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Lillian Corbin

La Trobe University

Kylie Burns

Griffith University

April Chrzanowski

Griffith University

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IF YOU TEACH IT, WILL THEY COME? LAW STUDENTS, CLASS ATTENDANCE AND STUDENT ENGAGEMENT

LILLIAN CORBIN, KYLIE BURNS AND
APRIL CHRZANOWSKI*

I INTRODUCTION

Why are there empty seats in our lecture theatres? Are we driving our students away? Are work or family commitments preventing them from attending? Or, on a more positive note, have we designed our courses in such a way that we have provided all the tools necessary for them to learn independently? The latter is a very comforting thought, although we suspect that only a small percentage of students are self-learners — those who are able to achieve good results by engaging fully with the material, if this is carefully and adequately provided. The reality is that student non-attendance tends to have a negative effect on achievement levels for the majority of students.¹

* Dr Lillian Corbin, Senior Lecturer, La Trobe University Law School, Kylie Burns, Lecturer, Griffith Law School and Griffith Socio-Legal Research Centre, and April Chrzanowski, Senior Research Assistant, Griffith University. We thank Professor Michael Robertson for his assistance in writing the survey questions; the research assistants who worked on this project, particularly Jodi Gardner, Jason Carlson, Karen Williams and Ashleigh Simpson-Wade; and those who reviewed the article for publication.

¹ While many of the papers claim that there is a negative correlation between the grades that students achieve and their attendance/non-attendance, much of this research recognises that it is difficult to account for what are referred to as unobservable factors; for example, ability, effort and motivation. Even so, authors, particularly from the field of economics, continue to assert that there is a relationship between attendance and performance and that it is important for students to attend lectures and tutorials in order to have a chance of performing well in their studies. The articles most cited are: David Romer, 'Do Students Go to Class? Should They?' (1992) 7 *Journal of Economic Perspectives* 167; Garey C Durden and Larry V Ellis, 'The Effects of Attendance on Student Learning in Principles of Economics' (1995) 85 *American Economic Review* 343; Stephen Devadoss and John Foltz, 'Evaluation of Factors Influencing Student Class Attendance and Performance' (1996) 78(3) *American Journal of Agriculture Economic* 499; Paul Friedman, Fred Rodriguez and Joe McComb, 'Why Students Do and Do Not Attend Classes: Myths and Realities' (2001) 49 *College Teaching* 124; Daniel R Marburger, 'Absenteeism and Undergraduate Exam Performance' (2001) 32 *Journal of Economic Education* 99; John L Rodgers and Joan R Rodgers, 'An Investigation into the Academic Effectiveness of Class Attendance in an Intermediate Microeconomic Theory Class' (2003) 30 *Education Research and Perspectives* 27; Tsui-Fang Lin and Jennjou Chen, 'Cumulative Class Attendance

This following statement from a recent study probably represents the majority view:

In the absence of controls for unobserved heterogeneity, we find that there is a significant effect of class absence on the student's performance. This effect is weakened — though remains significant — when controlling for unobserved individual effects.²

Therefore we, as teachers, are left bewildered and often de-motivated by the fact that students are choosing not to attend lectures and other learning opportunities.

This paper reports on a study³ that examined student attendance across a law degree — what motivated student attendance;⁴ why students did not take the opportunities provided to them to facilitate their learning; and what methods they used to learn.⁵ Our study involved courses (subjects) which required students to physically attend classes — it did not consider courses which were off-campus or primarily electronically delivered.

We do not suggest that attendance alone results in student learning. However, we argue that there is evidence that it is an important ingredient of student engagement, particularly when the

and Exam Performance' (2006) 13 *Applied Economics Letters* 937; Elchanan Cohn and Eric Johnson, 'Class Attendance and Performance in Principles of Economics' (2006) 14(2) *Education Economics* 211; Jennjou Chen and Tsui-Fang Lin, 'Class Attendance and Exam Performance: A Randomized Experiment' (2008) 39(3) *Journal of Economic Education* 213.

² Wiji Arulampalam, Robin A Naylor and Jeremy Smith, *Am I Missing Something? The Effects of Absence from Class on Student Performance* (November 2007) University of Warwick <http://wrap.warwick.ac.uk/1396/1/WRAP_Arulampalam_twerp_820.pdf>. This paper usefully includes a literature review that refers to many of the most prominent studies conducted by researchers on student attendance and performance. See also Cohn and Johnson, above n 1.

³ The study, conducted in 2007–08, examined attendance patterns across the whole law program at Griffith Law School, Queensland, Australia. The participating undergraduate students studied a five-year combined degree and the participating graduate entry students studied a three-year degree.

⁴ This study could be classified as both descriptive and explanatory research, in that it describes and also seeks 'to clarify why and how there is a relationship between two aspects of a situation or phenomenon' — attendance and academic achievement. See Ranjit Kumar, *Research Methodology: A Step-by-Step Guide for Beginners* (Pearson Education, 2nd ed, 2005) 10.

⁵ Previous studies highlighted the need to 'investigate the reasons why students absent themselves from lectures and the extent to which they can and do compensate for missing lectures through private study': Rodgers and Rodgers, above n 1, 39. One study has examined this question but it differs from the study we have undertaken as it provided respondents with a list of possible reasons for them to rate: Peter Massingham and Tony Herrington, 'Does Attendance Matter? An Examination of Study Attitudes, Participation, Performance and Attendance' (2006) 3 *Journal of University Teaching and Learning Practice* 82, 90. Another study took a different approach and questioned why students attend: Sara Dolnicar, 'Should We Still Lecture or Just Post Examination Questions on the Web?: The Nature of the Shift towards Pragmatism in Undergraduate Lecture Attendance' (2005) 11 *Quality in Higher Education* 103, 106. In doing so, she also provided students with a list of reasons to rate.

learning opportunities are predicated on physical student presence in classes. Krause defines student engagement as follows:

Engagement refers to the time, energy and resources students devote to activities designed to enhance learning at university. These activities typically range from a simple measure of time spent on campus or studying, to in- and out-of-class learning experiences that connect students to their peers in educationally purposeful and meaningful ways.⁶

The Australian Council for Educational Research refers to engagement as ‘students’ involvement with activities and conditions likely to generate high-quality learning’.⁷ Some writers suggest that student engagement at this level could very well ‘foster good work habits, teach responsibility, and improve social skills’.⁸ This focus on involvement or participation accords with the educational theory of constructivism. This theoretical approach asserts students ‘construct knowledge in their own minds through a process of discovery and problem solving’ — that is, students construct ‘new ideas or concepts’ by interpreting their experiences.⁹

While our study did not ask students directly about their social interactions with their department, campus or student guild, students had the opportunity to comment on their activities beyond the classroom. For instance, they were asked whether they were part of learning groups.

Our study found that many students do not regularly attend their scheduled lectures and that attendance decreases as students progress through the degree program.¹⁰ Despite this, most participating students recognised the value of attendance at all of the learning opportunities offered, including lectures and tutorials. We found that those who more frequently attended lectures achieved higher grades. We cannot categorically state that attendance of itself results in achievement since it is often argued that motivation or other factors like ability and effort play a role. However, we argue that there is

⁶ Kerri-Lee Krause, ‘Engaged, Inert or Otherwise Occupied? Deconstructing the 21st Century Undergraduate Student’ (Paper presented at James Cook University Symposium, Sharing Scholarship in Learning and Teaching: Engaging Students, Townsville, 21–22 September 2005) <http://www.griffith.edu.au/__data/assets/pdf_file/0005/53465/Engaged,inert2005.pdf>.

⁷ Australian Council for Educational Research (‘ACER’), *Doing More for Learning: Enhancing Engagement and Outcomes: Australasian Survey of Student Engagement* (2010) 3 <http://ausse.acer.edu.au/images/docs/AUSSE_2009_Student_Engagement_Report.pdf>.

⁸ Cohn and Johnson, above n 1, 212.

⁹ Mohammed S Chowdhury, ‘Human Behaviour in the Context of Training: An Overview of the Role of Learning Theories as Applied to Training and Development’ (2006) 7(2) *Journal of Knowledge Management Practice* <<http://www.tlaint.com/article112.htm>>.

