

MOTIVATING LAW STUDENTS TO ‘DO THE READING’ BEFORE CLASS: APPROPRIATE EXTRINSIC AND INTRINSIC MOTIVATIONAL TOOLS

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ABSTRACT

Many university lecturers despair at the low rate of pre-reading and preparation students undertake prior to coming to class. Set passages of textbooks and other allocated material are often not read at all – or are only read in part – by students. In seeking to remedy this, the lecturer has at their disposal an array of extrinsic and intrinsic motivational tools. Deciding which of these tools to apply to a particular cohort of students requires careful consideration of a number of variables. The stage of the degree program is of primary importance – first year students require more scaffolding, and extrinsic motivational tools can be appropriately used to facilitate the transition into more independent, later-year reading patterns. As academics who are training future lawyers, we have to equip our students to be regular and competent consumers of the written word, in considerable bulk and complexity. This paper examines the practical considerations facing the lecturer in deciding how to motivate students to read beforehand and prepare for class, and suggests specific motivational techniques suitable to different circumstances. The results of a small survey of a first year cohort are also reported. The survey gathered quantitative and qualitative responses from students about their motivation to read and obstacles to reading. The literature identified various positive and negative influences on students’ decisions about ‘doing the reading’. Student responses in the survey data corresponded with the themes identified in the literature.

I. INTRODUCTION

The frequent failure of university students to ‘do the reading’ is reported in relevant literature¹ and anecdotally amongst lecturers. This article first considers the importance of students acquiring the habit of reading and then identifies barriers or obstacles to students’ reading. The suggested response to the problem of non-reading is in two parts: the first part is a revision of the content of compulsory reading lists, and the second part is the application of strategies to motivate students to read the revised lists. This article also discusses the responsibilities of lecturers when students do come to class prepared with pre-reading and the appropriate response by lecturers when students arrive in class not having done the reading.

Finally, this article reports the results of a modest pilot survey. Changes were made to assessment in a first year core introductory law subject in the Autumn 2012 semester. These changes were made to improve reading habits amongst first-year students. The survey sought three quantitative and two qualitative responses from students. The survey questions asked students about their reading habits and motivation to undertake compulsory reading in the subject. The results of the survey tended to ratify assertions made in literature surveyed for this paper regarding student motivation to ‘do the reading’.

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1 Maryellen Weimer, *Learner-Centred Teaching: Five Key Changes to Practice* (Jossey-Bass, 2002) 105; Wilbert McKeachie, in Wilbert McKeachie (ed), *Teaching Tips: Strategies, Research and Theory for College and University Teachers* (Houghton Mifflin, 11th ed, 2002) 182; Eric Hobson, ‘Getting Students to Read: Fourteen Tips’ (2004) (Idea Paper #40) 1 <http://www.theideacenter.org/sites/default/files/Idea_Paper_40.pdf>; Rob Weir, ‘They Don’t Read!’ (2009) *Instant Mentor Insider Higher Ed* <http://www.insidehighered.com/advice/instant_mentor/weir16>.

A. *Should Law Teachers Be Concerned About Students Not Reading?*

Many students now request podcasts and vodcasts, for example a recording of lectures. The ‘digital natives’ of this generation of law students prefer multimedia presentation of learning materials.² As with the adoption of all new technology, it must be asked whether it is a supplement to, or replacement of the old way of doing things. The law teacher’s response to this perhaps rests on our fundamental conceptions of what a university is for³; for most university teachers the purpose of a university includes the sharing of book-knowledge with students.⁴ The term ‘book’ need no longer mean paper-based reading materials, as access to electronic reading devices and e-books is increasing, and law journals and other legal research materials are available through university library online portals. What is meant by ‘reading’ and ‘books’ then, is text, whether on paper or in electronic format. Reading text is in contrast to multimedia presentation of information, and/or the verbal delivery of information (such as in a lecture face-to-face, or a recorded lecture).

In the ‘digital age’ wherein many students complain bitterly about being set heavy reading loads based in thick, expensive legal textbooks, is reading still a relevant skill to impart to law students? Should law teachers be worried when students do not read the allocated text prior to classes? The answer to both questions is yes, on two grounds. Reading, it is argued, is still relevant and important, firstly for the acquisition of legal knowledge and skills, and secondly as an essential graduate attribute.

1. *Reading For The Acquisition Of Knowledge And Skills*

Academics operate from the ‘ingrained assumption’⁵ that reading is still an indispensable mechanism for the acquisition of knowledge and skills. The ‘Great Conversation’ of scholarly discourse — the exchange of ideas across continents and through time — is only fully accessible to the student who reads. The student who does not read relies on potted summaries in lectures, and on scraps of information and ideas gleaned from tutorial discussions. The full context, content, and application of the subject-matter will not be grasped. A student who reads before class has hopefully acquired the building-block factual knowledge (in the case of a law student, knowledge of legal principles); the student can then progress to application of those legal principles to other contexts⁶ in the lecture or tutorial. The quality of student participation in tutorial discussions is compromised by a failure to read beforehand⁷ — ‘chutzpa aside, you can’t intelligently discuss what you haven’t read’.⁸

2. *Does Reading Preparation Affect Student Performance?*

This issue receives skimpy coverage in tertiary legal education literature. Larcombe et al found that high-achieving law students had realistic expectations of the law school workload; the study also found that a higher proportion of high-achieving students self-reported a dislike

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- 2 Tracy McGaugh, ‘Generation X in Law School: The Dying of the Light or the Dawn of a New Day?’ (2003) 9 *The Journal of the Legal Writing Institute* 119, 134; Joan Catherine Bohl, ‘Generations X and Y in Law School: Practical Strategies for Teaching the “MTV/Google” Generation’ (2008) 54 *Loyola Law Review* 775.
 - 3 Elfriede Sangkuhl, ‘E-Learning - Are ‘Old’ Communication and Listening Skills Being Devalued in Pursuit of E-Learning?’ (2008) 1 *Journal of the Australasian Law Teachers’ Association* 239.
 - 4 Kenneth Eble, *The Craft of Teaching: A Guide to Mastering the Professor’s Art* (Jossey-Bass, 2nd ed, 1988) 130.
 - 5 Hobson, above n 1, 2.
 - 6 Filip Dochy, Catherine deRijdt and Walter Dyck, ‘Cognitive Prerequisites and Learning: How Far Have We Progressed Since Bloom?’ (2002) 3(3) *Active Learning in Higher Education* 265, 266.
 - 7 David Karp and William Yoels, ‘The College Classroom: Some Observations on the Meanings of Student Participation’ (1976) 60(4) *Sociology and Social Research* 421.
 - 8 Neil Thomason, ‘Philosophy Discussions with Less B.S.’ (1995) 18(1) *Teaching Philosophy* 15, 15.

