging part of his job. Besides, at Rick's university

38 On how dangerous law school can be to self-esteem, see G Hess, "Heads and Hearts: The Teaching and Learning Environment in Law School" (2002) 52 *Journal of Legal Education* 75 and L Krieger, "Institutional Denial about the Dark Side of Law School and Fresh Empirical Guidance for Constructively Breaking the Silence" (2002) 52 *Journal of Legal Education* 112. Krieger attributes much of the problem to the failing paradigms on which many law school curricula and practices are constructed. These include (at 117) "the top ten-percent tenet; the contingent-worth paradigm [one's place in the hierarchy is all important]; the American dream and thinking 'like a lawyer'." The obsession with this last paradigm, Krieger claims (at 117), is "fundamentally negative; it is critical, pessimistic, and depersonalising. It is a damaging paradigm in law schools because it is usually conveyed, and understood as a new and superior way of thinking, rather than an important but strictly limited legal tool". Krieger cites, inter alia, A Maslow's, *Motivation and Personality* (2nd ed, New York: Harper and Row, 1970) and C Roger, *On Becoming a Person: A Therapist's View of Psychotherapy* (Boston: Houghton-Mifflin, 1995) to argue that many of the pernicious consequences of the contingent worth paradigms can be overcome by adopting humanistic approaches to the teaching of law. Hess also gives practical examples of how this can be accomplished.

39 Twining, supra note 8 at 40 refers to this term as "derogatory" and as indicative of an attitude that has led to the offering sin business law often being "rather unimaginative".

students enrolled in business law units subsidise the otherwise unviable law school.

Rick's teaching duties over the last few years seem to have stabilised and consist of being Unit Coordinator of a first year semester-length Introduction to Business Law unit, taking one of the two-hour weekly seminars for the contract law subject that spans the entire academic year and teaching an advanced semester-length elective unit called "Perspectives on Family and Child Welfare Law". Last year Rick invited me to sit in on some of his classes to write a report as one of his university's three nominees for a national teaching excellence award. Rick won his own university's teaching excellence award in 1994 and was then nominated for a national CAUT[40] teaching award. He attended an interview held in a meeting room at Sydney airport. This did not go well. Rick had assumed he was there to talk about his teaching practices and philosophies. Instead, he found the members of the panel, who had no recent classroom teaching duties, were far more interested in what research project he would undertake if he won the award!

Rick sees his role as the coordinator of the foundation business law subject as giving good lectures (he gives about 60% of the lectures) and to manage a team consisting of one other tenured staff member, a team of tutors and an administration officer attached on a 0.3 basis to the unit due to the large numbers of students enrolled in it. Rick prefers to take extra teaching rather than be bogged down in administration and processing results. He sees these tasks as important but recognises that he is not efficient in discharging such detailed work and does not see being involved in those tasks as the best use of his time and talents. Enrolments in the unit range between 900 and 1,200 students, including between 150 and 200 off-campus students and others, not counted in these numbers, are those enrolled in various off-shore partnership agreements or in articulation programs with TAFE colleges.

In his business law lectures, Rick uses powerpoint slides, posted in advance on the intranet program used by his university. He has a reputation for giving good lectures, with plenty of use of both verbal and visual humour, repeats major points in at least three different ways, gives clear overviews of new material, good summaries of what has been covered and arranges his timetable to have time after lectures to answer any immediate questions students have. Rick is not on campus on Mondays and Tuesdays but rosters senior law students to be in his office to provide support for any students

40 Committee of Australian University Teaching.

who may need additional help to that provided in tutorials. These senior law students are known as "duty-tutors". Rick also runs the off-campus mode himself and has prepared a CD ROM containing lecture equivalents with accompanying powerpoints. Additional material, including detailed explanations about assessment, a unit calendar, FAQs[41] and a Study Guide are provided to all students in the unit over the intranet. Sample answers to nominated tutorial questions are pre-programmed by Rick at the start of the unit and, like an educational equivalent of "pop-up" sprinklers, appear a week after tutorials on that topic and disappear after five days to encourage students to keep up. Rick also posts audio-recorded "fireside chats" of some 10-15 minutes to the intranet to help off-campus students feel more included by means of "up-dates" to subject development.[42] Overall Rick believes the key to running this large unit is to be well organised whilst being sufficiently flexible to provide some spontaneity. Rick also thinks his teaching in this legal overview unit is rated so highly because it overlaps with the more in-depth teaching he is involved with in taking two of the full year contract law seminar streams for first year LLB students.[43]

The law school Rick teaches at has only one hour of lectures a week in contract law. The remainder of the subject is taught in a two-hour seminar with groups of between 30 and 40 students. The subject runs throughout first year, includes both the common law of contract and statutory reforms, especially Pt V of the *Trade Practices Act 1974* (Cth). Students have a commercially published casebook, Study Guide and a detailed outline of the topics. Readings and other preparation required for each seminar, together with some lecturer-initiated guidance, are provided through the WebCT intranet used at Rick's university. The expectation is that in the seminars the predominant methods used will be small group collaborative activities and the Socratic method.[44]

41 Frequently asked questions.

42 Rick flatteringly claims he got this idea after reading the writer's report of using a voicemail system to promote inclusivity for off-campus students: see J Carmichael, "Voice Mail and the Telephone: A New Student Support Strategy in the Teaching of Law by Distance Education" (1995) 16 *Distance Education* 7.