¹⁰ Randy Moore, ‘Helping Students Succeed in Introductory Science Courses’ (2004) 33 *Journal of College Science Teaching* 14; John R Rodgers, ‘A Panel-Data Study of the Effect of Student Attendance on University Performance’ (2001) 45 *Australian Journal of Education* 284, 284 and particularly 293.

something valuable about attendance, particularly for those studying to be professionals, like lawyers, whose role in society requires them to 'practice in accordance with high standards of performance, for the public good'.¹¹ It is our contention that attendance is important for student engagement — a view supported by a recent report of the Centre for the Study of Higher Education:

Despite the introduction of various communications technologies, there remains a strong argument in favour of the link between students' attendance on campus and their involvement with and integration into the learning community.¹²

In Part II, we discuss the characteristics of modern university students by way of background to the study and review some of the existing literature on student attendance and engagement. In Part III, we outline the context and methodology of the study. In Parts IV and V, we report on the findings of the study with reference to the literature discussed in Parts II and III. Part VI concludes with a discussion of and reflection on those findings, and raises implications for law schools training future lawyers they hope will be versed in the law and, perhaps more importantly, who are reliable, thorough, expert and worthy of trust.

II TODAY'S STUDENTS

Australian and international research, in a range of disciplines, demonstrates that many students do not attend classes on a regular basis.¹³ Our study of law students also concludes that quite a proportion of the student body is not attending at any given time and many students are not achieving academically as well as they might. But does this matter to individual students? What, in fact, do they want to achieve? In their view, how important are interactions with staff and other students? Is non-attendance something to do with their view on life?

McInnis believes that university personnel generally have an outdated and misconceived notion of the 'ideal undergraduate student'.¹⁴ He argues that this notion fails to recognise the reality

¹¹ Lisa H Newton, 'Professionalization: The Intractable Plurality of Values' in Wade L Robison, Michael S Pritchard and Joseph Ellin (eds), *Profits and Professions: Essays in Business and Professional Ethics* (Humana Press, 1983) 34; Rodgers and Rodgers, above n 1.

¹² Richard James, Kerri-Lee Krause and Claire Jennings, *The First Year Experience in Australian Universities: Findings from 1994 to 2009* (Centre for the Study of Higher Education, University of Melbourne, 2010) 35 <http://www.cshe.unimelb.edu.au/research/FYE_Report_1994_to_2009.pdf>.

¹³ See above nn 1, 5, 10; see below nn 14, 22.

¹⁴ Craig McInnis, 'Signs of Disengagement? The Changing Undergraduate Experience in Australian Universities' (Paper presented at the Inaugural Professional Lecture, University of Melbourne, 13 August 2001) 4 <<http://www.eric.ed.gov/PDFS/ED466720.pdf>>.

that students choose whether and how they will engage with their studies.¹⁵ He refers to an earlier study he conducted with James in 1995 that found that students increasingly expect the university to fit with their lives rather than vice-versa¹⁶ and asserts that young undergraduates ‘generally know what they want from university, are reasonably certain about the nature of their commitment, and fairly clear about what they expect university to do for them’.¹⁷

There are some well-accepted factors that impact on students’ lives — work is probably the front-runner of these. McInnis claims that students in recent years are ‘less likely to study on weekends than they were just five or six years ago, and more likely to borrow course materials from friends’.¹⁸ The most recent study conducted by the Centre for the Study of Higher Education at the University of Melbourne reinforces this view. The authors report:

First year students are spending fewer days and less time on campus. Fewer are involved in extra-curricular activities around campus. Fewer say they have made close friends. More indicate they keep to themselves at university. Yet, in apparent contradiction, the students of 2009 report more involvement in group work for study purposes, both in and out of class. These findings suggest students are instrumentally balancing their time commitments and are adept at regulating their academic experiences to achieve their goals.¹⁹

Students now exercise what they see as their entitlement to choose not to attend learning opportunities that once were considered obligatory. One leading commentator, Hugh Mackay, believes that this trend is reinforced by a socially-constructed attitude that encourages students to ‘keep their options open; to keep an open mind; to wait and see; to hang loose; to postpone commitment’.²⁰ In other words, as McInnis suggests,²¹ students want to negotiate how and to what degree their university commitments will impact on their lives and this is an ongoing issue for them. In practical terms, this desire to shape their interactions and obligations in their university studies may be expressed in requests to course convenors for alternative participation arrangements, particularly when marks are involved; extensions for assignments; and alternative examination times. Obviously, it may also be expressed as non-attendance at classes.

¹⁵ Ibid.

¹⁶ Ibid 1.

¹⁷ Ibid.

¹⁸ Craig McInnis, ‘New Realities of the Student Experience: How Should Universities Respond?’ (2003) 12(9) *UniNews* <<http://uninews.unimelb.edu.au/news/645/uninewsarchive.php?volume=12&number=9&publication=un>>.

¹⁹ James, Krause and Jennings, above n 12.

²⁰ Hugh MacKay, ‘Is Marriage Going Out of Fashion?’ in Gail Bateman (ed), *Relationships into the New Millennium* (Relationships Australia, 1999) 52.

²¹ McInnis, above n 14, 3.

The act of weighing up priorities and determining whether or not to attend learning opportunities could be described as a cost–benefit analysis, the result of which could be that students decide to work more²² and, in doing so, they may well anticipate getting lower marks. This kind of analysis also features in student deliberations regarding whether they attend class and whether or not they gain any value from the experience.²³ One author suggests that there is a quasi-economic model operating where students consider themselves as customers, purchasing a product from the sellers; that is, the teachers.²⁴ Students will often decide not to attend when lecturers simply read from their PowerPoints or the text.²⁵ Students conclude that they could just as easily do the required readings, read the lecturer’s slides and apply this knowledge to the problems asked in tutorials from the comfort of their own homes. This kind of analysis has also been described as instrumentalism — the ‘instrumental student’.²⁶ This pragmatic approach to studying asserts that ‘students do not attend university for the enjoyment of the learning process; rather they focus on the end goal, which is to find a good job’.²⁷ Dolnicar canvasses the findings of a number of studies on student perceptions of lecturing which identify that lecturers who stimulate interest, explain concepts, show enthusiasm for their subject matter and interact with their class are well accepted.²⁸ She reports that teachers who use ‘real world’ examples succeed in making their offerings meaningful to their students. She also asserts that students

²² A recent study concluded that many students experience financial hardship and need to weigh up whether to purchase textbooks or adequate food. See Marcia Devlin, Richard James and Gabrielle Griff, ‘Studying and Working: A National Study of Student Finances and Student Engagement’ (Paper presented at the 29th Annual EAIR Forum, Innsbruck, Austria, 26–29 August 2007) 3. This same study also stated that undergraduate students are working long hours: ‘16.5 per cent of full-time students in employment worked at least 20 hours per week during semester’: at 4; and one quarter of the undergraduates who were working reported regularly missing classes or equivalent activities because of employment commitments: at 5.

²³ Massingham and Herrington, above n 5, 84. These authors refer to a number of authors who write about teaching styles, distinguishing between those that result in deep as opposed to surface learning.

²⁴ Kenneth C Petress, ‘The Dilemma of University Undergraduate Student Attendance Policies: To Require Class Attendance or Not’ (1996) 30 *College Student Journal* 387–9 cited in Steven E Gump, ‘Keep Students Coming by Keeping Them Interested: Motivators for Class Attendance’ (2004) 38(1) *College Student Journal* 157.

²⁵ Nancy Fjortoft, ‘Students’ Motivations for Class Attendance’ (2005) 69 *American Journal of Pharmaceutical Education* 107, 111.

²⁶ Eve Coxon et al, *The Politics of Learning and Teaching in Aotearoa — New Zealand* (Dunmore Press, 1994) cited in Massingham and Herrington, above n 5, 84. This is also reflected in the findings of the recent Centre for the Study of Higher Education at the University of Melbourne report on the first year experience in Australian universities: see James, Krause and Jennings, above n 12.

²⁷ Massingham and Herrington, above n 5, 84.

²⁸ Dolnicar, above n 5, 104.

are seeking practical outcomes. She relies on some empirical work that reports that the majority of students attend lectures ‘to find out what they are supposed to learn, not to miss important information and to find out about assessment tasks’.²⁹ Therefore, there is a direct connection between student perceptions of the quality of the learning opportunity and student decisions about attendance.³⁰

But are students ‘good judges of what is before them in the long term’?³¹ Student decision-making about attendance at class and time allocated to study may be subject to an over-optimism bias. Over-optimism bias is a human decision-making shortcut (heuristic) which can cause irrational decision-making and unreliable predictions of outcome despite the availability of information which would allow more accurate and ‘rational’ estimations.³² Some students may overestimate their own individual ability to learn and achieve without attending class and underestimate the time required to complete their study and prepare for their assessments.³³ This typically results in students achieving below or well below their own expectations. It is certainly reasonable to consider this question carefully, especially when it is well-reported in the literature that student attendance results in better grades.³⁴ Indeed, in many Universities, including our own, academic teachers despair at the lack of student attendance and preparation despite warnings to students about the need to attend and prepare.