of 'attending class without completing the assignment reading'.⁹ The Larcombe study did not ask the high-achieving students whether they actually followed through and did preparatory reading. Ippolito's earlier study, in an American law school, looked at predictors of academic success in law students.¹⁰ Law students were offered the chance at a grade bonus (extra marks) if they signed into lectures as 'ready and prepared' to be called upon by the professor. Superior performance in all first year classes was demonstrated by the students who signed up as 'ready and prepared'.¹¹

The most comprehensive research data available relates to a report on a sample of 2422 first year students —not confined to law students — across nine Australian universities.¹² James et al found that students' private study time has decreased.¹³ Students' self-reported preparedness for class has also decreased; 58% of students 'sometimes' and 13% 'frequently', come to class without completing readings or assignments.¹⁴ The report does not make direct correlations between preparedness and performance. Students who reported positively on 'comprehending and coping' measures, however, were also more likely to come to class having completed the required readings.¹⁵ 'Comprehending and coping' are reasonable indicators of eventual performance.¹⁶

One isolated study, not in a law school context, found that the majority of university students do not undertake preparatory reading and concluded that student compliance with 'required reading is not an accurate predictor of course grades'.¹⁷ Hobson reported that on any given day 70% of students have not done the set preparatory reading¹⁸; Burchfield et al found that about one third of students had complied with set readings on any given day.¹⁹

Two conclusions can be drawn from the above literature: many students do not do preparatory reading, and preparatory reading impacts performance. However poor performance does not necessarily equate to failure, as student failure rates would correlate to student non-reading rates. Students can often obtain at least a passing grade without doing some or all of the reading, as they rely on lectures and tutorials. These students see the purpose of university in a different light to their teachers — it is about the acquisition of a collection of grades resulting in a qualification, not about participating in the scholarly Great Conversation and immersing themselves in books and the world of ideas. There is a clash of expectations occurring between teacher and students.²⁰ As Weir observes, 'instructors often mistakenly assume that all students share their zest for learning. Alas, often we are but credit-accumulation obstacles that they must dodge'.²¹

9 Wendy Larcombe, Penelope Nicholson and Ian Malkin, 'Performance In Law School: What Matters in the Beginning?' (2008) 18 *Legal Education Review* <<http://www.ler.edu.au/vOL%2018%20pdf/larcombe.pdf>>.

10 Richard Ippolito, 'Performance in Law School: What Matters in the End?' (2004) 54 *Journal of Legal Education* 459, 460.

11 Ibid, 460.

12 Richard James, Kerri-Lee Krause and Clare Jennings, 'The First Year Experience in Australian Universities: Findings from 1994 to 2009' (Centre for the Study of Higher Education, 2010) <http://www.cshe.unimelb.edu.au/research/experience/docs/FYE_Report_1994_to_2009.pdf>.

13 Ibid 2.

14 Ibid 43.

15 Ibid 55.

16 'Academic readiness' and 'use of effective learning strategies' were predictors of high achievement in Larcombe, Nicholson and Malkin, above n 9.

17 J Self, 'Reserve Readings and Student Grades: Analysis of a Case Study' (1987) 9(1) *Library and Information Services Research* 29.

18 Hobson, above n 1, 3.

19 Colin Burchfield and John Sappington, 'Compliance With Required Reading Assignments' (2000) 27(1) *Teaching of Psychology* 58, 59.

20 Paula Baron, 'Thriving in the Legal Academy' (2007) 17 *Legal Education Review* 27, 39.

21 Weir, above n 1.

3. *Reading Skills As A Law Graduate Attribute*

Most Australian law degrees are now accompanied by a set of ‘graduate attributes’, which add law-specific attributes to the particular institution’s universal ‘graduate attributes’ applying to all degree programs. The University of Western Sydney, for example, lists among its generic (university-wide) graduate attributes: ‘communicates effectively through reading, listening, speaking and writing in diverse context’, whilst the School of Law attributes add to this an attribute specifically for law graduates, that they be able to ‘read effectively — comprehend meaning in text and make inferences; analyse text to identify evidence, lines of reasoning, consequences and logical flaws, assumptions, intentions of author’.²²

These graduate attributes expand the idea of a ‘successful’ graduate, in that successful grades (obtaining at least a pass in all subjects, leading to the award of a degree) do not necessarily equate to successful graduates. Dearnley and Matthew offer this broader definition of success: ‘the development of the skills, knowledge and motivation required for independent learning and autonomous professional practice’²³ Success is more than just graduating. Success from the law teachers’ (and presumably employers’) perspective is a graduate who has achieved self-discipline and an internally-motivated habit of updating their own professional knowledge.

Law schools can therefore, produce successful grades but fail to produce successful graduates if we do not prepare students for employment and professional life. The law is still in written form. We have to equip our students for this reality by training them to be regular and competent consumers of the written word in considerable bulk and complexity. Law students in Australia must master reading, writing, speaking and listening to legal language. This requirement is not diminishing over time – the volume of statute law is increasing and reading judgments still requires a sophisticated command of English and legal language.²⁴

4. *Reasons for Student Lack Of Reading Preparation*

The literature proffers the following three categories of explanation for students’ lack of preparation for classes and reading of assigned material.

(a) *Competing Activities and Priorities*

Students’ working hours outside university have increased²⁵, and part-time or full-time work imposes considerable demands on their time.²⁶ Placed in a role-conflict, students prioritise roles or responsibilities they perceive as compulsory or necessary²⁷ and only allocate time and energy to non-mandatory activities if ‘leftover’ resources are available.²⁸ If law teachers rely on intrinsic motivators for students’ reading prior to classes, reading may suffer in their ordering of priorities.²⁹ At the beginning of the semester, students scan the subject guides with forensic

22 University of Western Sydney, Policy Statement on UWS Graduate Attributes, <<http://policies.uws.edu.au/download.php?id=189>> at 26 April 2012; Michelle Sanson, ‘Preparing Tomorrow’s Lawyers Today: Graduate Attributes in First Year Law’ paper given at FYHE 2009 <http://fyhe.com.au/past_papers/papers09/content/pdf/7E.pdf> at 9 December 2012.

23 Christine Dearnley and Bob Matthew, ‘Factors that Contribute to Undergraduate Student Success’ (2007) 12(3) *Teaching In Higher Education* 377, 378.

24 Judgments are in fact becoming longer, with more dissents and unnecessary separate concurring judgments, according to Justice Dyson-Heydon: John Dyson-Heydon, ‘Judicial Activism and the Death of the Rule of Law’ (2003) XLVII(1-2) *Quadrant*.