43 N Hativa, in "Teaching Large Law Classes Well" (2000) 50 *Journal of Legal Education* 95, maintains the key factors for success with large classes are clarity, good organisation, an ability to stimulate interest and engagement and to generally promote a positive classroom environment. It seems Rick does quite well when assessed against these criteria.

44 On the Socratic method, see M Le Brun and R Johnstone, supra note 14. Attempts to promote collaborative learning using small groups are not for the faint hearted and may encounter opposition from academically

Rick's two seminar groups are invariably rated highly by students. Perhaps cannily, he always takes the unpopular timeslots of 6-8 pm on Wednesday and Friday evenings and, consequently, has a large number of mature age students in his seminar. Rick's explanation for taking these times is that it reduces problems that arose in earlier years of students seeking to transfer into his seminar groups. These timeslots also enable Rick to hold his seminars in the Nursing building rather than the law school. Rick's reasoning is that his law school, reflecting an outmoded "chalk and talk" pedagogy that makes law a cheap discipline to run, consists only of lecture rooms with fixed seating.[45] By contrast, the new Nursing building has flexible seating in rooms designed for seminars. This makes it easier to move to and from small group to whole class discussions. Having attended some of these seminars, I am impressed by Rick's ability to achieve a climate favouring genuine discussion and education rather than instruction.[46] After the Friday evening seminar many students and Rick go off to the campus pub to continue their discussion. Rick claims that both this seminar group and the advanced elective he teaches, convince him it's still possible for students and staff to have "a real university experience" despite the *best practice* efforts of the bean counters, PVCs and deans to impose a "drearily instructional regime" on staff and students. In the current climate of political correctness in universities, however,

successful students who prefer learning and assessment regimes that give them a chance to excel and not be held back by less able group members. For an ultimately successful attempt to teach constitutional law using small group collaboration, see M Israel, E Handsley and G Davis, "It's the Vibe: Fostering Student Collaborative Learning in Constitutional Law in Australia" (2004) 38 *The Law Teacher* 1.

45 In fairness to legal academics it should be appreciated that the funding authorities have traditionally funded law as a "talk and chalk" discipline. See the review of funding patterns in L McCrimmon, "Mandating a Culture of Service: Pro Bono in the Law School Curriculum" (2003-4) 14 *Legal Education Review* 53 at 68-70. McCrimmon sees this historical under-funding of law schools as a major impediment to curricula reforms such as the mandatory exposure of students to pro-bono activities that he recommends.

46 The importance of educationally appropriate architecture is recognised in T Booth, "Learning Environments, Economic Rationalism and Criminal Law: Towards Quality Teaching and Learning Outcomes" (2001) *UTS Law Review* (special edition – *Legal Education in Australia Current Issues and Developments* 3 at 17), where it appears that conducting seminars in multi-tiered lecturing rooms leads to student passivity and obliges tutors to effectively give an additional lecture. In his seminars Rick is initially criticised by some students for spending time on introducing them to techniques for successful group work rather than getting down to the "nitty gritty" of contract law. Israel et al, supra note 44 stress, however, that students need to be prepared for successful small group collaborative learning.

Rick may need to be careful about his inclination to minimise boundaries between staff and students. There are enduring rumours of his "closeness" with some female students but "Roving Rick" (as some students call him) shrugs these off as an "occupational hazard".[47]

Rick continues his use of a seminar approach in the semester-length advanced elective he teaches called "Perspectives on Family Law". This is a multi-listed elective because it is available to law, social work and nursing students who have completed at least two-thirds of their degree. Numbers are restricted to 40 students with roughly equal numbers from each of the subject areas. Rick puts up legal and sociological background material on the intranet to overcome any particular disadvantage in having students from different disciplines.[48] Students must also sign an undertaking that they understand that the unit is taught by seminars using an adult learning model that involves students sharing the teaching and learning roles.[49] Rick's direct input is usually limited to an impromptu lecture for some 15 minutes at the end of the