Of course, it is insufficient for students merely to attend class if they are to achieve at university. Massingham and Herrington

²⁹ Ibid.

³⁰ Although, interestingly, a more recent study by Dolnicar et al reports on an unpublished honours thesis focusing on education students which suggests that ‘although students cite poor lecturer quality as a reason *not* to attend, a perception of the lecturer as being high quality does not necessarily improve attendance’. See T L Keen, *What are the Perceptions of Lecturers and Students as to the Place of the Mass Lecture in Undergraduate Education Courses* (2006) Wollongong, NSW: Unpublished Honours Thesis, as cited in Sara Dolnicar, Wilma Vialle, Sebastian Kaiser and Katrina Matus, ‘Can Australian Universities Take Measures to Increase the Lecture Attendance of Marketing Students?’ (2009) 31(3) *Journal of Marketing Education* 203.

³¹ McInnis, above n 14, 1.

³² Joelle Ruthig et al, ‘Academic Optimistic Bias: Implications for College Student Performance and Well-Being’ (2007) 10 *Social Psychology of Education* 115, 116–7; Tara Haynes et al, ‘Reducing the Academic Risks of Over-Optimism: The Longitudinal Effects of Attributional Retraining on Cognition and Achievement’ (2006) 47 *Research in Higher Education* 755, 757–758. See also Clifford Nowell and Richard M Alston, ‘I Thought I Got an A! Overconfidence across the Economics Curriculum’ (2007) 38(2) *Journal of Economic Education* 131–42.

³³ Ruthig, above n 32, 117.

³⁴ But Massingham and Herrington, above n 5, 95 talk about more than mere attendance. Other studies also make this conclusion — Rodgers, above n 10, 284 and particularly 293. This article refers to a number of studies that make this conclusion. A later article by Rodgers and Rodgers, above n 1, 1 makes an even stronger claim that ‘class attendance has a significant effect on academic performance’ at 1.

suggest that student learning is more likely to happen when there is engagement in the learning process — something more than just attendance.³⁵ Yet meeting together may add value to the experience and increase opportunities. The simple act of interacting with others, both students and peers, enhances the experience of all involved as it prompts the participants to think through their own understanding in light of what is being said.³⁶ It allows the participants to either confidently confirm that they are ‘on the right track’ or be challenged to readjust their thinking or understanding. The educational theory of constructivism claims that this is so: when students, often through the use of problem-solving methods, are required to ‘analyse, synthesise and explain’³⁷ concepts, effective learning occurs. This approach to learning implies that knowledge is complex and requires students to consider the ideas of others and integrate those into their thinking.³⁸ In other words, learning requires them to engage with the material and with others in pursuing their efforts to master the subject matter at hand. The constructivist theory assumes, of course, that classes involve elements of interactivity between teacher and student, and student and student. This is not always the case, and the structure of a class (for example, an approach that is teacher-dominated with little student involvement or interaction) may impact on student engagement. Traditional methods of legal education, which are often teacher-dominated and heavily focused on individual achievement and competition among individuals, may also create learning opportunities that are antithetical to student engagement in the learning process.³⁹ This in turn may, over time in a law degree, lead to less student engagement.⁴⁰

In summary, today’s students want to control how they engage with their studies, particularly in relation to attendance, depending on whether they see value in prioritising these activities over their other interests. However, we believe that there is a danger that students will discount attendance and thereby affect their achievement negatively. It is our view that the real issue is engagement, yet a critical element of engagement is attendance. Attendance is both a pre-requisite and a

³⁵ Massingham and Herrington, above n 5, 96.

³⁶ For further discussion of the benefits of group work in legal education see Mary Keyes and Kylie Burns, ‘Group Learning in Law’ (2008) 17 *Griffith Law Review* 357.

³⁷ Massingham and Herrington, above n 5, 85.

³⁸ Denise Tolhurst, ‘The Influence of Learning and Environments on Students’ Epistemological Beliefs and Learning Outcomes’ (2007) 12 *Teaching in Higher Education* 219, 221.

³⁹ Bonita London, Geraldine Downey and Shauna Mace, ‘Psychological Theories of Educational Engagement: A Multi-Method Approach to Studying Individual Engagement and Institutional Change’ (2007) 60 *Vanderbilt Law Review* 455, 459–60.

⁴⁰ Ibid. See also the discussion in Roy Stuckey et al, *Best Practices for Legal Education: A Vision and a Road Map* (Clinical Legal Education Association, 2007) 105–10.

driver of student engagement in courses designed around ‘physical’ classes.

III CONTEXT AND METHODOLOGY

A The Context

While there is a significant body of international literature that focuses on student attendance, there is limited Australian literature, literature reporting on law school attendance and studies which focus on attendance across whole programs.⁴¹ This study was conducted at Griffith Law School in 2007. Griffith Law School is a cross-campus school offering law studies to approximately 1500 undergraduate students⁴² at campuses in Nathan, Brisbane and the Gold Coast. The Gold Coast campus draws students from its local geographic area and some students from northern New South Wales. The Nathan campus students predominantly come from the southeast corner of Queensland. Griffith is now the sixth-largest law school in Australia, yet it was originally established in 1992 as a boutique law school with a view to creating and maintaining a learning environment where student and staff relationships were based on personal interactions. The Griffith Law School is also particularly known for its focus on social justice, legal theory and clinical legal education and these factors are often reported by our students as the reasons they choose to attend. The entry scores for admission to the Griffith Law School are typically lower than for local competitor universities in Brisbane. As is now common in law schools, the cohort is predominantly female. Approximately two-thirds of enrolled students are women. The statistical data for Griffith Law School show that a relatively significant percentage of its students are first in family at University, and come from low socioeconomic backgrounds. The Griffith Law School also has one of the highest levels of indigenous student enrolment in law schools in Australia. The majority of the students are undertaking double degrees — a five-year program — with only a small percentage enrolled in a graduate-entry program — a three-year program. Large group class sizes were typically around double the size at Nathan compared to the Gold Coast during our study.⁴³

⁴¹ It will be noted that most of the studies on student attendance have been conducted with economics students; for example, see above n 1. For a discussion of factors affecting student performance in US law schools, see Richard Ippolito, ‘Performance in Law School: What Matters in the End?’ (2004) 54(3) *Journal of Legal Education* 459.

⁴² Griffith Law School is a three-campus school. The Professional Legal Centre is based at Southbank and the undergraduate students are at Nathan and the Gold Coast. This study focuses on the undergraduate cohorts.

⁴³ See below Table 1 in Part IV for class sizes.

B Methodology

We initially conducted a literature review followed by an empirical study using structured quantitative research methods, in addition to surveys that drew qualitative responses from the participants.⁴⁴ It was noted that a number of previous studies had concentrated on the experiences of one particular course.⁴⁵ We decided that this study would collect information from students enrolled in courses drawn from across the different years of the whole law program.⁴⁶ As part of obtaining ethical approval for the study, we agreed not to include courses in which we were involved personally. Five courses from across the degree, in both semesters one and two, at both Nathan and Gold Coast campuses, were included in the study.⁴⁷

The mode of delivery for each of these courses was a two-hour lecture to the whole class at which attendance was voluntary and a one-hour tutorial⁴⁸ (comprising a maximum of 25 students), each week or fortnight over a 13-week semester. Lectures typically (although not always) involved elements of student interaction and participation. At the time this study was conducted, neither the lectures nor tutorials were recorded, although typically legal academics posted their PowerPoints and other resource material to the course websites. (Since that time, Lecture Capture has been introduced and is used by a fair proportion of staff.) Assessment items varied throughout the courses, but most featured assignments and end-of-semester examinations. The stage one data collection focused only on student attendance at lectures.

⁴⁴ Multiple methods were used to allow more depth in data analysis and triangulation of results.

