Chapter 9

Lectures, Tutorials and Seminars

9.01 As with most other non-science subjects, university law teaching revolves round the traditional format of lectures, tutorials and seminars, all of which are described below. 'Clinical' teaching based on real problems such as you find in medicine is not found as part of the formal course in law schools, although learning by clinical work can certainly happen during your years as a law student (see further below, para **9.25**) and will of course take place during the period of professional training. There is a tendency in some quarters to challenge the value of the traditional academic approach to studying law and to propose a more 'skills-based' approach, focusing on matters such as client-counselling, advocacy, negotiation, and communication skills in the widest sense as well as knowledge and understanding of legal rules and concepts. Unquestionably all these are good things. But, as I hope to show, the traditional approach can be seen as also developing desirable skills as well as knowledge and understanding, and while it is by no means immune from criticism, it should retain an important place in legal training.

LECTURES

9.02 Lectures consist essentially of oral exposition of some topic by a lecturer, usually lasting for just under an hour. Most lecture courses will have two or three per week. In the early Scottish law schools, the lecturer dictated notes to the students based upon the elementary textbooks, and this survived as a method of teaching for a long time: see for example the description by Sir Nicholas Fairbairn QC, MP, of his experience as a law student at Edinburgh in the 1950s, contained in his autobiography *A Life is Too Short* (1986). Indeed there are stories of how law students used to read out the textbook along with the lecturer, while in *Caird v Sime* (1887) 14 R (HL) 37 a Glasgow professor of Moral Philosophy successfully sued former students who were selling printed copies of his lectures, and had thereby saved current class members the inconvenience of attendance! Thus was justified the famous definition of a lecture as a process whereby the lecturer's notes passed into the student's notes without passing through the minds of either.

But more extemporary methods, first introduced with enormous success to the law schools in the 18th century by Professor John Millar of Glasgow, are now standard.

9.03 A lecture may – but need not – be a monologue. Another approach common in American law schools and not unknown in Scotland is the 'Socratic' technique, which consists of the lecturer calling on a member of the audience and asking him or her questions on material prepared by the whole class in advance. (See, for a dramatic account of varying methods at the Harvard Law School, Scott Turow, *One L* (1977), pp 29–55.) In this country, more often the lecturer may invite questions or some other form of audience participation, or members of the audience can interrupt (although it is generally courteous to signal a desire to do this by raising a hand and then waiting to be called). If you have a question during a lecture, however, think whether it is worth interrupting the flow of the lecture to ask it. Is it the sort of point you can check later elsewhere, eg by asking a classmate, looking up the course textbook, going to the library, or raising in a tutorial? Also, few lecturers object to discussion and questions of more detailed points after the lecture is over; it is good to find that the audience was listening!

9.04 Lecturers rarely rely on their powers of oratory alone. Most use some form of support or other. Handouts giving lecture structures, references to cases, statutes and readings, and sometimes more or less detailed summaries, are common in law teaching. Visual aids may range from the good old blackboard (white board in dynamic modern institutions) through flipcharts to the wonders of audio-visual technology – overheads, Powerpoint slides, videos and podcasts. There are also the textbooks of which there are now a good number directed towards the student market (see **Appendix 5**). In subjects where a statute is the main source of the law, the lecturer may want you to have copies of it in the lecture theatre; but extracts may be included in the handout or displayed on an overhead. There are commercial publications of statutes relevant to students: the most useful to students are the Avizandum Statutes series, on Family Law (by Jane Mair), on Obligations (by Laura Macgregor), on Commercial and Consumer Law (by Alisdair MacPherson), on Property, Trusts and Succession (by Andrew Steven and Scott Wortley), on International Private Law (by Elizabeth Crawford and Janeen Carruthers) and on Public Law (by Navraj Singh Ghaleigh). W Green (Sweet & Maxwell) also publish collections of statutes on topics including Conveyancing, Criminal Law, Family Law, Landlord and Tenant, and Social Work as well as the comprehensive looseleaf *Parliament House Book*, but these are aimed more at the practitioner

market. Whether or not you use such collections in lectures, it is essential to have full texts of statutes available for private study. You may also be allowed to use such full texts in the examinations on the subject. If so, it is important to check at an early stage of the course whether you are permitted to annotate and/or highlight your statutes.