47 See S Kanazawa and M Still, "Teaching Could be Hazardous to Your Marriage", reviewed in Higher Education Supplement (HES), *The Australian* (18 October, 2000) 30. The students may indeed have some cause for suspicion. Last year Rick took me to a Tasca (ie a pub) in the Spanish section of Johnston Street, Collingwood – an inner-city suburb of Melbourne. After consuming several glasses of cider, poured from a bottle at shoulder height into a glass held at or below waist level, Rick grabbed a guitar from one of the musos and started serenading, in Flamenco style, a striking darkhaired young woman. Rick's improvised song proclaimed himself to be "El Rey de la Fronterra" ("King of the Frontier") (between Spain and Portugal). To my surprise, everyone seemed to encourage this performance and the subject of the serenade seemed especially responsive. Why Rick, from the north of Spain, should have affected an Andalusian style was beyond me, but perhaps folkloric authenticity was not his priority at the time. Unaccustomed to the alcoholic cider, I fell asleep at that point.

48 Rick claims the essentials of the legal system can be taught to mature and interested students, at least, within an hour or so by reference to the properties of a triangle. It is often thought that combining students from different disciplinary backgrounds is either a recipe for either dumbing down the content or leaving some students bewildered, but Rick is optimistic that, with appropriate methods, materials and guidance, law can be sufficiently demystified to be available for inter-disciplinary study. Similar optimism is to be found in N Sargent, "Labouring in the Shadow of the Law: A Canadian Perspective on the Possibilities and Perils of Legal Studies" and B Cassidy, "Above the Law or Beside the Point: Reflections on the Content of Legal Studies" in I Duncanson (ed), "Legal Education and Legal Knowledge" (1991) 9(2) *Law in Context: A Socio-legal Journal* at 65 and 87 respectively.

49 Rick has an already well-thumbed edition of M Knowles, E Holton and R Swanson, *The Adult Learner: The Definitive Classic in Adult Education and Human Resource Development* (5th ed, Houston: Gulf Pub Co, 1998) on his bookshelf.

seminar on those aspects that may need further clarification or coverage. The reading list for the unit is wide-ranging and, in addition to more theoretical legal literature on the law relating to families and children, contains a mixture of historical and sociological texts.[50] Rick admits the unit is not to everyone's taste and that many law students are happy to call their study of family law issues "quits" after taking the basic, procedurally oriented unit run by a colleague. Even so, Rick claims he is never short of takers.

Rick's current teaching load is below the average for his faculty. This is because earlier this year Rick accepted the position of Chair of the faculty's Student Progress Committee. Rick's willingness to take this on was quite a surprise to his colleagues, as this position is usually seen as attractive to those fleeing the demands of teaching and/or research in favour of a more bureaucratic job in the faculty's administration. However, Rick's intention in accepting the job was, depending on one's point of view, either subversive or transformative. He keeps the Progress Committee meetings he convenes as informal as possible and regards the application of university regulations as very much a last resort if counselling and negotiation with students "at risk" should prove unavailing. More generally, within six months of taking the position, Rick has largely transformed the role into one of pro-active academic and personal counselling. With the support of two young female colleagues (the only volunteers) and three senior students, Rick has commenced fortnightly voluntary "transition tutorials" for first year law students, supplemented by an occasional seminar program that includes guest speakers from the university's Student Services Department and Human Resources officers from major law firms. Rick is himself preparing a seminar presentation on "Emotional Intelligence: A Legal Curriculum Imperative". Rick intends also giving this as a staff development seminar in the hope of convincing the faculty to incorporate activities and emphasis in the legal skills component of the course to help students enhance this capacity.[51] Although an entirely voluntary program, Rick

50 Rick's reading list includes titles such as P Aries, *Centuries of Childhood: A Social History of Family Life* (Harmondsworth: Penguin, 1979); E Shorter, *The Making of the Modern Family* (London: Fontana, 1977); Neil Postman's iconoclastic *The Disappearance of Childhood* (New York: Delacorte Press, 1982); and M Gilding, *The Making and Breaking of the Australian Family* (Sydney: Allen & Unwin, 1991) alongside more conventional fare such as H Finlay, R Bailey-Harris and M Otlowski, *Family Law in Australia* (5th ed, Sydney: Butterworths, 1997).

51 The term "emotional intelligence" was popularised in D Goleman, *Emotional Intelligence* (New York: Bantam Books, 1995), but Rick proposes using P Merlevede, D Bridoux and R Vandamme, *7 Steps To Emotional*

reports that nearly half first year students regularly attend the transition sessions. Rick concludes that this suggests that Orientation is far too important to confine to Orientation weeks.