⁴⁵ Rodgers and Rodgers, above n 1 — data collected from a class of 131 commerce (business and economics) students in an intermediate microeconomics course; Chen and Lin, 'Class Attendance and Exam Performance', above n 1 — 114 students in a public finance course; Massingham and Herrington, above n 5 — 172 students in a third-year undergraduate management subject in the Faculty of Commerce; Dolnicar, above n 5 — 100 randomly selected students across six faculties.

⁴⁶ A UK study does report on 650 undergraduates at the University of Sussex but it differs from this study in that it draws from students across a number of degree programs with a particular focus on gender differences: Ruth Woodfield, Donna Jessop and Lesley McMillan, 'Gender Differences in Undergraduate Attendance Rates' (2006) 31 *Studies in Higher Education* 1.

⁴⁷ The courses were Introduction to Legal Theory (ILT) (year 1), Corporate Governance (year 2), Equity (year 2 and also some year 4 students due to curriculum changes), Criminal Procedure and Sentencing (year 4), and Legal Professional Practice (LPP) (year 5). Data were gathered for the Gold Coast, but not Nathan, offering of Introduction to Legal Theory due to administrative difficulties in gaining consents and data in the Nathan offering of the subject.

⁴⁸ In some courses, tutorial attendance was totally voluntary and, in others, tutorials had participation or other assessable marks attached. Given the differences between the courses, we chose not to focus on tutorial attendance in this study. Students who missed tutorials had the opportunity to attend substitute tutorials with the permission of the tutor.

In keeping with the University's ethical guidelines, the Head of School sought the students' participation via email. This email outlined the rationale for the research — that is, to identify whether there is a relationship between class attendance and student learning — and asked them to sign a consent form to allow the authors to gather information about attendance rates by head counts; to keep a roll; to conduct a survey; and to access their marks for the course. The students were also advised that their individual information would be kept confidential and reported anonymously. In support of this approach, we attended the first lecture of the selected courses to further urge the students to participate and to answer any queries they had about the process. Research assistants were also available at the first lectures of each course to distribute and collect consent forms. Further information was given in follow-up emails to all students and posts on course websites. Students were encouraged to return consents electronically or by post if they did not attend classes.

Of the 1398 students enrolled in the five courses, 280 students consented — approximately 20 per cent.⁴⁹ We were initially concerned that the sample of consenting students in the study was biased in favour of students who were more likely to attend classes. We therefore attempted to deliberately recruit students who do not attend class frequently via group email contact and contact via the course websites. However, despite our best efforts, it was difficult to recruit these 'non-attending' and 'non-engaging' students into the study. This appears to be an inherent methodological difficulty in this kind of study — students who do not attend and engage in their own education also appear to be very reluctant to participate in research projects. However, it should be noted that when the survey material was analysed, it was evident that a substantial proportion of the 129 students who participated in the survey (the second stage of the study) were not die-hard attendees.⁵⁰

During the first stage of the study, a research assistant counted the total number of students attending the lectures of each of the courses each week.⁵¹ In addition, in weeks four, seven, 10 and 13, a roll of participating consenting students was taken. The second stage of the study involved 129 participating consenting students filling in

⁴⁹ It was clear that despite our best efforts our consenting students were not a 'perfect' sample of all students enrolled in the courses we studied. Female students were more likely to consent to participate than male students. Gold Coast students were more likely to consent than Nathan students. Consent rates varied across courses and consenting students ultimately achieved higher grades than non-consenting students. Consenting students were also more likely to attend classes than non-consenting students. Apart from the gender and campus location of the participating students, no further demographic details were gathered.

⁵⁰ See the discussion in relation to this statement in Part V below.

⁵¹ A count was taken at the beginning of the class and after the break.

a survey⁵² that was made available on the course websites in week seven.

IV STUDENT ATTENDANCE AND STUDENT ACHIEVEMENT: ANALYSIS OF STAGE ONE DATA

A number of key findings emerged from analysis of the quantitative data collected in stage one of the study. As can be seen below in Table 1, the study confirmed that in all courses a significant number of students did not attend lectures. Even the maximum attendance figures during a semester demonstrated that a significant number of students were absent from class. A 10 per cent absence on any given day (for example, as shown in the maximum attendance figure for 1012 GC ILT) might be considered to be normal and to reflect such factors as illness absenteeism. However, the very low maximum attendance figures for the fifth-year courses, dealing ironically with legal professionalism and ethics — both important topics for admission purposes — could not be characterised in that way.⁵³ Almost 60 per cent of the class was absent even on the best attendance day of the semester.

When the average attendance figures are examined, the picture is even worse, with a number of courses below (and sometimes well below, as in 5001 NA LPP) half attendance on average. Students certainly appear to be choosing to fit their university studies around their lives rather than making them a priority.⁵⁴

A number of trends emerged in the data and can be seen in Table 1. The first clear trend is that student attendance is higher earlier in their degree and lower later in their degree.⁵⁵ There appears to be an overall pattern of decreasing attendance for each subsequent year of a degree. The only exception to this in our data occurred in relation to 4031 Crim, where the maximum and average attendance rates were higher than some of the attendance figures for the second-year subjects earlier in the degree. Some student responses in the survey conducted in conjunction with this project identified a possible motivation for students to attend this course — that is, the 100 per cent end-of-semester exam (a form of assessment rarely used in the

⁵² See Appendix A.

⁵³ This is particularly concerning given the importance of these topics for the future professional conduct of students who will become lawyers.

⁵⁴ McInnis, above n 14.

⁵⁵ This finding is supported by a study by Nitsa Davidovitch and Dan Soen, 'Class Attendance and Students' Evaluation of Their College Instructors' (2006) 40 *College Student Journal* 691, 696 and by Cohn and Johnson, above n 1 that concludes that 'freshmen appear to attend more classes than juniors and seniors': at 229.

Griffith Law School)⁵⁶ — which may have induced a ‘fear factor’ in favour of attendance.⁵⁷

Table 1 Maximum Attendance and Average Attendance of All Students Enrolled in the Course

Course	Finalised Enrolments	Max Attendance as a percentage of Final Enrolments	Average per cent attendance
1012 GC ILT	117	90.60%	75.14%
2010 GC Equity	157	81.53%	67.69%
2010 NA Equity	285	72.28%	50.94%
2012 GC Corp Gov	76	76.32%	55.26%
2012 NA Corp Gov	152	60.53%	39.93%
4031 GC Crim	74	81.08%	64.55%
4031 NA Crim	149	85.23%	58.89%
5001 GC LPP	68	44.12%	40.69%
5001 NA LPP	117	40.17%	27.58%

Table 1 also shows us some very significant differences between Gold Coast and Nathan average student attendance in all courses. This was surprising, given a generally very comparable curriculum, teaching and assessment experience in Nathan and Gold Coast courses. In addition, gender compositions of the cohort were more or less equivalent at both campuses.⁵⁸ Two possible factors may explain the difference and these are both worthy of further exploration in future studies. First, as can be seen in Table 1, Gold Coast lecture classes in 2007 were typically much smaller than Nathan lecture classes, suggesting that class size may have a role to play in student

⁵⁶ Griffith Institute for Higher Education, *Developing Effective Assessment: Strategies for Success* Griffith University <http://www.griffith.edu.au/__data/assets/pdf_file/0005/52862/gihe_tipsheet_web_dea.pdf> recommends that formative assessment and feedback form part of the assessment regime. This implies that 100 per cent end-of-semester exams should be avoided.

⁵⁷ This link between forms of assessment used in a course and their effect on attendance was not an issue considered in this study and is one area that is ripe for further research and study.

⁵⁸ Previous discussions on gender in education imply that female students may find it more difficult to attend classes than males and this is supported by a study by Davidovitch and Soen, above n 55, 695. See also Woodfield, Jessop and McMillan, above n 46, which found male students actually attended fewer classes than female students. See also Friedman, Rodriguez and McComb, above n 1, 128.

decisions whether or not to attend.⁵⁹ Secondly, significant statistical differences existed between the demographic and socioeconomic composition of the Nathan and Gold Coast cohort of students in 2007. There were significantly more students from lower socioeconomic and regional/rural areas and who identified as indigenous in the Nathan cohort.⁶⁰ In addition, although not statistically significant, there was also a higher proportion of mature-age students and students with a disability at Nathan compared to the Gold Coast.⁶¹ This suggests the possibility of a critical link between attendance and these student characteristics. In other words, the student characteristics that the *Bradley Report* suggests impact significantly on whether a student enters University at all⁶² may also affect a student's ability or decision to attend class and engage in their own learning.