25 John Tarrant, ‘Teaching Time-Savvy Law Students’ (2006) 13 *James Cook University Law Review* 64, 71 citing the Australian Vice-Chancellor’s Committee statistic that students worked an average 14.8 hours/week in 2006; Baron, above n 20, 39.

26 Tarrant, above n 25.

27 Tarrant, above n 25, 72.

28 Joseph Lowman, *Mastering the Techniques of Teaching* (Jossey-Bass, 1995).

29 Tarrant, above n 25, 74 citing Craig McInnis and Robyn Hartley, *Managing Study and Work* (2002) 48.

precision to ascertain what is compulsory and what is not,³⁰ and subsequently give their best efforts to compulsory items.

Compulsory attendance in first year seminars is, in the writers' place of work, an instance of academic attempts to use extrinsic motivation to instil foundation habits of study and attendance in the early stages of university, in part as a response to the fact that poor attendance on campus is a risk factor for student attrition.³¹ Whilst in principle intrinsic motivation is to be preferred, in a spirit of being realistic and teaching the students who are sitting in our classrooms, not those we wished were sitting there³², extrinsic motivators should be incorporated as a concession to the time poverty³³ of the modern university student. If reading is to successfully compete for students' limited time, we cannot rely solely on their intrinsic motivations – too many other extrinsic demands are clamouring for attention. Mature-age students face particular demands on their time from multiple roles and responsibilities³⁴, juggling the demands of university study with partners, children, care of elderly parents, household duties and the need to contribute financially.³⁵

First-year students have a somewhat different set of challenges than those faced by later-year students, in managing activities and priorities that compete with reading and study. First-year students, particularly school-leavers, are busy developing a sense of purpose and identity, forging social connections,³⁶ and dealing with unprecedented responsibility and autonomy for their own study.³⁷ They may not be sure why they are at law school, or whether it is for them, and may be anxious about what is expected of them.³⁸ First-year law students generally require scaffolding to attain self-mastery in reading skills, study and time management, and to reconcile themselves to the realities of the workload.³⁹ Erickson wryly notes on this front that 'most first-year students study more than they ever imagined they would but less than we can reasonably expect'.⁴⁰ Motivating first-year students to read, then, involves a tricky balance in selecting appropriate strategies. This balance lies in bringing first-year students up to realistic expectations of the reading load without exacerbating first-year anxiety⁴¹, whilst also imparting skills of self-discipline⁴² and time management.

(b) Lack of Consequences, (Or, Doing The Kids' Homework For Them Is Bad Parenting)

In a Torts law tutorial two years ago the writer asked the students in curt terms why so few had 'done the reading'. The response was startling: 'You always cover all the important bits, and we'll just take notes from that'. The research for this article was catalysed by the realisation

30 Tarrant, above n 25, 77.

31 Megan Tones et al, 'Supporting Mature-Aged Students from a Low Socioeconomic Background' (2009) 58 *Higher Education* 505, 525.

32 Terry Doyle, *Helping Students Learn in a Learner-Centred Environment: A Guide to Facilitating Learning in Higher Education* (Stylus Publishing, 2008).

33 Tones et al, above n 31, 510.

34 Cathy Stone, 'Listening to Individual Voices and Stories - the Mature Age Student Experience' (2008) 48(2) *Australian Journal of Adult Learning* 263, 275 and 277.

35 Tones et al, above n 31, 522.

36 Bette Erickson, Calvin Peters and Diane Strommer, *Teaching First-Year College Students* (Jossey-Bass, 2006) 119.

37 Tamsin Haggis and Mireille Pouget, 'Trying to be Motivated: Perspectives on Learning From Younger Students Accessing Higher Education' (2002) 7(3) *Teaching In Higher Education* 323, 328.

38 Nikki Bromberger, 'Enhancing Law Student Learning - The Nurturing Teacher' (2010) 20(1&2) *Legal Education Review* 45.

39 Judith Scholl, 'Teaching Methods for Professors of First Year Law Students; Helping to Develop Study Skills and a Discussion of the Not For Credit Midterm' (1979-1980) 30 *Journal of Legal Education* 492, 492-493.

40 Erickson et al, above n 36, 119.

41 Bromberger, above n 38, 53.

42 Haggis and Pouget, above n 37, 328.

that one had — to use the modern parlance of addiction — become the students' 'enabler' in non-reading.

It is thus that a vicious cycle of 'dependency and irresponsibility'⁴³ ensues. Students do not read; lecturers rescue students by providing a structured summary of the important components of the reading; students cleverly ascertain that reading is, as they suspected, an onerous and unnecessary imposition on their valuable time. Various researchers report explanations for student non-reading as students feeling 'confident the teacher will always review the important points in the textbook during lectures'⁴⁴, students believing that lecturers would 'discuss any important information included in the reading during class lectures'⁴⁵, students coming to class unprepared because 'they don't see what difference it makes'⁴⁶, and because 'in all too many classes, there are absolutely no consequences that students experience when they come to class not having done the reading'.⁴⁷

This might be done with the best of intentions on the part of the lecturer, as Thomason notes: 'professors often substitute their strong reading skills for the students' inadequate ones... this produces a vicious cycle: inadequate student preparation, commendable professorial clarification, even less student preparation'.⁴⁸ Good intentions aside, if law teachers want students to read before classes, we cannot 'rescue' or shield them from the consequences of the choice not to prepare. If law teachers constantly act as mediators or translators of the reading⁴⁹ we are engaging in behavioural conditioning to reinforce undesirable behaviours.

(c) *Perceived Lack Of Value In Reading Preparation*

Students may feel cheated if they do the set reading prior to a class, and then find that it bears little or no relationship to what goes on in the class. The content of the reading thus needs to be incorporated so that students see clear connections between reading, class content, and assessment⁵⁰, and conclude that the set reading material is 'worth learning'.⁵¹

5. *How To Tackle The Problem Of Student Non-Reading In Two Stages*

In summary, it would appear that students struggle to find the time to do set reading; even if they do have the time, they don't see the point of doing the reading as lecturers will rescue them from the consequences of non-reading; the subject can then be passed without reading. A large proportion of students consequently do not do set reading (refer to 'Lack of Consequences' above). To insist on continuing with a model that results in students not reading — on the grounds that we would be 'dumbing-down' the curriculum⁵² — is a form of self-deception and lacks authenticity.⁵³ Our current reading lists might be impressive, however they are only impressive in an abstract and hypothetical sense if students do not actually read what is on the list.