Overall, it is hard pin down with any precision just what makes Rick a good teacher. He is passionate about his subjects, is genuinely interested in his students, sets high standards but gives clear guidance and personal assistance. Even in his business law survey course, he encourages students to look for the logic and meaning behind various topics so that then the detail will look after itself. He makes essential reading clear and tries to keep it to a minimum to discourage students adopting "surface learning survivalist strategies". Rick is especially proud of the fact that since he became Unit Coordinator of Business Law 101 five years ago, there has been a 70% increase in students going on to take business law elective units, in addition to the other compulsory units in corporations and tax law.

Rick is especially aware of the importance of demonstrating an interest in his students. He has recently replaced his old Polaroid camera with a digital camera to take photographs of the members of each new seminar group he teaches and he aims to know all students' names within three weeks. He keeps at least six advertised office hours a week during the semester and increases these before exam time to provide extra support to students. He also has a knack of knowing when there are likely to be major movements of students through the corridors and quadrangles and goes to check his mail box or engage in other errands at such times. Rick believes the importance of the seemingly casual encounter and the quick chats that arise from being so visible cannot be over-rated, and he thinks all law teachers should be especially concerned at reports of poor self-esteem and mental health amongst law students. A fan of the work of the pioneer sociologist Durkheim,[52] Rick is

Intelligence (Carmarthen, Wales: Crown House Publishing, 2001) because of its practical focus with lots of exercises for students to work through. Although Merlevede et al shy away from a precise definition of emotional intelligence, they refer (at p 8) to it as a cluster of intra and interpersonal intelligences, self-awareness and empathy, beliefs and values "which allows someone to successfully realise their vision and mission". An early attempt at incorporation of emotional intelligence into the law school curriculum is discussed in P Cain, "A First Step Toward Introducing Emotional Intelligence into the Law School Curriculum: The 'Emotional Intelligence and the Clinic Student' Class" (2003-4) 14(1) *Legal Education Review* 1.

52 Emile Durkheim (1858-1917) is widely regarded as the founder of modern sociology and wrote especially of the "anomic" (alienating) consequences of a breakdown in the "conscience collective", and of the increased

especially concerned about the alienating effect on law students due to the fragmentation of the curriculum into "little boxes", but has had little success in convincing colleagues to give up their specialised approaches in favour of a more integrated curriculum. The havoc it will wreak on their research is usually cited as the clinching argument to restructuring the curriculum. My own observations of Rick's teaching rates him highly on the seven principles of effective tertiary teaching developed in the USA during the 1980s, although in Rick's case these seem to derive naturally from his commitment and own prior teacher education courses rather than through any deliberate adoption of a "concerned teacher" template.[53]

Recently Rick has cut back a bit on his work commitments because he has re-partnered and has two young children. He is keen not to make the same "mistakes" of "long working hours away from the family" the second time around. His partner is a former student of Rick's. This caused him to have to appear before the dean, who read him the "riot act" on staff-student liaisons. Possibly the fact that this partner (now 34) was a mature age student and that they "waited" until she no longer studied Rick's subjects saved him. Rick suspects that the admonishment was a pretext due to his dean's concern that he does not do enough "serious research". Rick disdains this emphasis on "pedantic scribbling" buried in obscure journals that are read by very few. Rick contends that his two textbooks that synthesise and make accessible to students core issues and cases in his subjects, and other high quality teaching materials he prepares, are equally valid forms of scholarly teaching. In fact, Rick has published, in addition to his textbooks, some well received articles on differences in Australian and New Zealand approaches to matrimonial property disputes, the law of privacy and confidentiality in the counselling context, and a new article titled "Letters of Comfort – Substance and Illusion in Commercial Law". However, he only publishes when he has both the time and something original to say. He is concerned that a preference for esoteric research ignores the high fees paid by students and the importance of teaching

likelihood of this where labour tasks are excessively specialised; see A Giddens, *Emile Durkheim* (New York: Penguin Books, 1979).

53 See A Chickering and Z Gamson, "Seven Principles for Good Practice in Undergraduate Education", AAHE Bull (March 1987), 3 cited in Hess, supra note 38 at 84-86. The seven principles are: encourages student-faculty contact; encourages cooperation among students; encourages active learning; gives prompt feedback; emphasises time on task; communicates high expectations; respects diverse talents and ways of learning. The application of these principles to legal education was considered in the special issue (1999) 49 *Journal of Legal Education*.

them in interesting, committed ways. Rick's enthusiasm for his subjects, his ability to integrate and to relate a wide range of reading in a lively manner, and his genuine interest in students, make him a generally popular lecturer. However, student surveys also indicate that a few of his students find him both a bit too "blokey" and "leftist" for their taste.