Another pattern emerged in the data in relation to the patterns of student attendance in a course over a semester. Typically, attendance was highest early in a course (usually in week 1), fell dramatically at a mid-point in the course, and rose again at the end of semester (typically peaking again in the final lecture when the final exam or assessment was discussed).⁶³ Perhaps this pattern of choice can be traced back to the discussion that students are acting instrumentally as consumers by conducting a cost-benefit analysis.⁶⁴ This trend, which we call the 'U effect', was observable in the data dealing with overall class attendance and also in the data relating to the attendance of consenting students. Graph 1 below demonstrates the U effect in relation to the attendance data of the students who consented to participate, showing for each course the attendance of consenting students at weeks one, four, seven, 10 and 13⁶⁵ of the semester.

While the data regarding patterns of student attendance is interesting, does it suggest a relationship between attendance and student achievement? In order to explore this question, a statistical analysis of consenting students' attendance and their final marks was

⁵⁹ Friedman, Rodriguez and McComb, above n 1, 129–30 found that the 'larger the class, the more students were absent'. The study also noted that students 'attend small classes ... because their presence is noticed'. Davidovitch and Soen, above n 55, 698 supported this finding.

⁶⁰ These are the very student groups that the recent *Bradley Report* into higher education in Australia has identified as seriously under-represented in the Australian university population. See Commonwealth of Australia, *Review of Australian Higher Education: Final Report* (2008) DEEWR, 27 <<http://www.deewr.gov.au/HigherEducation/Review/Pages/ReviewofAustralianHigherEducationReport.aspx>> ('*Bradley Report*').

⁶¹ Griffith University Statistics on backgrounds of Griffith Law School students, on file with authors.

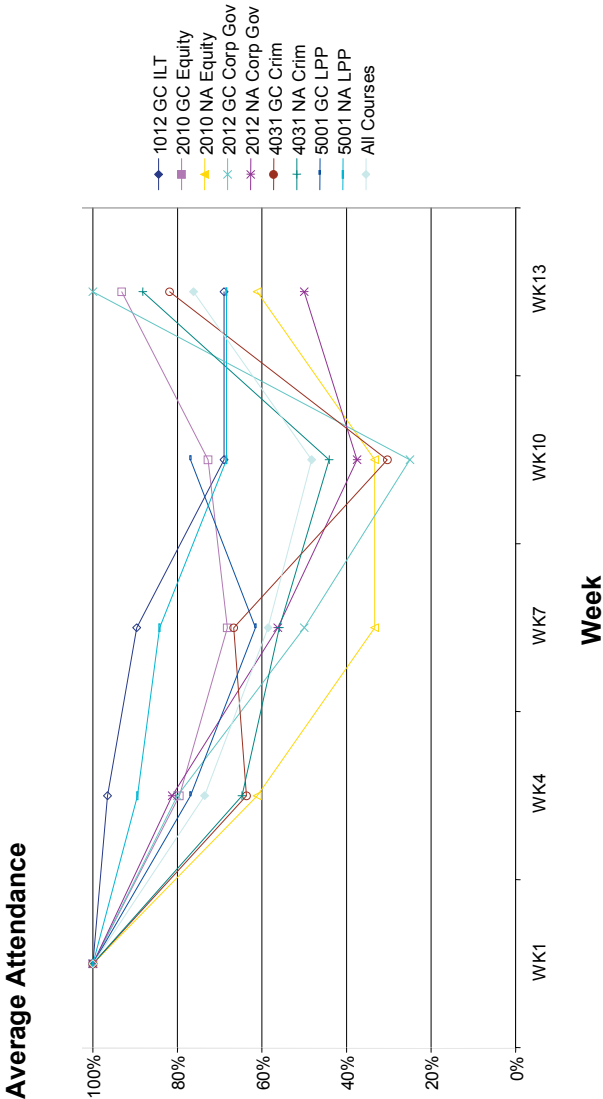
⁶² See *Bradley Report*, above n 60, 27.

⁶³ A similar finding was made by Rodgers and Rodgers, above n 1, 37.

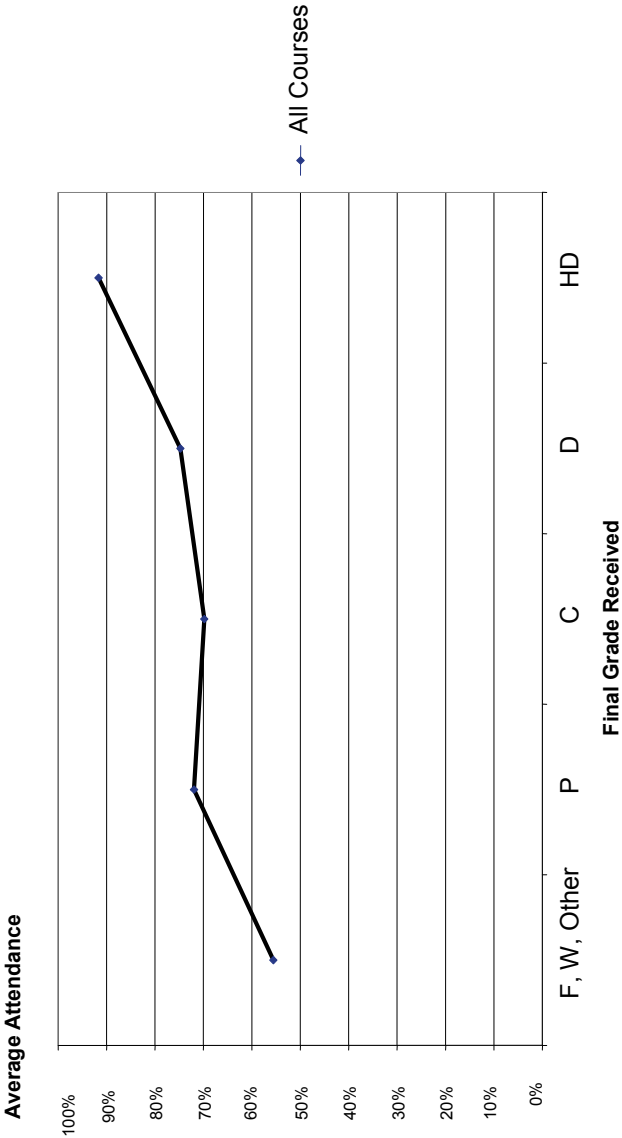
⁶⁴ See Devlin, James and Griff, above n 22; Petress, above n 24; Coxon et al, above n 26. See above Part III.

⁶⁵ Our records suggest that there was no lecture held in week 13 for 5001 LPP (Gold Coast).

Graph 1 The ‘U Effect’: Attendance of Consenting Students in Each Course



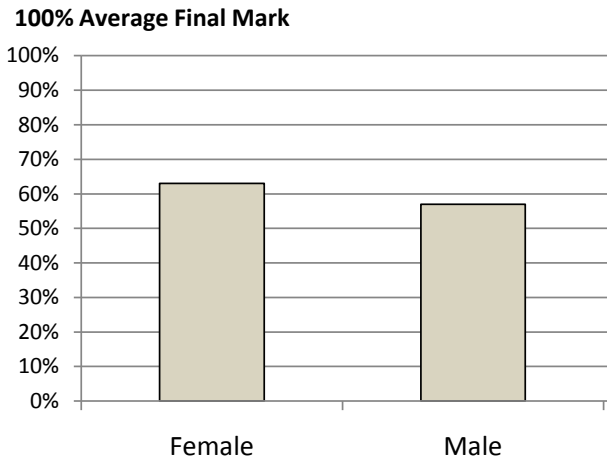
Graph 2 Average Attendance of Consenting Students
by Final Grade Received



conducted. This analysis found that there is a significant positive correlation between final mark and average attendance, such that higher attendance correlated with higher marks and lower attendance correlated with lower marks. This relationship is shown in Graph 2 above.⁶⁶

A number of other findings emerged when examining the average final grades of consenting students. First, consenting students on average achieved higher final grades than non-consenting students.⁶⁷ Second, female consenting students obtained on average statistically higher grades than male consenting students. This is shown in Graph 3 below.⁶⁸

Graph 3 Average Final Mark of Consenting Students by Gender



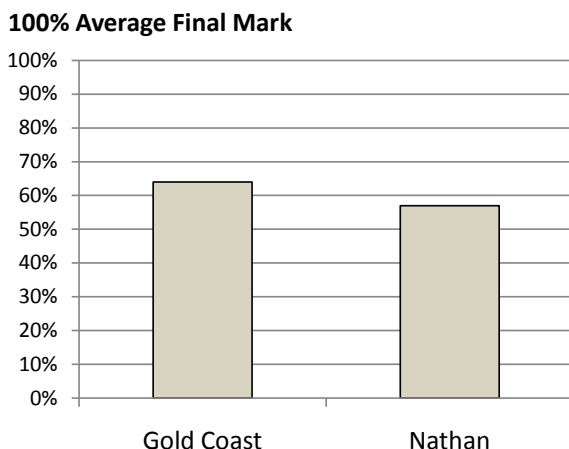
Finally, Gold Coast consenting students obtained statistically higher grades than Nathan students. This is demonstrated in Graph 4 below.