43 Weimer, above n 1, 107.

44 Doyle, above n 32, 67.

45 Doyle, above n 32.

46 McKeachie, above n 1, 182.

47 Weimer, above n 1, 105.

48 Thomason, above n 8, 16.

49 Carlos Gonzalez, 'Extending Research on 'Conceptions of Teaching': Commonalities and Differences in Recent Investigations' (2011) 16(1) *Teaching In Higher Education* 65, 73.

50 Lowman, above n 28, 239.

51 John Borkowski et al, 'Self-Regulated Cognition: Interdependence of Metacognition, Attributions, and Self-Esteem' in Beau Fly-Jones and Lorna Idol (eds), *Dimensions of Thinking and Critical Instruction* (Lawrence Erlbaum Associates, 1990) 81.

52 Hobson, above n 1, 4.

53 Caroline Kreber, Velda McCune and Monika Klampfleitner, 'Formal and Implicit Conceptions of Authenticity in Teaching' (2010) 15(4) *Teaching In Higher Education* 383, 393.

(a) Rethink The Compulsory Reading List

The difficulty for a law teacher in pruning a compulsory reading list lies in the 'trap of expertise [whereby] experts forget that they are aberrant in relation to the norm'.⁵⁴ A majority of law students may not be able to contend with the reading list that might strike a law academic as ideal. It is better to revise the reading list, so that the majority of students will actually read what is set, than to delude ourselves that the material is relevant and manageable. This revision involves a reduction in both volume and degree of difficulty.

Law constantly changes, and the content of the law taught to students during their degree may well not represent the law when they graduate. As Whitehead said in 1932, 'knowledge does not keep any better than fish'.⁵⁵ Legal content will go out of date, and we would do better to focus on equipping students to update their own knowledge of legal content in the future. Reducing the volume of reading allows time and space for more in-depth engagement with individual topics, and progression to deep learning⁵⁶ (which in itself encourages motivation and sustained interest in students⁵⁷). Decisions about volume of reading material can also come back to more basic ideas, referred to earlier, about the purpose of universities (see 'Should Law Teachers be Concerned About Students Not Reading' above). The quotation popularly attributed to W B Yeats, 'education is not the filling of a pail, but the lighting of a fire' is pertinent to this question. The writer has observed the behaviour of students in constitutional law, who are given a particular topic for a moot assessment, in which they are required to take roles as solicitors and barristers in a team, and argue adversarially against another team of students. The students have time (and an extrinsic motivator, assessment) to go into a single aspect of constitutional law in great depth. They carry great stacks of textbooks from the law library and assiduously read every mention therein of their narrow topic, and have even been seen to read entire High Court judgments, including the dissents! It is illuminating to contrast this with the level of interest and engagement shown by students in preparing for their weekly tutorials in this subject, for which they are expected to read chunks of text and case extracts, which in large part they appear not to have done. The opportunity to focus on a single topic in a purposeful⁵⁸, in-depth fashion appears to be an efficacious motivator of reading.

In carefully pruning a compulsory reading list, with a focus on allowing deep engagement with aspects of the law, students are thus set up for success rather than failure. The experience of success, or 'competence motivation'⁵⁹ is a powerful incentive for future study.

(b) Apply Strategies To Motivate Students To Read The Revised List

In writing about postgraduate student procrastination in thesis-writing, Kearns and Gardiner describe the myth, or 'procrastinators' assumption' commonly held amongst postgraduate students that motivation is a prerequisite for doing the work.⁶⁰ Rather, it is doing the work that creates motivation, which then inspires more work⁶¹. Applying this to undergraduate law students, law teachers can catalyse this cycle of action – motivation – more action, by the judicious use of extrinsic motivational tools, particularly when dealing with first-year students.⁶²

54 Eble, above n 4, 126.

55 Alfred Whitehead, *The Aims of Education* (Benn, 1932).

56 Jane Carmichael, 'Plucky Jane et al: Ideal Types in the Legal Academy?' (2003-2004) 14 *Legal Education Review* 93, 116.

57 Tarrant, above n 25, 73-74.

58 Susan Armstrong and Michelle Sanson, 'From Confusion to Confidence: Transitioning to Law School' (2012) 12(1) *QUT Law and Justice Journal* 21, 29.

59 Noel Entwistle, *Styles of Learning and Teaching* (David Fulton Publishers, 1988) 193.

60 Hugh Kearns and Maria Gardiner, *Time for Research: Time Management for PhD Students* (Flinders Press, 2006) 57-59.

61 Ibid.

62 Scholl, above n 39, 492-493.

(c) Student Motivation And the Attitude of Academics

Lecturer attitude was identified in the literature as having profound influence on student motivation.⁶³ Positive motivational attitude was described variously as being that of a coach⁶⁴ or role model; possessing enthusiasm, passion, involvement, charisma, clear communication,⁶⁵ energy, dynamism⁶⁶; personalising a subject by discussing what it means to the lecturer, exemplifying and embodying competent practice;⁶⁷ whilst also showing humility and reminding students that all experts were once novices, lecturers included;⁶⁸ and students feeling ‘known by’ lecturers who cultivated interpersonal rapport and a sense of relationship.⁶⁹ Cultivating interpersonal rapport is admittedly challenging in the era of larger class sizes and reduced staff-to-student ratios.⁷⁰

Attitudinal traits in lecturers which had a negative effect on student motivation were identified as lecturers who were ‘discomfited, disinterested, mumbling, inarticulate [and had] poor presentation skills, lack of enthusiasm and bad choice and organization of material’,⁷¹ and were ‘negative, patronising and discouraging (‘anyone who can’t follow this isn’t fit to be at university)’.⁷²

A lecturer’s attitude can salve the notorious law student tendency to depression and anxiety,⁷³ and consequent demotivation,⁷⁴ by developing in students a sense of self-efficacy, or confidence in their ability to take on the identity of competent scholars. Lecturers can point to later year students as examples of transition from novice to expert,⁷⁵ holding out the possibility to early-stage students that they too can develop into competent legal scholars. Confidence can also be bolstered by providing opportunities for small successes, such as by setting realistic reading loads, particularly in the early weeks.

(d) Don’t Assume Students Know How To Read For University

A further aspect of ‘setting students up for success’ is ensuring that students know how to read scholarly material. The role of the law lecturer is twofold: to impart reading skills unique to the genre of legal texts,⁷⁶ and to provide guidance on reading the specific set material.⁷⁷

63 Donald Bligh, *What’s the Use of Lectures?* (Jossey-Bass, 2000) 59.

64 Lowman, above n 28, 239; McKeachie, above n 1, xxi.

65 Naomi White, ‘Tertiary Education in the Noughties: The Student Perspective’ (2006) 25(3) *Higher Education Research and Development* 231, 239.

