

Arrangement, Style, Memory, and Delivery. Legal orators utilised these canons to create and organise arguments, to improve eloquence, and to increase powers of recall and presentation. Within the canon of Invention, *topoi*, or topics, assisted orators in developing legal arguments. The canon of Style contained exhaustive catalogues of figures of speech that were divided into two categories: (1) schemes, or artful deviations from the ordinary arrangements of words, and (2) *tropes*, or creative variations on the meanings of words.

Legal orators used the methods of these five canons to appeal to a jury's sense of ethos, pathos, and logos. These three appeals, or modes of proof, often worked together and will be addressed at greater length in the analysis of the two cases at hand. *Ethos* deals with how the speaker represents himself and his client, *pathos* deals with how the speaker appeals to his audience, and *logos* deals with the logic of the words themselves and how the speaker interacts with the audience. Examining the inner-workings of ancient rhetorical schools will introduce the reader to Arrangement, Memory, and Delivery.

Prominent Roman orators like Cicero honed their oratorical skills in rhetorical schools. These schools focused first on preparation. Students read orations and observed other orators so that they could eventually imitate these orators in declamation. Today, however, law schools generally prohibit first-year students from seeing other students' or practitioners' work before they complete their advocacy briefs and oral arguments to ensure that students do original work. Unfortunately, the technique of imitation has been misunderstood and curtailed. Many law professors view imitation with distaste because they think that it gives students a disincentive to come up with original arguments.

Law students today should also be given the opportunity to benefit from

imitative exercises. Such exercises will sharpen students' memories and creativity and will help them develop a catalogue of tools to solve problems and express their arguments well. With the advent of the Internet and other multi-media resources, advocacy instructors could direct their students to excellent examples of the best legal orators of our day. Law students could carefully examine the strengths and weaknesses of lawyers' oral arguments and imitate the techniques of their modern day 'superiors'.

While the modern legal education system lacks concrete methodologies for teaching oral advocacy, many scholars are reluctant to accept classical rhetoric as the answer. Though current methods of oral argumentation may help trial lawyers achieve momentary effects on a jury, these victories are fleeting. Using the ethics and methodology of rhetoric as exemplified by Cicero will help law students develop solid skills that will help them and the judicial system in the long run.

Although much is written today about the importance of oral advocacy, there is no concrete methodology, despite the fact that good oral advocacy skills do not magically descend upon law students once a dean places a diploma in their hands. Good oral advocacy requires training and structured practice in addition to intellect and talent. Law schools must stop skimming over oral advocacy as an afterthought in the first-year curriculum. As the system now stands, many students could leave law school at the top of their classes without having developed skills in trial oral advocacy.

Using a modified problem based learning approach to motivate and enhance student learning of taxation law

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37 *Law Teacher* 1, 2003, pp 55–75

Professional practice involves graduates being faced with a variety of problems for which there is no defined or

clear-cut solution. Such divergent problems are not quantifiable or verifiable and so do not lend themselves to a single, simple solution but require a self-directed response based on a creative analysis of the contextual factors involved.

As an academic teaching Taxation Law to undergraduate accounting/law students in the Law School at the Queensland University of Technology (QUT), the author had observed that these students often have difficulty applying tax theory to new fact situations. This appeared to stem from an inability to be self-directed in their approach to learning Taxation Law. The students were often very lecture-dependent, expecting that there would always be a right answer and a defined approach to getting that answer.

As professionals, however, these graduates will need to be aware of the possible taxation implications of many transactions they advise on, even if they do not actually practise in this area. Once they graduate they will be continually challenged by unique situations for which they have no previous experience. These new situations will defy predefined solutions and a self-directed response will be required. This is of particular importance in areas like Taxation Law, which are complex and constantly changing.

The author commenced researching student learning and concluded that a Problem Based Learning (PBL) approach would be one way to address the issues raised above and encourage more effective learning on the part of the students and integrated a modified PBL approach into an introductory undergraduate law unit.