⁶⁶ The correlation coefficient was 0.288 when comparing the actual percentage mark received (on a scale of 1–100) with the students' overall attendance (again, on a scale of 1–100).

⁶⁷ As we have mentioned, in Part III, we had difficulties in recruiting non-attending students into our study and this (together with other factors) may have resulted in our consenting sample performing better overall than students enrolled in the courses generally. Consenting students on average also attended classes more frequently than the overall class average attendance; although, as we have noted in Part III and further discussed in Part V, non-attendance was also quite prevalent in this group. An analysis of all students might show an even more significant correlation between attendance and final results.

⁶⁸ Friedman, Rodriguez and McComb, above n 1 consider the assertion that gender of itself can explain differences in attendance a myth. See also Woodfield, Jessop and McMillan, above n 46.

Graph 4 Average Final Mark of Consenting Students by Campus



Therefore, we found that a student's final grade varied significantly due to factors such as course, gender, campus and attendance. Given that these factors may be interrelated, we also explored the relationships using multivariate analysis and found that the attendance of students was still significant, even after taking into account the presence of the other factors⁶⁹ (although we should caution that the unobservable factors of ability, effort and motivation could be affecting this conclusion).⁷⁰ It was also interesting to note that the effect of campus was no longer significant, indicating that once gender, course and attendance were accounted for, the campus of the student was no longer influential on his or her final mark.

V WHAT STUDENTS SAY ABOUT THEIR ATTENDANCE AND LEARNING STRATEGIES: ANALYSIS OF STAGE TWO SURVEY DATA

The fact that students make choices about attendance has been discussed above in a quantitative sense. We believe that we have also gathered some very rich data from the qualitative comments made by students in response to the survey questions administered in week 7 of the semester. While initially we thought that those who participated in the survey would be the 'attendees', many of them missed a significant number of the learning opportunities. There were 129 students who completed the survey but only 79 reported attending all available lectures; 12 of the remaining 50 missed more than half; 85 reported attending all available tutorials, but 6 had missed all of their tutorials.

⁶⁹ Results of the multivariate analysis (final mark by course, gender and attendance): model $p = 0.000$, R-squared = 0.184.

⁷⁰ See comments above n 1.

In other words, even though we did not access the views of those who did not attend at all, the group of students who participated has something to offer in explaining non-attendance. In this regard, it is important to note that those who participated did answer all of the survey questions and, in some cases, wrote quite lengthy comments.

In analysing the stage two data, we have attempted to link the findings to the themes that emerged in the literature.⁷¹ These themes collectively provide a basis upon which to discuss student understanding of the importance of attendance at learning opportunities and to inform us of some of the learning habits they employ to engage with the material beyond the university-arranged learning opportunities — for example, in study groups. The data will be presented under the following broad themes:

- motivating factors and attendance;
- student engagement and learning strategies beyond the classroom; and
- student optimism.

A Motivating Factors and Attendance

The survey asked students why they did not attend all of the lectures⁷² or all of the tutorials (small groups).⁷³ The reason most cited was a commitment to other courses/completing assessment tasks.⁷⁴ The expected responses were also mentioned — illness, family reasons and work, with work ranking only slightly higher than family and illness.

But there were other factors that dissuaded student attendance; for example, the timing of lectures.⁷⁵ One of the second-year courses, Corporations Law, was timetabled as one hour on one day and one

⁷¹ In effect, we were analysing what could be described as descriptive data by a process called ‘content analysis’ — identifying the main themes that emerged and in some instances these were coded so that they could be counted to determine frequency levels. See Kumar, above n 4, 223. See above Part III.

⁷² Survey question 3.

⁷³ Survey question 5.

⁷⁴ See Tiffany Chenneville and Cary Jordan, ‘Impact of Attendance Policies on Course Attendance among College Students’ (2008) 8(3) *Journal of the Scholarship of Teaching and Learning* 29, citing Malcolm L. Van Blerkom, ‘Class Attendance in Undergraduate Courses’ (1992) 126 *Journal of Psychology* 487, who suggest that other coursework can be a reason for non-attendance. This reason is not commonly mentioned. Perhaps the reason for this is that most rely on questionnaires that do not include this category as a possible reason. For instance, in a study conducted by Massingham and Herrington, above n 5, 94 ‘subject clash’ was included, but this does not allow for the kinds of reasons mentioned by the students in the Griffith study.

⁷⁵ This result appears to differ from the findings of Friedman, Rodriguez and McComb, above n 1, 129; Massingham and Herrington, above n 5. However, those studies were exploring whether or not students attended classes before 10 am and after 3 pm.

hour on another. This arrangement was considered an inconvenience and some students mentioned that it was a waste of time to come to University for just one hour and therefore chose not to attend. The timing of the tutorials in relation to the lectures was also mentioned. Students stated that they were not willing to wait for three hours for a tutorial and others said that late-night lectures were a disincentive. Another commented:

If I had my small group class within an hour or two from the lecture, then I would go to them both. But as it is they are on two different days and they are the only two classes I have.

Two students gave quite specific reasons which discouraged their attendance: where lecturers ‘randomly select names from the class list to answer questions in front of everybody’; and where tutors did not keep the discussion on point.

All of these factors show that students are making choices — that is, wanting to control their involvement. Friedman, Rodriguez and McComb recognised this goal, finding that students were much more committed to attending courses that they chose.⁷⁶ This is an interesting finding, but has little relevance for our study since we focused our attention on core courses that all students need to complete.

However, perhaps more importantly, students were asked to describe what motivated them to attend the learning opportunities offered — what they valued.⁷⁷ There was a strong emphasis on the convenience needs of students and their opinions uniformly were that they would attend only if there was something to be gained. This related to their perceptions of the quality of the teaching and the content covered, especially if it could be linked directly to the assessment regime.⁷⁸ A number of examples were given. For instance, as a result of a curriculum change, attendances at the Equity course suffered from what was probably an unfounded student perception that the course content had previously been covered in other courses.⁷⁹ Some of the students in this course commented that attendance at these lectures was a waste of their time. For example:

Not worth investment of time.

Content repetitive from other courses. Chose not to attend.

Left because I had already learnt what was being taught.

⁷⁶ Friedman, Rodriguez and McComb, above n 1, 127.

⁷⁷ Survey questions 6 and 7.

⁷⁸ The study conducted by Sleight, Ritzer and Casey found that this was the most important reason for student attendance: Merry J Sleight, Darren R Ritzer and Michael B Casey, ‘Student versus Faculty Perceptions of Missing Class’ (2002) 29(1) *Teaching of Psychology* 53. Support for these reasons can also be found in the study by Dolnicar, above n 5, 107.

⁷⁹ When a course totally dedicated to equity was introduced, students in the fourth year of their degree program felt that they were being asked to revisit content previously covered in other courses.

Students also stated that they attended to gain an understanding of the reading material, the theories being discussed and as a way of preparing themselves for the assessment tasks in order to achieve good grades. Other strong motivators, according to the students, are the delivery style, enthusiasm and passion of lecturers for the content of the course. If the lecturers or tutors simply read from the text or appeared disorganised, students were not encouraged to attend. One student also commented that if 'a lecturer explains a concept purely on a conceptual level without a concrete example' then the lecturer inevitably 'has made the content much harder to understand'.

Interestingly, a number of comments portrayed a consumerist or cost-benefit approach. The following are examples:

If it costs more to go to class than I will get out of it, then I won't go.

Just because I skip some classes does not mean I am uninterested, it is just about making sure that I make the most of my limited study time.

Another said s/he had 'paid to be there so why not go'.