66 Bligh, above n 63, 59.

67 Eble, above n 4, 189.

68 Borkowski et al, above n 51, 84.

69 White, above n 65, 236.

70 Mark Huxham, ‘Fast and Effective Feedback: Are Model Answers the Answer?’ (2007) 32(6) *Assessment and Evaluation in Higher Education* 601, 602; Mark Saunders and Susan Davis, ‘The Use of Assessment Criteria to Ensure Consistency of Marking: Some Implications For Good Practice’ (1998) 6 *Quality Assurance in Education* 162, 166.

71 White, above n 65, 239.

72 John Biggs, *Teaching for Quality Learning at University* (Open University Press, 2nd ed, 2003) 58.

73 Keenon Sheldon and Lawrence Krieger, ‘Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being’ (2004) 22 *Behavioural Science and Learning* 261.

74 Kath Hall, ‘Do We Really Want to Know? Recognising the Importance of Student Psychological Wellbeing in Australian Law Schools’ (2009) 9(1) *Queensland University of Technology Law and Justice Journal* 1, 2.

75 Beau Fly-Jones and Lorna Idol (eds), *Dimensions of Thinking and Critical Instruction* (Lawrence Erlbaum Associates, 1990) 84.

76 Leah Christensen, ‘Legal Reading and Success in Law School: An Empirical Study’ (2007) 30 *Seattle University Law Review* 603, 604.

77 Scholl, above n 39, 492-493.

For first year students, it might be appropriate to provide instruction in specific reading skills: in concept mapping (the graphic or diagrammatic representation of ideas) in core introductory subjects;⁷⁸ in reading for a purpose (using a reading guide or cues such as tutorial discussion questions);⁷⁹ and in the basic skill of ‘text-marking’ or highlighting and annotating reading material.⁸⁰

Later-year students and first-year students both benefit from guidance in the form of tutorial questions, provided in advance as an aid to reading in preparation for tutorials. If a student is reading large quantities of a legal textbook, it helps to have advance warning of how they will be expected to use the information. Other than tutorial questions, lecturers can provide reading guides, to indicate to students how the weekly reading fits into the structure of the subject as a whole.⁸¹ This reinforces how the information fits into the ‘big picture’ of the subject, and helps students fit a mass of detail into a scaffolded context. For example, a week’s set reading on the subject of causation in negligence, within a tort law course, can be accompanied by a reading guide which starts by restating the elements of negligence, highlighting for students the context of the material to be read. A reading guide in this instance could also set out the legal tests to establish causation, and suggest to students that they note how each case or piece of legislation fits in with the ‘big picture’ of the element of causation, and the ‘bigger picture’ of negligence as a tort.

(e) Extrinsic vs Intrinsic Motivation, Or, Choose Your Weapon Wisely

External, or extrinsic motivation is the carrot-and-stick style of motivation,⁸² whereby a student is driven to act by external forces not within their control, and sees university as a way of passing examinations and obtaining qualifications. Intrinsic motivation by contrast derives from the student’s own values, priorities and aspirations.⁸³

There is a place for both – the task of the lecturer is to ‘choose their weapon wisely’. As discussed above, students are time-pressured and, in large numbers, not doing their reading. Law students, in one study, reported that they did not want to have their preparation for tutorials assessed, but acknowledged that if it were assessed, they would be motivated to ‘prepare adequately for tutorials’, because ‘they would like to obtain higher marks’.⁸⁴ Extrinsic motivation works to catalyse reading habits,⁸⁵ and once reading habits have been initiated, it is to be hoped students will progress to intrinsic motivation to sustain those habits.⁸⁶

Likewise, not all surface learning is inherently bad. The classical education ‘trivium’ model of the acquisition of knowledge in three phases⁸⁷ holds true for law students today — a student has to acquire the building-block facts and principles (grammar stage), progress to being able to apply those facts and principles (logic stage) and finally be able to mount an independently reasoned argument based on the facts and principles (rhetoric stage, or ‘deep learning’ in more modern parlance)⁸⁸. Law lecturers can justifiably resort to extrinsically motivating students to acquire the grammar-stage facts and principles from their weekly reading, which can then

78 Doyle, above n 32, 74-75; Erickson et al, above n 36, 123.

79 Christensen, above n 76, 618.

80 Sherrie Nist and Katie Kirby, ‘The Text Marking Patterns of College Students’ (1989) 10(4) *Reading Psychology: An International Quarterly* 321.

81 Hobson, above n1, 5.

82 Lowman, above n 28, 232.

83 McKeachie, above n1, 120.

84 Mahsood Baderin, ‘Towards Improving Students’ Attendance and Quality of of Undergraduate Tutorials: a Case Study on Law’ (2004) 9(4) *Teaching In Higher Education* 491.

85 Weimer, above n 1, 98.

86 Christensen, above n 76, 618.

87 Aristotle, *Rhetoric* I.i; Harlow Unger, *Encyclopedia of American Education* (Facts on File, 3rd ed, 2007) 943.

88 Aristotle, *Rhetoric* I.i.

be used to support problem solving activities in tutorials (logic stage skills) and higher-order reasoning and arguments in assessments and tutorial discussions (rhetoric stage skills).

(f) *Specific Strategies and Tactics*

The following are specific strategies suggested by the literature, to be selected with an eye to the degree-stage of the students and the vagaries of individual subjects.

Vocational assessment taps into students' sense of purpose and intrinsic motivation.⁸⁹ Students know why they have to read and prepare for an item of assessment if it is linked to workplace skills⁹⁰ — the reading is put in context and has a clear purpose.⁹¹ In the law school context, moots, debates, letters of advice, memos, and so forth can all be used to provide vocational context and purpose for set reading.

Appealing to students' curiosity, several authors recommend giving a 'trailer' or 'teaser' at the end of class about next week's reading material⁹² to pique student interest.

At the more extrinsic end of the spectrum, scheduled quizzes, pop quizzes, and 'minute papers'⁹³ are a time-honoured means of motivating students to read before class.⁹⁴ The efficacy of these tools is in part contingent on whether there is a mark attached that counts towards the final grade.⁹⁵ Even if unweighted, however, quizzes and minute papers (where students are given one minute to answer a question about the reading) take the student who has not prepared from a passive to an active role,⁹⁶ as they might otherwise just sit in a tutorial or lecture hoping to absorb, sponge-fashion, all that is required to pass the subject.⁹⁷ The quiz or minute-paper that is weighted carries the extrinsic motivator of assessment and grading, a powerful influence in student decisions about whether or not to do the set reading before class.⁹⁸ A colleague of the writer uses quizzes very effectively in revenue law tutorials, by setting six questions, collecting the quiz papers, and immediately going through the answers in a class discussion.⁹⁹ Students are encouraged to debate the correct answer to each question, reportedly displaying a high level of enthusiasm and engagement. This adaptation of the traditional quiz is attractive in that students are progressing along the spectrum of surface learning to deep learning within the one activity.