Rick tries to give priority in teaching for deep and active learning rather than a surface approach to learning.[54] He regards teaching law as a form of applied history and argues passionately that we should teach the logic of the law and the context in which it arose. Perhaps these views show the influence of his old friend, the ex-Jesuit priest he taught with and whom Rick regards as his intellectual mentor. At times Rick is very disparaging of the "Salami–slicing" of cases into narrow and minute propositional points – a view that once again does nothing to endear him to his dean, the senior author of a casebook in that vogue. In contrast, Rick constantly urges his students to "lift their eyes unto the hills"[55] to see the bigger picture, the connections between law and other disciplines and developments. He thinks some modern casebooks, "consisting almost entirely of appellate court decisions", don't help in this respect as they segment cases and scatter the segments throughout the book so much that students lose perspective on what the case was about and even who "won and why".[56] Rick also thinks law students sometimes need encouragement and help with motivation. He recalls reading a survey some years ago that rated student satisfaction amongst law students as the second lowest out of 15 disciplines.[57] Rick's explanation for such a low ranking for law is that many law undergraduates are now taking concurrent double degrees. The other degree, in Rick's view is more likely to be taken for reasons of intrinsic interest, whilst the LLB is added as "job insurance".

It should be mentioned that Rick has another grievance against his dean. Until three years ago, Rick and a colleague team taught a compulsory legal history and philosophy unit.

54 These terms were discussed in supra note 20, above.

55 Again this perhaps shows the influence of his ex-Jesuit mentor, as Rick here is using the image of the psalmist – see Psalm 121, v 1 to urge his students to see the bigger picture.

56 Similar criticisms are voiced by A Watson, "Introduction to Law for 2nd Year Students" (1996) 46 *Journal of Legal Education* 430, who compares this approach of using "disconnected scraps" (at 436) to teaching physics by means of "a few isolated experiments" (at 442). Twining, supra note 8 at 106 observes, giving examples, that "the law reports contain a massive collection of artificially selected and truncated slices of legal life which conceal and omit as well as inform".

57 The survey Rick has in mind is probably the survey of 50,000 graduates sponsored by DEET reported in *The Independent* (August 1994) p 58.

Although not a popular unit with all students, the teaching was rated highly and many students claimed it showed them "what the law can, and should, be about" and that Rick's display of his "wide ranging learning" was a feature of the unit. It was at that stage that the "Greengrocer", as Rick disparagingly refers to his dean, denounced the subject as "too theoretical" and "damaging" to student's employment prospects. Rick was told that he was in any case already doing too much teaching and that "mothballing" the unit would give him the chance to do some "real research" so that, if he would only apply himself, he could become like his colleague, Dr Jane Henderson, who, with over thirty published articles at age 28, scarcely has an "unpublished thought". Rick swears the dean made that last claim in a tone of unmitigated admiration.

We leave Rick as he enters the "youth of old age". He likes teaching because it is a way of having time to explore and understand the law and he claims that to have the privilege of teaching others is to have the best opportunity to really learn something oneself. Although Rick has cut back on his workload to have more time with his family, he still gets a "buzz" from the youth and energy of his students, enjoys their brightness and the interplay of debate and is puzzled that some of his colleagues find law students arrogant. He thinks he does his best teaching preparation during periods of quiet reflection whilst walking his dog or working on the holiday home he is building at Lake Eildon. He likes the flexibility and time-shifting possibilities that academic life still offers and helped by his oldest child, an IT consultant, he has become adept at using the Internet to communicate to his off-campus students. Rick remains optimistic that eventually Australian law schools will follow emerging North American practices of allowing staff to specialise in teaching or research with parity of prestige for either option. For the time being, though, he is reconciled to hearing his dean's muted praise for his teaching before moving the annual performance appraisal on to talk about his "quite inadequate DEETYA[58] points score". Rick is annually counselled that he should forget about "intangibles" such as quality, scholarly teaching and committed community service because "these days", claims his dean, the only things that count in the university are those matters that can be "objectively measured". Rick's attempts to talk to "the Greengrocer" about the "myth of objectivity" are brushed aside by the objection that 15 minutes is "quite long enough" for a performance appraisal provided we don't get bogged

58 The Department of Education, Employment, Training and Youth Affairs, formerly known as DEET.

down with philosophy, which in any case can be "safely left" to colleagues in the Faculty of Arts.[59]

Nigel – The Retired Judge

Nigel is a retired Judge who "came home" to Melbourne a few years ago from his interstate appointment. He retired slightly early because his younger partner, Bruce, was transferred back to Melbourne in his job as a trade union organiser. Whilst a judge, Nigel generously contributed guest lectures to the post-graduate legal training course run by the law school I was then a member of. I only met Nigel a few times over the years but was aware that students spoke highly of his helpful, practically oriented lectures. Given this slight acquaintance some years ago, I was somewhat surprised that he greeted me rather effusively in a Bourke Street bookshop in Melbourne's CBD recently and overbore my protestations to insist on giving me "luncheon" at the "little Italian place" next door.[60]