The introduction of a 100 per cent exam for Criminal Procedure and Sentencing was a real attendance motivator. This assessment regime is peculiar to this course and is therefore a different experience for the students of the Law School. It had the effect of creating a certain amount of trepidation in the students and consequently increased their attendance ratings. This is discussed above in relation to Table 1.

In numerical terms, students appear to be committed to attending tutorials more frequently than lectures,⁸⁰ but on the whole these learning opportunities are seen as complementary. A typical response was:

Yes lectures provide info while small groups provide the practical help with questions we will encounter on our exams.

The numerical preference for tutorials can perhaps be explained.⁸¹ Some students said they were persuaded to attend if marks were awarded for attendance or participation.⁸² One student expressed his or her opinion as: '[n]o attendance requirement means I don't show'. Yet, in a course that did not give marks for attendance at tutorials, one student reported that s/he saw attending tutorials as 'giv[ing] you the edge over those who don't attend'. While the statement is driven by the student's competitive approach to study, it shows that the student believes that there is real value in attending for learning purposes.

⁸⁰ This finding is supported by a study conducted by Rodgers, 'A Panel-Data Study of the Effect of Student Attendance on University Performance', above n 10, 293; Rodgers and Rodgers, above n 1, 37.

⁸¹ As indicated above, quantitative attendance data was not gathered for tutorials in this study; however, we did gather qualitative data.

⁸² See T L Hansen, 'A Positive Reinforcement Program for Controlling Student Absenteeism' (1990) 24 *College Student Journal* 307.

Other students referred to the fact that they were aware that their non-attendance may cause them to miss something important which may be tested in an exam. For example:

The material covered in tutorials is usually problem based requiring the students to apply legal principles to a 'real world' scenario.

The students valued the opportunity to attempt practical problems,⁸³ ask questions and interact with both their peers and the tutors (one described this as a collaborative approach) and they reported that these activities helped them understand the material and prepare for the assessment.

B Student Engagement and Learning Strategies Beyond the Classroom

As we discussed in Part IV above our data revealed difficulties with student attendance at lectures. Our qualitative data suggested attendance is linked to student motivation. Both of these findings raise the question of student preference for alternative means of delivery. Would students prefer to access podcasts, other electronic recordings of the lecture material or e-learning systems at a time that suits them instead of having to physically attend at the university? Would this facilitate student engagement?

In reading the student responses to survey question 12 — which specifically asked students if they would prefer a substitute for lectures — one gets the distinct feeling that students, on the whole, are surprised and to a certain extent horrified that other forms of delivery may be considered in lieu of on-site lectures. The overwhelming response to this question is that students are very supportive of the use of physical lectures. The following comments show this strong support quite convincingly:

No substitute for lectures. They provide overall picture of a topic.

Lectures are an essential learning tool.

Some interpreted this question to be asking about student interest in wholly online offerings. To this one responded:

There is something about personal engagement with people that is very important. If I wanted to do a full time correspondence course I would have gone somewhere else to do my degree.

The use of technology featured in a number of their responses, but the students quite adamantly claimed that for the most part the materials made available via these mediums were being used for review rather than as a substitute for lectures; although they did suggest that the availability of such materials online meant that some students may

⁸³ Dolnicar, above, n 5.

choose not to attend. It was also suggested that the use of recordings would assist those who could not attend for whatever reason.

Very little has been written about the electronic capture of lecture material, but the evidence that has been gathered supports what the students are saying. Jeffrey Young wrote in 2008 discussing the experiences of some professors in the United States.⁸⁴ He reported that many professors fear ‘that students will stop coming to class’, but those who have tried this have disproved it and even suggest that there are positive effects from recordings. For instance, some believe that the grades of students have improved;⁸⁵ fewer students require consultation with the lecturers as they are able to refer to the recorded lectures to check their understanding; and surprisingly they report that the high-achieving students access the recordings at a greater rate than struggling students.⁸⁶ A study by Jonathan Copley reports that students still attend lectures even where podcasts are available, preferring to rely on the recording as a revision tool.⁸⁷ In order to combat the fear that students will not attend class, Young suggested among other things that classes should be more interactive, use in-class quizzes, and turn off the recorder and camera when discussing upcoming tests.⁸⁸

The survey participants stated that simply placing reading material online was not appropriate, but they strongly supported online activities that involved some interaction with others. This was considered to have the potential to be very beneficial to student learning. These comments again show that students recognise that there is a role for them as learners and it is their responsibility to engage with what is being offered.

It is well-known that not all universities are using the technology that allows lectures to be recorded. So if students are not 100 per cent committed to attending lectures and tutorials, how do they learn — particularly beyond the classroom setting? Survey questions 8 and 9 specifically ask those who do not attend all classes how they are engaging with the material and whether they think they are learning.

⁸⁴ Jeffrey R Young, ‘The Lectures are Recorded, So Why Go to Class?’ (2008) 54 *Chronicle of Higher Education* 36.

⁸⁵ Other studies support this view: Kristin Grimstad and Mark Grabe, ‘Are Online Study Questions Beneficial?’ (2004) 31 *Teaching of Psychology* 143; M Christina Hove and Kevin J Corcoran, ‘If You Post It, Will They Come? Lecture Availability in Introductory Psychology’ (2008) 35(2) *Teaching of Psychology* 91.

⁸⁶ This is also reported by Mark Grabe and Kimberly Christopherson, ‘Evaluating the Advantages and Disadvantages of Providing Lecture Notes: The Role of Internet Technology as a Delivery System and Research Tool’ (2005) 8 *Internet and Higher Education* 291. While it should be noted that these authors are speaking of online notes, it would seem that the availability of a recorded lecture would be similarly attractive to students.

⁸⁷ Jonathan Copley, ‘Audio and Video Podcasts of Lectures for Campus-Based Students: Production and Evaluation of Student Use’ (2007) 44 *Innovations in Education and Teaching International* 387.

⁸⁸ Young, above n 84.

The students who were not attending all lectures and tutorials were quite convinced that they were not learning as they should. Many went on to suggest that if they did not attend then they would not be getting the guidance to know what to look for in the readings; what is assessable; and getting the necessary confirmation generally that they are understanding the objectives of the course. The following sums up the comments:

If you don't attend classes you are not engaging in all the materials or acquiring the skills and knowledge because law is about interacting with others and problem solving in groups.

This comment seems to suggest that something more is required of law students. It reflects a consciousness that certain obligations and responsibilities to the public are associated with the role of lawyer.⁸⁹ It seems to imply that law students ought to make an effort to engage with the material to the best of their ability. However, paradoxically, their attendance rates do not reflect this understanding. Instead, students appear to be quite confident in their own ability⁹⁰ to master the requirements of the course whether they choose or fail to attend lectures and tutorials. This is despite acknowledging that they were not learning as they should if they did not attend classes.

Students refer to the need to make a concentrated effort at reading all of the material focusing on the objectives set out in the course material, using the lecture slides, obtaining notes from fellow students,⁹¹ contacting lecturers or tutors, and making use of the course support websites. While this may not always include interaction with others, it certainly implies individual interaction or engagement with the materials of the course and, as was suggested above when discussing the use of technology, the better experiences were those that required some sort of communication or interaction with others. Of course, while students acknowledge that learning requires their own effort and self-motivation, this does not necessarily translate into actual engagement with the materials or actual learning.⁹² This is an example of the over-optimism bias discussed in Part II.

Most students who were unable to attend the learning opportunities offered by the Law School relied fairly heavily on the generosity of

⁸⁹ Professions Australia, *Definition of a Profession* (2010) <<http://www.professions.com.au/definitionprofession.html>>.

⁹⁰ However, the discussion under Part C Student Optimism below shows that their confidence is misguided.

⁹¹ Marburger's study reported that 81 per cent of the study participants who had missed classes asked for notes from their peers rather than rely upon the text. He concludes that this reflects that students are trying to identify 'the "most important" concepts covered' in order to most efficiently prepare for what will be assessed: Marburger, above n 1, 106.

⁹² Students gave some very detailed responses to show how they go about learning in response to survey question 9.

their friends to provide them with notes⁹³ and often this relationship extended to joining with their peers to study.⁹⁴ There were various reasons why they did this. Some met weekly to discuss the work covered in class. For most, this was a physical meeting but some met online. Others used their groups specifically to discuss assessment tasks — assignments and certainly examination issues. The students who did form groups spoke highly of the experience. They saw them as opportunities to make sure that their own understanding was sound and to develop their knowledge through the perspectives of others. However, when considering the data for the whole cohort of participating students, the majority did not form study groups. Most did not give reasons, but some suggested that they were too shy; others found their friends too competitive; and yet others suggested that it was important that they did not rely on others, but do all of the work themselves.