Fernald adds extra pizzazz to the pop-quiz with his 'Monte Carlo' quizzes — a roll of the dice determines at the start of the class whether a quiz will be administered, and a further roll of the dice decides which article, chapter, or section of the reading will be covered by the quiz.¹⁰⁰ Obviously, with this technique a bank of alternate quizzes is required as it cannot be known in advance how the dice-roll will eventuate.

89 Cate Jerram, 'Increasing Relevance for Decreasing Student De-Motivation in a Mandatory Course: How to Research It?' (2008) *Education Research Group of Adelaide* <http://www.adelaide.edu.au/erga/events/2008/Jerram_ppt.pdf> 2; Bligh, above n 63, 61.

90 Lowman, above n 28, 247.

91 Christensen, above n 76, 618.

92 Bligh, above n 63, 237; Hobson, above n 1, 6.

93 McKeachie, above n 1, 182.

94 Lowman, above n 28, 230.

95 Haig Koujoundjian, 'Influence of Unannounced Quizzes and Cumulative Exam on Attendance and Study Behaviour' (2004) 31(2) *TEaching of Psychology* 110, 111.

96 Scholl, above n 39, 499.

97 Perhaps not a recent development — see David Robertson, 'Some Suggestions on Student Boredom in English and American Law Schools' (1968) 20 *Journal of Legal Education* 278, 282.

98 Hobson, above n 1.

99 Elfriede Sangkuhl, 'Multiple Choice Testing at Law School: Can it Lead to Deep Learning?' (Paper presented at the Australasian Law Teachers' Association Conference, University of Sydney, Camperdown, 4 July 2012).

100 Peter Fernald, 'The Monte Carlo Quiz: Encouraging Punctual Completion and Deep Processing of Assigned Readings' (2004) 52(3) *College Teaching* 95.

Weir has observed colleagues to ‘give weekly writing assignments and tell students you will collect them randomly during the semester’, with the caveat ‘I’m personally not comfortable with a controlled-terror approach to teaching but I’ve seen it work.’¹⁰¹

Continuing the theme of ‘controlled-terror’ via unpredictability, random oral questioning of students is associated with improved levels of student consistency in preparing for lectures and tutorials.¹⁰² This may cause discomfort or fear in students, faced with the prospect of public humiliation¹⁰³ (thus a tactic to be used with caution on first-year students). The lecturer has to balance the potential embarrassment for the unprepared student against the potential benefits¹⁰⁴ arising from that student being motivated to read for the next class.

A less confronting method to use within tutorials is the peer-marked not-for-credit (unweighted) activity. Students are given, without notice, a short piece of writing to do in tutorials as a response to the set reading for that week. This could take the form of a paragraph on a particular aspect of the reading, a point-form response to a problem scenario using the law from the reading, or the facts and ratio of a case within the reading. The students’ work is collected and redistributed on a random basis to other students within the class to be ‘marked’ according to criteria and/or a model response supplied by the lecturer.

The use of 3x5 inch index cards appears in the literature on motivating student reading, in various guises.¹⁰⁵ One suggestion is the use of ‘admit cards’, whereby students write their names on one side of a 3x5 index card, and on the other side, the answer to a question nominated in advance by the lecturer, for example a quote from the reading and an explanation of why it is important. If the student does not have a card, they are not admitted to class.¹⁰⁶ For law students, this idea could be adapted as, for example, the name of a case and the key legal principle or principles in the case. A colleague of the writer does not allow students to remain in her taxation law class unless they demonstrate they have completed a few set ‘homework’ problems on arrival. A variation of this is to set a writing assignment for the students who are dismissed from class for lack of preparation.¹⁰⁷

Another suggested use of index cards is ‘survival cards’ – students can hand in an index card at the start of the class with key ideas from the reading, with cards returned at a revision class in which material can be added, then collected again, with these being all the notes allowed in the exam.¹⁰⁸ A simpler variation is the use of exam notes cards, where students submit cards with notes about the preparatory reading at the start of class. The cards are returned during the midterm exam. A student who does not hand in a card, cannot use notes during the exam.¹⁰⁹

Lastly, a tactic that most lecturers have tried at some point - telling students you will base exam questions on the tutorial questions and readings¹¹⁰. Go further, and tell students you will base an exam question on specific ‘undiscussed readings’, if the rate of preparatory reading by students in a specific tutorial is so abysmal that there can be no class discussion on the material.¹¹¹

101 Weir, above n 1.

102 Dennis McDougall and Paula Cordeiro, ‘Effects of Random-Questioning Expectations on Community College Students’ Preparedness for Lecture and Discussion’ (1993) 17(1) *Community College Journal of Research and Practice* 39, 46.

103 Ibid,48.

104 Ibid,48.

105 Cindy Wallace and Joni Petschauer, *Instructor’s Resource Manual and Test Bank to Accompany Power Learning by Robert S Feldman* (McGraw-Hill, 2003) 149.

106 Ibid.

107 Barbara Gross Davis, *Tools for Teaching* (Jossey-Bass, 2009) citing ‘When They Don’t Do the Reading’ (1989) 3(10) *Teaching Professor* 3-4.

108 Ibid citing J W Daniel, ‘Survival Cards in Math’ (1988) 36(3) *College Teaching* 110.

109 Ibid, 283.

110 Ibid.

111 Ibid, citing ‘When They Don’t Do the Reading’ (1989) 3(10) *Teaching Professor* 3-4.

6. *Law Teacher Responsibility For Prepared Students: (or, Not Falling At The Last Fence)*

If the lecturer's concerted efforts are successful, and a good number of the students do actually do the reading, what then is the lecturer to do so as not to sabotage their strategy?

A respectful response to the prepared students in the class is to treat the reading as 'assumed knowledge'¹¹² and spend class time using the building-block facts of the reading in higher-order application, analysis, and legal problem-solving. The consistent message given to students, by using the set reading materials as the basis of lectures and tutorials, is that the exercise of reading was worthwhile, and that motivation to read is worth maintaining. This avoids the trap of setting up the cycle of 'dependency and irresponsibility' discussed above.¹¹³

7. *An Appropriate Response When Law Students Are Unprepared*

It is important to go ahead with the class as planned, and respond consistently to non-reading. This simulates a professional environment, and allows students to realise they are not equipped for the situation in which they find themselves.