9.05 What are the purposes of a lecture? A basic aim is undoubtedly the communication of information. A student can gather more information in a one-hour lecture than would be possible for most in one hour's reading. In law, an important feature will be that the lecture can be up-to-date, referring for example to cases decided or proceeding on the very day it is given, whereas it is a rare textbook that is not out-of-date by the time it appears, in consequence of the inevitable time lag between writing and publication. But most important of all is that the lecture is an opportunity for the student to hear a legal mind at work, fitting the different sources of the law together; relating them to the real world, both in terms of problems that have arisen and have yet to arise, or which the law fails to address; and showing how legal reasoning leads to the conclusions which have been adopted in the cases on the subject. Here is someone who has already developed some of the skills you hope to acquire; how do they go about the law? Usually too the lecturer is a specialist, enthusiastic about the subject, and the interest and commitment which follows from this can be infectious. Whilst students often prefer to listen to lecture recordings rather than attend in-person, lectures are an opportunity to meet with classmates and be part of the campus environment (and, indeed, to ask the lecturer questions if you wish).

9.06 What should you be doing during a lecture? The normal activity would be listening and taking written notes of what is said. Given that lectures are not dictation exercises, your notes will not be verbatim transcriptions unless you are a shorthand writer. In any event, transcription is an infringement of the lecturer's copyright. The aim has to be the creation of a record of the lecture which is adequate for later reference back, most especially when you are revising for examinations. What happens in the lecture theatre may therefore be only the first stage in a process. Some authorities suggest that listening, with the occasional note of the principal heads of the discourse, should be the main activity. But I have always found that trying to take more or less continuous notes was helpful to concentration, especially when the subject matter of a lecture was new to me. Few can concentrate on what one person is saying over a period as long as an hour without the mind wandering or switching off altogether, and the discipline of taking notes keeps you focused on the lecture. There is also a 'skills' argument in favour of this approach, inasmuch as in legal practice, and especially in meetings and

in court, it is often necessary to take fast and accurate notes of what is said by someone else – a client, a witness, or opposing counsel – to enable you to refer or respond to it later. The argument against continuous note-taking is that you cease to think about what it is that you are listening to. My own answer is that, given that you are not transcribing, the effort of thinking how to summarise the points being made in the lecture is as good a way as any of engaging with its themes. But in the end this is up to you, more than almost anything else discussed in this chapter. Students will now ordinarily have access to recordings of they attend, which can also be used for revision purposes, and for re-considering more difficult points which may not have been fully understood during the live event.

9.07 If you take more than minimal notes, you will have to develop an abbreviation system. This might be subject-specific – 'O & A' for offer and acceptance in Contract Law, or 'd/c' and 's/c' for duty of care and standard of care in Delict, for example. Initials can often be used with statutes – 's' for 'section', 'SoGA' for the Sale of Goods Act, 'UCTA' for the Unfair Contract Terms Act – or Latin phrases – 'NG' for *negotiorum gestio*, *pf* for *prima facie*, *bf* for *bona fide* – or even the names of cases – 'D v S' for *Donoghue v Stevenson* 1932 SC (HL) 31. With the last, however, the commonest abbreviation is to use one or part of one of the names of the parties – *Donoghue* in the previous example, or *Cantiere* for *Cantiere San Rocco v Clyde Shipbuilding Company Limited* 1923 SC (HL) 105. There are also a number of well-established abbreviations which can be used across a range of subjects, however. Examples include 'P' for pursuer, 'D' or perhaps 'Dfdr' for defender, 'PF' for Procurator Fiscal, 'Co' for company, 'Tr' for trustee, 'Exr' for executor, and 'Liqr' for liquidator. Look at the way these and other common terms are abbreviated in case citations in the textbooks as a starting point.

