

Correspondence

The Editors,
University of Queensland Law Journal.

Dear Sirs,

It is worthwhile to reflect on the reason why students, although invited to do so, did not take any great part in the process of revising the curriculum. It was, I think, because they felt they had little to contribute; how does a man who has never practised know what intellectual equipment he needs? The professional bodies were, of course, consulted on this occasion, but there is no continuing "feed-back" of information from the profession to the University. If it is, as I think it to be, an important function of a law school to train lawyers, it is unfortunate that there is really very little detailed contact between the profession and academics in matters of law teaching. Some law teachers are inclined to think that too great a professional influence in teaching would tend to make the law school a training ground for a race of super-clerks, having saleable practical skills, but little basic legal education. To some extent this anti-professional attitude is justified, but it is capable of producing ideas which seem to me mere delusions. For example, there is a notion current that some legal subjects have "academic value" and some have not. Those containing a large proportion of case law, such as tort, are perhaps thought to be more cultural than subjects like criminal law. Such distinctions seem to have little rational basis. Although it is no doubt more difficult to teach codified law, students who intend to be anything more than legal dilettanti will be constantly grappling with statutes, from which it follows that skill in their analysis is an important part of legal education.

Apart from what I might call the uncultured statute delusion, I have noticed others, such as the drafting delusion. Lawyers who practise mainly as advocates in the appellate courts have little to do with drafting legal documents, but the other 95% of the legal population engage frequently in that task. In spite of and I think partly *because* of the evident practical value of drafting skills, no serious attempt is made to teach them. This is so although the subject is capable of academic treatment—indeed it is arguably a higher discipline than skill in pursuing the woolly casuistries of case law. One must of course concede that the teaching of legal drafting as an integral part of such subjects as contract, land law, commercial law and the like would be difficult, perhaps so difficult that the lack of such teaching cannot be remedied. My point is that it is rejected for quite the wrong reason, because it is thought not to be academic enough.

The academic world has over-reacted to the profession's clamour for a "practical" course. Faced with the fact, and it is a fact, that the new graduate has not acquired some legal abilities, his teachers seek to justify that position by saying that this has been necessitated by concentration on matters of cultural value. The unlettered rude practitioner wants a practical course for all the wrong reasons, no doubt; he hopes it will be shorter and easier, to smooth the path for his son, and he seems concerned only with money-making skills. These bad motives have made the academic feel comfortable in rejecting the practitioner's criticism and have made him more convinced than ever that his present methods result in the production of a legally cultured graduate. More specifically, this

over-reaction has entrenched the notion that if you aim at the production of people with the skills necessary to become appellate lawyers (except, of course, the actual sordid speaking on one's feet) then all lesser grades of lawyer will pop out, so to speak, as by-products. More specifically still, it has I think contributed to the present sad situation in Queensland where a large proportion of solicitors will become qualified without the benefit of any instruction from professional teachers of the law.

Yours truly,

C. W. PINCUS.

[Mr. Pincus is a member of the Queensland Bar.]

[The Editors invited the Dean-elect, Professor K. W. Ryan, to comment upon Mr. Pincus' letter. A note from Professor Ryan appears below.]

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Dear Sirs,

There are many points in the letter from Mr. Pincus with which I fully agree. In particular, I am sure that he is right in saying that any distinction between legal subjects on the basis that some have higher academic value than others is highly questionable; and it is unfortunately a just criticism of much University law teaching that it assumes that the only skills which matter are those which are exercised in appellate jurisdictions.

I have no doubt that the University should be ready, as indeed it always has been, to provide courses and tuition in all branches of the law which are required by the legal profession for admission to its ranks. It should also be prepared, within the limits of its resources, to provide courses and tuition in other areas of legal interest, particularly for the increasing number of law students who have no wish to practise as barristers or solicitors.

The main issue with which we are faced in revising the curriculum is not one as to the relative merits of "academic" and "practical" subjects (even assuming that distinction makes sense); it is rather as to the degree of choice which should be accorded to students who wish to obtain a law degree from the University. It is obviously possible to have a wide variety of opinions on that question. It is also possible to have an equally wide variety of opinions on the question of the prescriptions which should be laid down for admission to the legal profession.

It may be that the profession in exercising its undoubted right to determine the requirements for admission to practice, and the University in exercising its equally clear right to prescribe the conditions for awarding its degree, will not be able to agree on a common formula for both the degree and for admission. But I would regard this as an unhappy result. We have been able in the past to reach accord on this matter, and I am confident it will be possible to do so again.

Yours faithfully

K. W. RYAN.