Some three hours later I knew Nigel a lot better and had some insight into how lonely retired judges could become. It seems people no longer laugh so appreciatively at their jokes and witticisms, if they see them at all, and there is no longer a retinue of Associates, secretaries and tipstaff to take care of routine matters and to generally massage the judicial ego. As we ate, Nigel, at my prompting, spoke about his career. As a student in the mid-60s, Nigel did a double degree in engineering and law, at the time an exceptional combination. He thought of himself as a typical Grammar (name of elite private school suppressed) "old boy" and deplored the anti-Vietnam War demonstrations lead by that "pinko" Cairns[61]

59 On the annual performance appraisal as self-denunciation Bradney, supra note 27 at 24 writes: "During appraisal most academic workers now acknowledge their failure to realise the full potential of their productive capacity in a ritual which only avoids being a Maoist form of self-denunciation because of the privacy which attends it; this acknowledged failure is a necessary failure because our human capacity is to do ever more; the appraisal thus becomes a statement of perpetual penitence; moreover the failure is acknowledged in the sanctity of the confessional which … leaves each individual constantly obsessed with their own self and oblivious to the shortcomings of their fellows."

60 Presumably this was an example of judicial understatement, as *Florentino Grossi* restaurant in Melbourne, the dining place of choice for many of the Melbourne "establishment", is not normally referred to in such diminutive terms. Vegetarians are advised, however, that for them the menu somewhat disappoints.

61 The late Dr Jim Cairns (1914-2003) was in the forefront of demonstrations against the Vietnam War and became Treasurer and Deputy Prime Minister in the Whitlam Labor Government.

and other "leftist rabble-rousers". After university, Nigel developed a good practice at the Bar in the technical areas of building and intellectual property cases. His engineering degree and aptitude for technical matters ensured financial success and elevation to the ranks of QC by the age of 38.

Four years later it seems Nigel had a "mid-life crisis" before the term was possibly even invented. He left his wife and children and accepted his "true sexuality" after he met Bruce on a building arbitration matter. Shunned by many colleagues, Nigel felt he was professionally ruined. Fortunately for Nigel, both the then Premier and the Chief Justice in another State were sympathetic to his "plight" and arranged for Nigel's name to be considered for a vacancy on the Bench of that State's District Court. Nigel was a highly regarded judge, was an active contributor to functions arranged by the Law Society and, as a corrective to the concentration of most Evidence texts on criminal law examples, he wrote *Advocacy and Evidence in Technical Litigation*. Although now out of print, this work is regarded as a legal classic. Nigel finished his judicial career on the Federal Court, where his ability to render lucid judgments on often highly technical matters was much admired.

Last year Nigel, now retired, accepted an appointment as a part-time adjunct professor at one of Victoria's law schools. Nigel relishes the work and the opportunity it gives him to mix with young students and to pass on the benefits of his experience. He also enjoys the lively discussion at the Staff Club and, with the encouragement of a new acquaintance who teaches feminist philosophy, has started "reading up" on "feminist jurisprudence". This has been a somewhat difficult intellectual encounter for Nigel. A genuinely "nice" man, he had been largely unaware of any profound disquiet over the "masculine nature" of the law and the court room processes. He is now quite contrite and is seeking to incorporate such insights and critiques into his teaching of civil and commercial procedure. He claims that even contract law is not as objective and immune from a feminist perspective as one may have thought.[62] Nigel has also re-thought many of his earlier political positions and last year wrote a letter of apology to Dr Cairns,

62 Nigel listed a number of names of feminist legal scholars, but in the luncheon context it seemed rude to take notes. I recall, though, that he mentioned that "old chestnut" in contract law, *Balfour v Balfour* [1919] 2 KB 571 had been subjected to an impressive feminist analysis (R Graycar and J Morgan, *The Hidden Gender of Law* (2nd ed, Sydney: Federation Press, 2002) 15-17) and that Mary Frug had written "a thoroughly convincing critique of three articles written by male contract law scholars" (M Frug, "Rescuing Impossibility Doctrine: A Postmodern Feminist Analysis of Contract Law" (1992) 140 *University of Pennsylvania Law Review* 1029).

even though they have never met. Nigel said he had received a "most gracious and comforting" reply from Dr Cairns just a few months before he died.

Nigel sees the future of law teaching and legal academic life as needing to be both more radical and conservative. By radical he means students must be encouraged to develop a deeper perspective on the class and gendered nature of the law. He goes so far as to suggest he would have all law students read and discuss the book by Professor Margaret Davies, *Asking the Law Question*[63] as their sole compulsory activity in their first fortnight in law school.