9.08 It is worth trying to structure your notes as you take them. A lecture handout is useful for this purpose. Alternatively, listen out for the lecturer's use of words indicating structure: eg first, second, etc; the main points are …; moving on …; lastly. Use simple layout techniques – starting fresh topics on new pages, using headings (perhaps centred on the line) and sub-headings, with underlinings, indentations and spaces between blocks of notes. Case and statute names should be underlined. Using a different colour, or a highlighter, to pick out case names or statutory references can be useful when it comes to revision later on. If you look at the case summaries with which law reports begin, you will see that the actual decision is usually prefixed with '*Held*', and

this is a useful convention to adopt in note-taking. You may wish to leave space in which to add further notes later on.

9.09 If you have time, it can be worthwhile to read up on the lecturer's subject in advance, although to do this most usefully you probably need a syllabus of what each lecture will cover. A quick survey of the relevant bit of the course text can help make clear what is important or difficult in the subsequent lecture. Making a fair copy of notes after the lecture is probably not a worthwhile exercise if it is merely copying out the notes taken in the lecture, but it can be useful to try and draw them together with other notes that you take in advance, in tutorials or in the library.

9.10 Lecture notes, if taken by hand, should be made on paper that is easily filed afterwards. Developing a filing system for notes is sensible, since you want to be able to find your way about them later on. The accumulation of paper over a year can of course be large. One solution to this is the laptop or tablet computer with a hard disk onto which notes can be typed in the lecture and preserved electronically. If you do this, however, remember to back up files to memory sticks or some reliable digital store on the Internet. Lectures now tend to be recorded as a matter of course. The resulting audio-visual recordings can be streamed and downloaded by students. If you are attending a lecture which is not due to be recorded, you may wish to consider recording it using an audio recorder or dictaphone, but for this the lecturer's permission is necessary as a matter of law as well as courtesy since, as already noted, the lecturer has copyright in the actual words used in the lecture.

TUTORIALS

9.11 Tutorials are meetings of smaller groups of students with a tutor, usually but not always a member of the law school staff. Like lectures, they normally last for just under the hour. In most courses you will have one of these meetings once a week or fortnight. By contrast with the typical lecture, the aim is group discussion of a topic, led by the tutor. The topic will be one which has already been, or is being, covered in the lecture course. The form of the discussion depends on the tutor and the class. Some tutors like the Socratic dialogue (encouraging students' learning by posing questions to them); others prefer the students to ask the questions and to propose the answers. Whatever, the expectation is that the student will participate, and you will gain far more from

the tutorial if you do so. It is, of course, also an opportunity for you to raise the points you have not understood in the lectures and have not been able to answer for yourself. Your tutor may also pose questions not listed in the tutorial booklet, and seek your views on laws and concepts relevant to the tutorial. Willingness to engage in such discourse will greatly improve your own and your classmates' understanding of the materials under discussion.

9.12 A useful way of getting discussion going in a tutorial is for the tutor or course organiser to set a hypothetical set of facts as a problem which can be answered on the basis of the legal topic to be covered. In many courses you will find that there is a programme of such problems issued at the start. The problem will probably include some reading material; if it does not, follow some of the suggestions made later on in this book (see below, paras **10.09, 11.04–11.18**). Preparation is essential, otherwise much of the point of the tutorial will be lost. This is very much geared to making you 'think like a lawyer'. Often the problem will be stated so that the exercise is to advise one of the characters in it. Then you have to ask what it is that that person is likely to want in this situation, and how the law is going to help or hinder the achievement of that goal. Are there cases or statutes for or against the character? If they seem to be against, can any other interpretation be placed upon them? If they are for, are there any pitfalls of other possible interpretations which need to be guarded against? Do you need to know more facts than are given in the problem before you can say one way or the other? In this way, you begin to learn how to handle the law and the reasoning that supports the law. The benefit can sometimes be increased by dividing the tutorial into the two sides of a litigation based on the facts.

9.13 It is definitely worth jotting down the views you take in a preliminary way before you go into the tutorial, along with the authorities you think support your conclusions. These both focus your mind and give you something on which to base further notes taken during the tutorial. This process may also help you to identify questions which you could usefully ask your tutor or peers. Given a tutorial's informal nature, note-taking is less easy than in a lecture, and listening and talking are far more important. In tutorials the seeds of the oral skills of questioning and arguing are being sown. But it is good practice for a tutor to try and draw the threads of discussion together in some sort of conclusion at the end of the tutorial, and this may be the moment when a note should be taken.

