CONTENTS

SYMPOSIUM ON THE RELATION BETWEEN SCHOLARSHIP AND TEACHING

Symposium Editor
Richard Delgado

Introduction
Richard Delgado 749

NEEDLES IN THE HAYSTACK: FINDING NEW LEGAL MOVEMENTS IN CASEBOOKS
Jean Stefancic 755

Ms. Stefancic examines casebooks in four areas: constitutional law, jurisprudence, property, and torts to determine the extent to which the scholarship of five legal movements of the past quarter century (law and economics, critical legal studies, feminist jurisprudence, and gay/lesbian theory) has been incorporated into teaching materials. Her findings are that new scholarship and ideas reach the casebooks only slowly and erratically. Proponents of outsider scholarship interested in increasing the exposure of their ideas to the next generation of students should send their suggestions to editors of established casebooks or better yet write their own versions.

RESEARCH AND TEACHING ON LAW FACULTIES: AN EMPIRICAL EXPLORATION
Deborah Jones Merritt 765

An empirical study of more than 800 law professors who began tenure-track positions between 1986 and 1991 reveals no significant relationship between three measures of scholarly productivity and the likelihood of winning a teaching award. Excellent scholars are neither more nor less likely than their colleagues to be excellent teachers. Examination of several other variables, however, suggests several steps schools could take to enhance both teaching and scholarship on their faculties.

ARE SCHOLARS BETTER TEACHERS?
James Lindgren and Allison Nagelberg 823

Are scholarship and teaching complementary or do they conflict? In this new pilot study of data from three law schools, James Lindgren and Allison Nagelberg use multiple linear regression and logistic regression analyses to examine the statistical relationships between scholarly citations to one’s work and one’s teaching evaluations. Their data shows that a law professor's scholarly citations are positively correlated with that professor's teaching evaluations. They find that the odds of receiving above average teaching evaluation scores are 1.9 times higher for professors with high numbers of citations than for professors with low numbers of citations. Similarly, for large courses, the odds of being in the bottom 25% of course evaluations are 2.9 times higher for the low citation group of professors than for the high citation group. These
data are fairly strong evidence that, at these three schools, high scholarly citations and high teaching evaluations scores tend to be found together.

**They Published, Not Perished, But Were They Good Teachers?**  
Fred R. Shapiro 835

In this article, Mr. Shapiro draws upon his earlier article, *The Most-Cited Law Review Articles Revisited*, for insight into the relationship between quality of scholarship and quality of teaching. The article compares a group of memorial and retirement tributes to highly cited law professors with a group of tributes to non-highly cited law professors. Shapiro finds that tributes to the highly cited professors fail to praise teaching ability much more often than do tributes to non-highly cited professors.

**Scholarship About Teaching**  
Jonathan L. Entin 847

Most published scholarship about innovations in legal education is descriptive rather than evaluative. This article reviews several good examples of recently published descriptive works and suggests some ways to build evaluation components into such work. By relying more on experimental, quasi-experimental, and statistical methods, law teachers can develop a more reliable body of knowledge about what works and what needs further refinement.

**Student Notes and Comments**

**The Constitutionality of a Complexity Exception to the Seventh Amendment**  
Joseph A. Miron, Jr. 865

When faced with a complex issue of fact in a civil matter, is it a constitutional exercise of a court’s authority under the Seventh Amendment to rule on the issue itself, essentially denying the right to a jury trial on the issue? This note investigates this question and concludes that it is. The primary support for this position is the Supreme Court’s recent decision in *Markman v. Westview Instruments, Inc.*, in which the Court enumerated “functional considerations” to use in the determination of whether a judge is a more competent trier of fact than a jury in certain situations.

**In the Eye of the Beholder: Issues of Distributive and Corrective Justice in the ADA’s Employment Protection for Persons Regarded as Disabled**  
John M. Vande Walle 897

This note considers the underlying justification for protecting persons regarded as disabled from employment discrimination under the Americans with Disabilities Act. It first explores case law concerning the “regarded as” prong of the ADA’s definition of disability. It then argues that the legislative history of the ADA’s employment provisions manifests a concern with providing distributive justice for the actually disabled. In contrast, protection for persons regarded as disabled appears more consistent with corrective justice because it concerns itself with employer motivation rather than the status of the employee as a disabled person. This note maintains that protection for persons regarded as disabled is necessary to achieve the statute’s goals. However, it goes on to describe difficulties of application where the “regarded as” prong intersects with an inquiry into a substantial limitation in the major life activity of working. Because such an inquiry requires consideration of an employee’s particular skills, training, and abilities, it is proper for the liability of identically motivated employers to vary depending on the particular skills, training, and abilities of the “regarded as” plaintiff.