On the other hand he realises that although most law students may choose never to practise or may leave practice quite quickly, he thinks it important that law schools increase their teaching of legal practice and procedure. He thinks most students wish to have the option of entering practice and also prefer to defer a decision about the precise direction of their legal careers for as long as possible. In his opinion, legal skills and procedures are in any case good general training for a variety of careers that involve communication skills, the formation and implementation of policies and concern for matters such as procedural fairness.

Nigel's particular enthusiasm is an elective unit he is introducing to prepare those students who wish to seek positions as in-house or corporate counsel in industry. He is currently running this unit in conjunction with the daughter of an old friend who is corporate counsel for a major motor manufacturer. The idea is that students in this elective unit have a special work station, attend law school appropriately attired for a corporate position and work on a variety of problems and simulations that mirror the "general practitioner" nature of corporate counsel work. In addition to planned tasks, there are a number of time-sensitive "ambush" activities that must be completed under pressure that simulate the "real world" demands on corporate counsel. Despite the number of students who end up as working for private or government organisations, as far as Nigel is aware, this course is unique within Australian law schools. It is restricted to senior students and a ballot had to be imposed because it is very popular. The thing Nigel and the students find most gratifying is that the unit draws on a range of substantive law subjects, especially contract, labour and intellectual property law. The unit is a perhaps all too rare example of integrating the various subjects studied and skills acquired by students in the earlier phase of

63 M Davies, supra note 14.

their law. The senior students report that they feel they are actually being extended rather than just doing "more of the same" until they have the "points" for their degree. For his part, Nigel is surprised he has been drawn in so much. He admits he can only be so committed to this unit because he donates more time and effort than his part-time duties require and because he has none of the research obligations that "so oppress one's colleagues".[64]

Reflections

We have considered the careers of three putative ideal types in the legal academy. Jane has specialised in an academic career from the start, and gone the PhD route that has long been far more common in other disciplines than in law, although this is starting to change.[65] Rick changed careers early and enlivens his classes with anecdotes from his legal practice. Concerned that some of his anecdotes are now a little dated, Rick for the last two years has worked pro bono at a community legal centre and is now also on its board of management. Nigel has come to academia later but still in time to enrich the learning of the law for many students as well as continuing his own journey in the law.

The route taken by Jane would seem to be the one that promises the best chance of a successful career. When she considers it necessary, Jane makes remarks about the importance of teaching but her professed conversion is somewhat unconvincing. For her it is research, and lots of it without getting bogged down in self-doubts about quality, that counts. Rick, who reads far more widely than Jane, perhaps dissipates his efforts too much and concentrates on his own teaching rather than doing more to nurture younger colleagues to become good and dedicated teachers. He knows that a PhD or equivalent is now essential for promotion at his university

64 It seems that Nigel and his colleague developed this unit about the same time as a similar course was being developed in the Centre for Law and Business Enterprise at Syracuse University in the USA. That innovation is discussed in C Day, "Teaching Students How to Become In-House Counsel" (2004) 51 *Journal of Legal Education* 503. An abbreviated syllabus, table of contents of course materials and sample assignments used in that course can be consulted at www.law.sy.edu/academics/centers/clbe/gencounsel/gc_alcourse.pdf (accessed 25 May 2004).

65 Between 1974 and 1985 the number of legal academics with PhDs rose from 16% to 18%: Pearce, supra note 10 at para 15.21; but in January 1985, 16% of full time legal academic staff were enrolled in higher degrees: Pearce at para 15.23.

and suspects that the "equivalent" means prestigious research grants and consultancies. He professes no interest in modifying his behaviour and reducing his dedication to teaching. Nigel, on the other hand, is in a completely post-career phase and seems happy to make a contribution "as long as people want me and good health permits". That modest aspiration belies the emerging success of his team teaching and his own gains from joining the legal academy.

We take our leave of Jane, Rick and Nigel in Law Week, 2004, just as a major attack is launched on the continued adherence by the nation's law schools to "chalk and talk" approaches to legal education. This criticism is levelled by David Weisbrot, President of the Australian Law Reform Commission and himself a former law dean. Professor Weisbrot urges the nation's law schools to abandon "drumming in" case related rules and instead to focus more on "professional ethics, dispute resolution, negotiations, client interviewing, working with teams [and] having a greater identification with client interests".[66]