9.14 Tutorials can take other forms: the discussion of a more general question about the values or social utility of a particular group of

rules, for example. You may be asked to prepare more formal essays in advance of a tutorial. The same general approach of advance preparation is required. What is your view, and with what arguments and facts do you support it? How would you meet opposing views? Again, you may be asked to draft legal documents in response to some set of hypothetical requirements, where not only do you have to go through the identification of the legal issues involved but you have to find the precise form of words which will cope satisfactorily with them.

9.15 An increasingly important type of tutorial teaching is that using computer expert systems (Computer-Assisted Learning, or CAL). Here the computer replaces the tutor (one reason why, in an era of dwindling resources, you are increasingly likely to encounter this form of teaching). The method works best with the problem-solving type of tutorial exercise. The screen displays a question which you answer from the material in front of you, sometimes selecting from a range of possible answers, sometimes by choosing yes/no or true/false, but sometimes also with the input of data or key words by you. The computer's next question depends on the answer given at the preceding stage, and the process continues until finally the computer provides you with the answer to the problem. Examples with which I am familiar include systems on the following: Can people marry? Is a delictual claim for damages time barred? Has a contract been made? Has a contract been broken and, if so, what can the aggrieved party do about it? Is a transaction subject to inheritance tax, and if so, for how much?

9.16 The educational advantage of such systems is the demonstration of the logical structure of legal rules. Also the computer tells you when you are wrong, whereas in a conventional tutorial you may find it difficult to get individual feedback. The ability to use expert systems is also an increasingly significant part of legal practice. The main limitation is that at present, being pre-programmed, a computer program cannot respond as flexibly as a human tutor, nor can it deal well with the more subjective issues raised in law – value judgements, socio-political issues, and so on. So it may be some time before computers totally displace people in tutorials. It is a good idea to do a CAL tutorial along with a partner with whom you can discuss the answers you give the machine, as this keeps the element of discussion and debate, which is such a crucial part of the more traditional tutorial.

9.17 Other instances of technological teaching include the use of videos or podcasts, perhaps showing a teacher expounding the solution to a problem made available in the class or library. Inter-active videos exist where the student is asked questions or set tasks and the display

depends on the student's response to this. The best example I have seen was a video on Evidence, where the student had to be ready to object to opposing counsel's questions or the witness's statements; once an objection was made, the judge on the video then gave a ruling. This was both instructive and fun, and it is to be hoped that resources may be found one day to enable similar developments in Scotland.

SEMINARS

9.18 Seminars are more likely to be encountered in Honours than in Ordinary classes. They are closer to tutorials than lectures. They are usually made up of small groups led by a teacher but expected to contribute to a discussion in which all take part. Often they will last longer than tutorials, but if so then there may be only one a week in a course.

9.19 Many of the comments made about preparation and participation in tutorials apply with equal force to seminars. The difference between a tutorial and a seminar is that the students are expected to have read up the subject matter of the latter in much greater depth than would be the case in the former, and to have developed more critical views about it. In other words, the format is supposed to encourage a greater intellectual independence in the student. Having been exposed to the sources to a greater extent, and being better equipped to handle them than a beginner, the student is in a better position to form views about what they mean, and about their value, and so to challenge the views of the teacher.

9.20 Like tutorials, seminars may have reading lists issued to students in advance. A number of basic points ought to be remembered in preparing these. The course teacher will probably choose controversial material and will certainly be looking for discussion about it. The questions which the teacher has in mind may be on the reading list. So you need to be forming views about it as you prepare. (See further below, paras **10.21–10.30, 10.37–10.50**, on this.) In addition there may be material referred to in the reading which is not on the reading list. If there is time, why not go and look it up? There may be something there of value. On the other hand, it may not be necessary to look at everything on the list, especially if a group of you can distribute the work among you before the seminar. You will need to have read it all before the exams, but discussion in the seminar will flow so long as each item on the reading list has been covered by at least a few in the class.