PBL is a method or strategy in which the starting point for learning is a fact situation (the problem) that the learner needs to solve. The problem itself becomes the stimulus and reason for learning. No matter whether law graduates enter the legal profession or pursue careers in accounting, government or other areas, they will

often be faced with problems which require the bringing together of their legal knowledge and skills in advising and solving these problems. It is these types of problems or situations that are the focus of learning in a PBL approach.

There are several methods of teaching law in higher education that utilise problems. In redesigning the introduction to the taxation law unit, a combination of the modified case based approach together with the 'closed loop or reiterative problem based method' was used, both of which are examples of PBL.

In the first approach, students are given a written problem, which does not contain all the information necessary to answer it. They are required to analyse the problem and make further enquiries to obtain relevant information. Students interact with the problem at two stages. The first stage is to determine the additional facts they require and the second is, once the additional information has been given, to ascertain the relevant legal knowledge and apply it to these facts.

The 'closed loop or reiterative problem based method' provides a structure for the students to review and evaluate the process by which they reached their conclusion. In this way the learning is reviewed and consolidated and the students are given the opportunity to build a problem solving technique that can be used in other situations.

Studies have shown that in courses which qualify graduates for professional practice, and which usually involve a large amount of problem-solving activity, students are learning a process, that of problem-solving, which will be an essential part of their career as professionals.

Commentators have realised that problem-solving and analysis skills are important because they put theory into practice. By requiring students to apply and synthesise difficult legal con-

cepts they will develop a better understanding of these concepts and realise how the law actually operates rather than viewing it in a vacuum.

The first tutorial for the semester involved a discussion of what is meant by the term 'legal problem solving'. Each group was required to work through a simple everyday problem concentrating on the processes they undertook in attempting to recommend a solution, rather than worrying about the legal issues. The last part of the tutorial involved a discussion of the steps in legal problem solving, how they are similar to those already used in everyday life and how they could be used in solving a simple Taxation Law problem.

As the weeks progressed the tutorial problems became more complicated, whilst still requiring analysis of the legal issues dealt with in the previous weeks. The increasing complexity also meant that students were continuously challenged by the new issues, they were able to build on their previous learning and use this to scaffold their next stage of legal research and then analysis.

Students interact with the problem at two stages. The first stage is to determine what further research they are required to do. They were advised that every fact in the problem was relevant so that they would realise that these facts pointed to some legal issue. Once they had identified and done the further research they would have to apply it to the facts of the problem. This is the second stage.

To allow for reflection and the review of the students' learning every fourth week a review tutorial with no set problem was programmed, allowing them to discuss areas they found confusing or difficult, share their approaches to the previous week's tutorials or raise other issues they consider important. This integrates a 'closed loop or reiterative problem-based approach', which extends the problem-based method by providing a structure

for the students to review and evaluate the process by which they reached their conclusion.

It was important to assess the PBL approach as students will tend to ignore material or approaches which are not assessed or which they do not think will be assessed. In other words, it would be pointless to have as an objective the development of high level legal problem-solving skills without assessing this skill in some way. The importance of legal problem-solving skills and the development of these skills in the tutorials was also reinforced by the format of the final exam, which involved complicated legal problems covering issues from all areas of the subject.

Furthermore, a method of assessment was needed that matched the learning objective of enhancing synthesis of legal knowledge and the development of legal argument. The assessment scheme needed to be linked to the subject's objectives because the assessment tasks demonstrate what the students have achieved.

Subsequent student feedback indicates that, although they find the approach demanding and time consuming, it is ultimately more rewarding in that they feel they have a better understanding of Taxation Law principles and are better prepared for the exam. This feedback is confirmed by an improvement in the overall results attained by students in the subject.

STUDENTS

Test suites: a tool for improving student articles

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52 *J Legal Educ* 3, 2002, pp 440–445

Students who are writing law review notes or seminar papers often get tunnel vision: they focus on the one situation that prompted them to write the piece — usually a situation about which they feel deeply — and ignore