Our journey through the legal academy with our trium homenate[67] gives us some idea of each of their likely reactions to Weisbrot's call to reform the LLB curriculum. Reading the article over breakfast, Jane will immediately have dictated a congratulatory message to "David" via her PAs voicemail box, saying how delighted she is to see David is still fighting "the good fight" for the broad generic skills "we" urged our fellow, "somewhat less progressive" law deans to adopt. We can only hope that Brian, the PA, is not too distracted by the sound of Hamish humming "The Vicar of Bray" in the background. Reading the article on the tram to work, Rick, who has a self-image of being permanently out-of-step, is having trouble adjusting to the fact that the "legal establishment" is catching on to the sorts of things he has been both advocating and doing for years. However, he cynically suspects it's all destined for the "too hard basket" unless extra resources are forthcoming. Nigel is broadly approving of both Weisbrot's critique and the suggested panacea, but he and his young colleagues discussing the article at morning coffee in the plush common room of the "sandstone law school" he teaches at, are concerned that Weisbrot's agenda may just be added to calls from the profession for the inclusion of more "black letter law". They fear this will cause a contraction in

66 B O'Keefe, "Law Schools Out of Touch", *The Australian* (Wednesday, May 19, 2004) 34.

67 Jane's inclusion in our study makes the use of the more usual *triumvirate* inappropriate.

the number of electives taught to accommodate an expanded core curriculum in the LLB and that an alliance between the new and the old "legal Leavesites"[68] will lead to an exclusion of critical legal perspectives from the curriculum.[69] For Nigel and his coterie the "quite appalling result" may be that future law graduates will have no understanding of the social class and gender-biased influences shaping our legal system.

Perhaps all that can be said with some confidence is that the debates about the purposes and forms of legal education will continue and that there is no one "correct" career pattern, but rather that a law school, like another place, has "many mansions".[70] If this is so, the academy will require many gifts and abilities in pursuing the challenging and changing task of ensuring students have the chance to acquire a high quality legal education – whatever that means, or may come to mean. It is doubtful that Jane, Rick and Nigel collectively embody all of those gifts and abilities needed. Even Jane, despite her own international interests, has shown only a limited commitment to developing a curriculum to adequately prepare students for the global legal market place that some see as the essential

68 The term Leavesite refers to the views and influence of the acerbic literary critic Frank Leavis (1895-1978), who advocated the study of worthwhile literature (ie the works in the canon – the undisputed classics) and disapproved of the academic study of so-called "genre fiction" – crime and science fiction novels and the like – and of any deviation from a study of the text into extraneous background matters. See I MacKillop, *F R Leavis: A Life in Criticism* (London: Al1en Lane The Penguin Press, 1995). Since 1992, under the influence of the "old Leavesites", most Australian Law Schools prescribe eleven areas of core legal knowledge. These areas are colloquially known as the Priestly eleven, so named after the Chair of the Consultative Committee of State and Territorial Law Admitting authorities, the Hon Justice L J Priestly. The prescribed subjects are criminal law and procedure, contracts, torts, property, equity (including trusts), administrative law, federal and State constitutional law, civil procedure. See L McCrimmon, supra note 45 at 61.

69 M Thornton, "Portia Lost in the Groves of Legal Academe Wondering What to do about Legal Education" in I Duncanson (ed), supra note 48 at 11 argues cogently that the admitting authorities generally specify those subjects which "privilege property and profits in accordance with the capitalist imperative". Thus property and land law, contracts, torts, company law and equity are compulsory, whilst "areas of practice associated with the less powerful sectors of society are unlikely to be included in the compulsory list". Thornton suggests family, consumer, employment and trade union law as examples of subjects which, at best, enjoy elective status in LLB curricula. The determination of the shape and content of law school curricula by a process of collegial "horse-trading" of the type Nigel and his colleagues fear here is both named and condemned by M Le Brun, "Curriculum Planning and Development in Australia" in I Duncanson, id at 27.

70 *John* 14:2.

71 See H Arthurs, "The Political Economy of Canadian Legal Education" in Bradney and Cownie, supra note 2 at 28-31.

challenge facing law schools at the dawn of the 21st century.[71] Rick, much as he deplores the artificiality of the current "paradigms" of legal education, does "his own thing" rather than publishing his views on teaching law and practical tips on methods for more effective teaching. Nigel may have some potential if his pioneering unit is picked up in a larger way, but it is doubtful if he has either the time or inclination to fight the battles against vested interests needed to achieve fundamental reform to the legal curriculum. The safest prediction is that debates over the ideal forms of legal education and the curricula required to implement such visions will continue[72] and that within that debate there will be roles in the nation's law schools for the Janes, Ricks and Nigels of the future.

72 Twining, supra note 8 at 162-171, discusses the process of a "creeping core" in British LLB curricula, so that "by 1994 the de facto 'core' effectively filled nearly two thirds of many curriculums and most students effectively chose vocationally 'important' options" (at 163). The advent of the "modern skills movement" in Britain, and the additional pressures it has brought, is discussed by Twining, supra note 8 at 168-171.