The response to an unprepared first-year student requires a more gentle approach than what might be appropriate for a final-year student. For first year students, targeting Socratic-method questioning at an obviously unprepared student could be a confidence-damaging and counterproductive exercise.¹¹⁴

For law graduates, arriving at a meeting with a client, or a court date, without having prepared would at best result in loss of professional credibility and at worst, in loss of employment. Thus asking a later-year student who is clearly unprepared for class to lead a classroom discussion or take a side in a debate or mini-moot, whilst potentially discomfiting,¹¹⁵ might help correct flaws in work habits that would later have more serious consequences.

8. *Survey Of First Year Students In A First Year Core Introductory Law Subject*

'Introduction to Law' is the core first-year introductory law subject in the LLB at the University of Western Sydney. In Autumn 2012 semester the subject had 615 students, taught by 15 academics (fulltime and sessional), across two campuses; the author of this article was the coordinator and one of the teaching team in the subject. Changes were made to assessment in the subject in Autumn 2012 semester. In part, these changes were made to try and improve students' rates of preparatory reading. Three multiple choice quizzes, worth 5% each, were introduced, and conducted in random weeks without notice to students. The aim was to motivate students to do their set reading, lest they be ill-equipped to answer the quiz questions. Quizzes were selected as an extrinsic motivational tool, appropriate for formative low-stakes assessment in a first-semester, first-year subject.¹¹⁶

(a) Methodology

A live survey link was created by the UWS Office of Planning and Quality Survey Team, and added to the electronic learning platform homepage for 'Introduction to Law'. Students were invited via email and announcement to complete a voluntary survey. The Survey Team collated and de-identified all the data to ensure anonymity of responses.¹¹⁷

112 Doyle, above n 32, 67.

113 Weimer, above n1, 107.

114 Bromberger, above n 38, 53.

115 McDougall and Cordeiro, above n 86, 48.

116 Koujoundjian, above n 95, 111.

117 The UWS Office of Strategy and Quality Unit Survey Team was chosen as the administering agent because of their in-house ethics clearance status. The Survey Team administers the mandatory Student Feedback on Unit quality surveys, and have existing protocols to ensure ethics compliance. In this survey, for example, the Survey Team created the link to the survey, received student responses directly, made the responses anonymous, and quarantined the data from teaching staff until the appropriate release date.

The survey comprised three questions to gather quantitative data, and two questions to gather qualitative data. The three quantitative questions were posed on a ‘prototypical Likert scale with five categories... [displayed as] equally sized and equally spaced... to convey to the respondent that the categories are of equal importance and require equal attention... [the categories] form a clear progression and exhaust the underlying variable’.¹¹⁸ The two qualitative questions were designed to gather student perceptions as to what motivates them to read and what obstructs their reading.

The purpose of the survey was to measure the effect, if any, on student reading habits of changes made to the subject. The survey was also intended to gather descriptive open-ended qualitative data from students about *why* they did or did not ‘do the reading’. The latter purpose was an important justification for the two qualitative questions. Students in the study may have had reasons for doing or not doing the reading which were not raised in the literature. Open-ended qualitative questions — written carefully to avoid biased language — obtain deeper, personalised, more extensive or multiple answers than closed questions can elicit.¹¹⁹

(b) Results

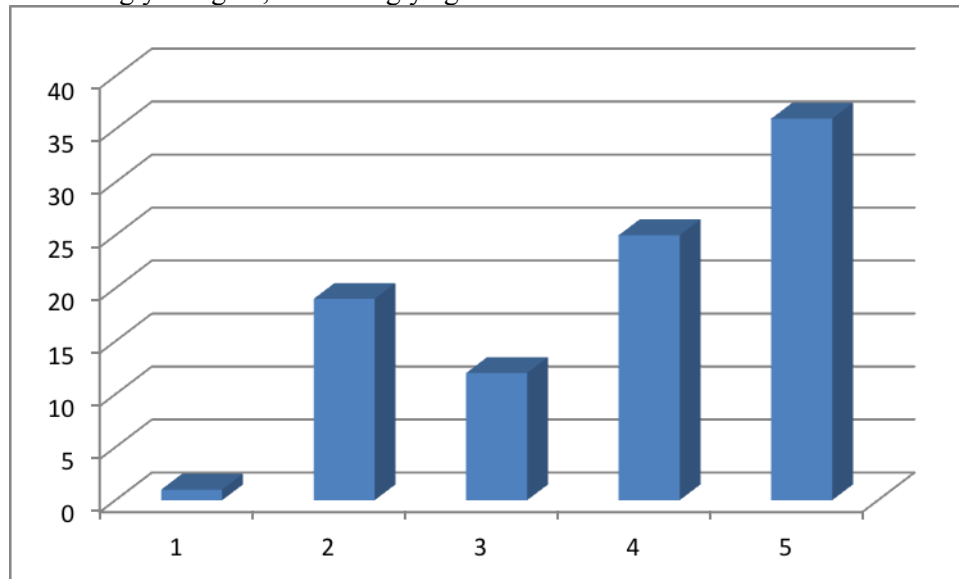
The survey was voluntary, so the data has to be read on the basis that the respondents were a self-selecting subset of the student cohort and therefore likely to be the more diligent and engaged students. 93 students out of a cohort of 615 responded, a 15% response rate. The low response rate of 15%, combined with the voluntary nature of the survey, means that the data obtained has to be treated with caution.

(c) Responses To Quantitative Questions

Question 1:

I did most of the set reading for Introduction to Law each week before seminars

1 = Strongly disagree, 5 = Strongly agree



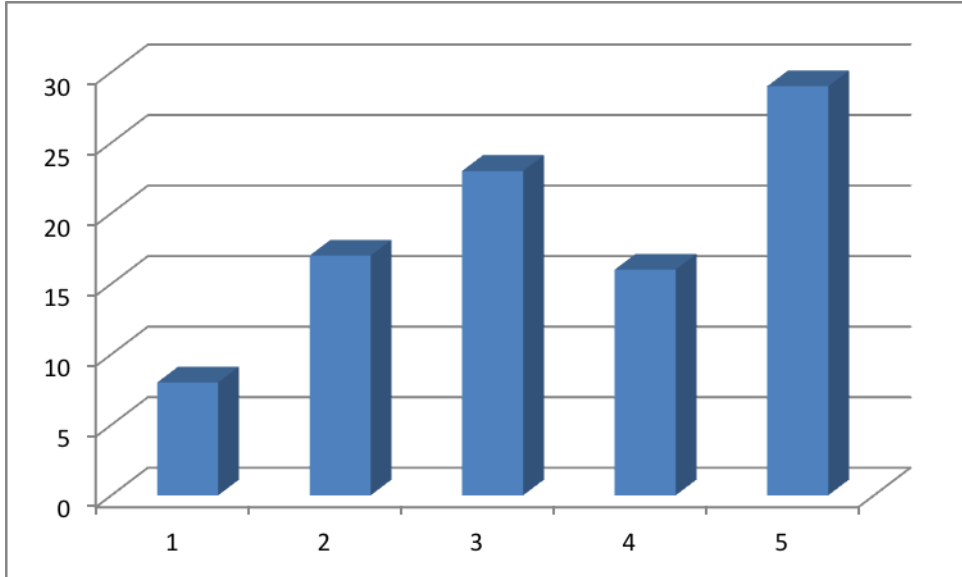
118 John Linacre, ‘Optimizing Rating Scale Category Effectiveness’ (2002) 3(1) *Journal of Applied Measurement* 85, 89; Rensis Likert, ‘A Technique for the Measurement of Attitudes’ (1932) 140(1) *Archives of Psychology* 55.

119 Patrick Dilley, ‘Conducting Successful Interviews: Tips for Intrepid Research’ (2000) 39(3) *Theory Into Practice* 131, 133.

Question 2:

The seminar multiple choice quizzes in Introduction to law motivated me to do the set weekly reading

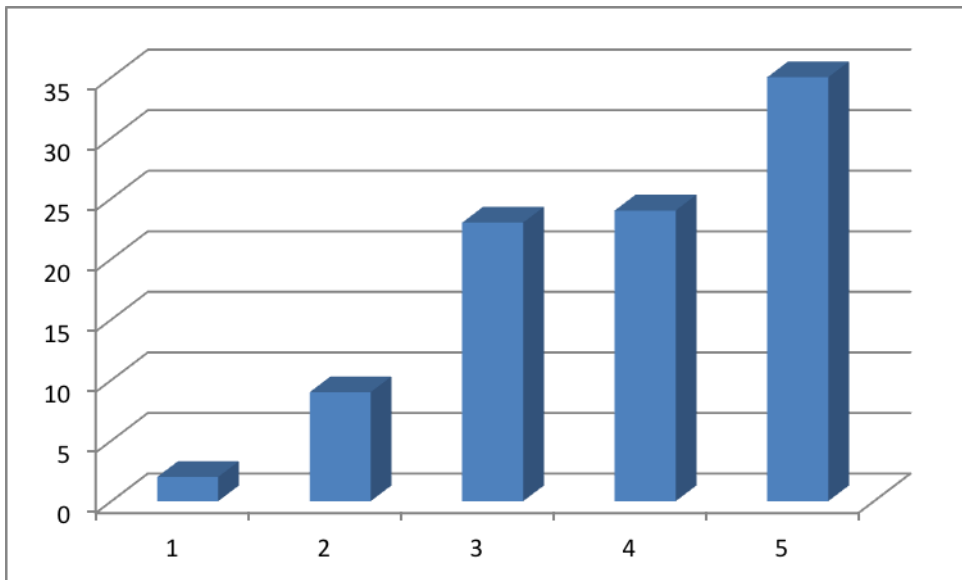
1 = Strongly disagree, 5 = Strongly agree



Question 3:

I would do the set weekly reading in Introduction to Law even if there were no seminar quizzes

1 = Strongly disagree, 5 = Strongly agree



A high proportion of respondents said they did their preparatory reading each week (over 50%); a high proportion were motivated to do so by multiple choice quizzes; and a high proportion said they would have done their reading even if there were no quizzes. It would appear that these students are the more diligent and engaged students, as anecdotally, the 15 law teachers in the unit in Autumn 2012 reported low rates of reading preparation amongst their seminars, and certainly not 50%.

(d) Responses To Qualitative Questions

The qualitative responses were more interesting, being the individualised, personal reasons for students reading or not reading. Responses to both questions were grouped or 'triangulated'¹²⁰ into clear themes.

Question 4: What motivates you to undertake weekly reading in preparation for your seminars?

Students were motivated to undertake set weekly readings by:

Interest in the content; *fear* of falling behind, *fear* of not knowing answers to questions in class; *ambition* to get good grades; to be *prepared* for quizzes, seminars and final exams; not having to *cram* for final exams; wanting to *understand* the content and the seminar discussions; and *teachers* who asked questions of students in seminars.

Question 5: What are the barriers or obstacles that prevent you from doing weekly reading in preparation for seminars?

Barriers/obstacles students identified as preventing them from doing weekly reading preparation:

Time to read - specific time problems identified were reading and assignments for other subjects, work (paid employment), social life, family; *lack of motivation*; feelings of 'laziness'; procrastination; *falling behind* then being too overwhelmed to catch up ('missing one week and then the next'); *volume of reading* ('content is too dry/lengthy or time consuming to read', 'doing 4 units of law concurrently, each with nightmarish amount of long and complex readings'); reading perceived as *not necessary* ('The amount of reading and that our lecturer writes the textbook up onto slides and goes through it', 'The fact that nobody else does them', 'material is basically covered all over again, it's like doing the reading twice').

These responses included one of disarming honesty – this student's one-word explanation as to what prevents him from doing his reading... 'Girlfriend' (an instance, perhaps, of 'competing activities and priorities').

II. CONCLUSION

The literature claims various causes for students choosing to read, or not read, in preparation for university classes. Motivating factors for reading were identified as interest, fear, ambition, a desire to be prepared and perform well, a desire to understand, and teachers' expectations. Obstacles to student reading included competing demands on time, feeling overwhelmed, the volume and complexity of reading, and the perception that reading is unnecessary. In the modest pilot survey reported in this paper, students' qualitative responses tended to confirm claims made in the literature.

Taken together, the literature and the survey results support a two-pronged attack on the problem of student non-reading: a revision of the reading list, followed by the application of selected motivational strategies. The purpose of intervention is to set students on a course to becoming graduates with the internally-motivated habit of reading and keeping themselves abreast of developments in their fields of law. Law teachers, like all good mentors, must aim to have made ourselves redundant at the end of the process, our motivational tactics no longer necessary to students who have become independent scholars and successful graduates.

120 John Creswell and Dana Miller, 'Determining Validity in Qualitative Enquiry' (2000) 39(3) *Theory Into Practice* 124, 126; Margaret LeCompte, 'Analyzing Qualitative Data' (2000) 39(3) *Theory Into Practice* 146, 148.