Perhaps this last-expressed thought is really the common understanding of all of the students, both attending and non-attending — that simply attending will not achieve student learning and that it is important to individually engage with the material. This belief is captured in the following comment:

[The] real work begins at home. Spend hours reading and summarising and problem solving.

Interestingly one of the fifth-year students very confidently rationalised his or her escalating tendency to miss classes by suggesting that this was a sign that s/he was becoming more independent and that this was a positive thing for students approaching the reality of the workplace:

I think in final year, it is important to be able to learn the material independently. Next year when we start work, we will not be able to go to class and ask the teacher the answer. So, I think that we have learnt in the first few years of uni where to find the law, how to find the law and how to apply the law. Now we should be alright doing these things ourselves.

C Student Optimism

In general, students acknowledged that they were responsible for their own learning and eventual grade. The survey data show that the students proved to be overly optimistic about their abilities, similar to findings made in a number of other studies.⁹⁵ When asked about the grade they were hoping to achieve (survey question 13) and then the grade they believed they would be awarded (survey question 15), most students took a very conservative approach. In practically

⁹³ McInnis, above n 14 suggested that this was so.

⁹⁴ Survey question 10 asked about their involvement in a study group and survey question 11 asked what they hoped to gain.

⁹⁵ Ruthig et al, above n 32; Haynes et al, above n 32.

every case, students mentioned grades one or two positions higher in answer to survey question 13 than their answers to survey question 15. Some answers illustrate this point:

- Q 13 HD — really, who isn't in a law degree?
- Q 15 At the moment I'm hoping for a credit at the least but a distinction would be a pleasant surprise.
- Q 13 I would love to get at least a credit.
- Q 15 I think I will be lucky to pass. Being realistic passing would be good.
- Q 13 A pass at the very least, but I would be happy with a credit.
- Q 15 Not a clue, because as per usual, after I hand an assignment in, I start to doubt myself. It is something that happens to me after every piece of assessment, exams and assignments alike.

However, even these predictions are, on the whole, overstated. At the end of the semester, the actual grades achieved were examined and compared to their predictions made in Question 15. Expressed as percentages, only 30 per cent estimated correctly, with 1.5 per cent achieving a higher grade, 41.5 per cent a lower grade, and 27 per cent two grades lower:

Course	Higher	Same	Lower by one grade	Lower by two grades
ILT	14%	48%	33%	5%
EQUITY	2%	31%	26%	41%
CORP	7.5%	7.5%	50%	35%
CRIM	—	19%	45%	36%
LPP	—	20%	80%	—

Students therefore had an inflated idea of their abilities and the effectiveness of their learning. This is the case even though students may have had actual feedback (such as results from earlier formative or summative assessment in a course or in previous courses) that they could rationally draw upon to more accurately predict actual outcomes. The above data demonstrate the likely effect of optimism bias discussed in Part II which can produce irrational or unreliable student predictions, with the majority of students achieving below their estimated grades.⁹⁶ The effects of optimism bias on student predictions of results in Australian law schools and Australian universities is an area that warrants further research.

⁹⁶ Ruthig, above n 32, 116–17.

VI CONCLUDING REMARKS AND IMPLICATIONS FOR LAW SCHOOLS

This study adds to the body of literature that reports that quite a significant proportion of the student cohort is not attending classes. It raises the need for further investigation of student attendance at Australian law schools to determine whether the findings of this study are replicated elsewhere. It is possible that there are attendance factors which differ between law schools such as size, location, curriculum and teaching methods, and demographic characteristics of the student population. Our study found that students with high levels of attendance were more likely to achieve higher grades than those who attended less frequently. More specifically, the study showed that rates of absenteeism increased with each subsequent year of the degree program and that there was a ‘U effect’; that is, attendance at classes was higher in the initial weeks of the semester, dipping in the middle weeks and then peaking again for the final lecture — presumably when lecturers discuss the format and content of the exams.

With respect to the participants, we found that there were differences in attendance habits between the two Griffith campuses, even though the curriculum, teaching and assessment were identical at each and the cohorts were more or less equivalent in terms of gender. While we cannot claim to understand why this was so, it is known that the class sizes at the Gold Coast campus were smaller than those at Nathan⁹⁷ and that the student body at Nathan consisted of significantly more students from low socioeconomic and rural/regional areas, and from indigenous backgrounds.⁹⁸ This does raise the need for law schools to be watchful for attendance effects upon these more marginalised groups of students, particularly given the Australian government’s intention to increase their participation rates in University education. It also raises the need for further research on the effects of class size on attendance rates in law school.

In terms of absenteeism, we found that students chose not to attend lectures or tutorials if they believed that their attendance would interfere with their efforts to prepare for assessment items or where they did not think they would benefit from the experience. Other reasons for absenteeism included illness, family and work obligations. In comparing absenteeism for lectures and tutorials,

⁹⁷ Friedman, Rodriguez and McComb, above n 1, 129–30 found that smaller classes are better attended. See also Davidovitch and Soen, above n 55, 698.

⁹⁸ See *Bradley Report*, above n 60, 30–1, 33. The executive summary of the *Bradley Report*, above n 60, xi–xiii strongly recommends that students from low socioeconomic backgrounds ought to be encouraged to attend university and to do this the report recommends that the government offer targeted funding. However, our study suggests that these students may find it difficult to succeed as their added responsibilities may limit their attendance and therefore their achievements.

it appears that students were less likely to miss tutorials. It seems that they were motivated to attend tutorials because they believed that these classes helped them to understand the material through applying the legal principles they were studying to factual scenarios, and gaining practice at attempting problems similar to those set as assessments for the course.⁹⁹ The students overwhelmingly recognised that, if they missed lectures or tutorials, they needed to devote a lot of effort to learn what was required. Often, this also meant a reliance on others for notes or help through a learning group. Yet it is interesting to note that students appeared nervous about considering alternative teaching methods. The students in the study acknowledged the supportive role of technology, but expressed the view that this should not take the place of lectures. The impact of technology on student attendance and engagement in Australian law schools more generally (both as an adjunct to physical attendance and as a replacement for physical attendance), is clearly an area for further study and research. As has already been discussed, the students in the study took a very conservative approach to predicting the grades they would receive and yet only 30 per cent estimated correctly with most achieving a lower grade than they predicted. Therefore, it seems that students overestimate their own abilities.

Paradoxically, although students often chose not to attend classes, they also appeared to have an appreciation of the value of engaging in meaningful learning opportunities. How then should law schools respond to this problem? This is a difficult question and requires much more focused attention and research in legal education scholarship than has been the case to date. In this article we do not aspire to definitively answer that question, but rather to raise possibilities for further consideration and debate. One obvious question is whether law schools should be more proactive and make attendance compulsory? This seems to be the logical response, but there are authors who warn against this course of action.¹⁰⁰ For example, Karen St Clair suggests that students need to feel they have control over their obligations. She asserts that student achievement is the result of their motivation combined with attendance.¹⁰¹ Lumsden

⁹⁹ Although, in saying that, attendances at tutorials are also problematic: see above n 1.

¹⁰⁰ Kam C Chan, Connie Shum and David Wright, 'Class Attendance and Student Performance in Principles of Finance' (1997) 7 *Financial Practice and Education* 58; Devadoss and Foltz, above n 1; Luca Stanca, 'The Effects of Attendance on Academic Performance: Panel Data Evidence for Introductory Microeconomics' (2006) *Journal of Economic Education* 251; Jill L Caviglia-Harris, 'Attendance and Achievement and Finance Education' (2006) 4(2) *Journal of Economics and Finance Education* 1.

¹⁰¹ Karen L St Clair, 'A Case against Compulsory Class Attendance Policies in Higher Education' (1999) 23 *Innovative Higher Education* 171.

defines motivation as the desire to participate in learning,¹⁰² which is perhaps just another way of referring to engagement,¹⁰³ which in turn recognises that students need to accept responsibility for their learning.¹⁰⁴ Some would suggest that the best approach is one that actively encourages students to attend.¹⁰⁵ This could involve putting into practice some of the suggestions of students in this project — for example, providing opportunities to apply legal principles and theory in a practical setting; giving explanations that include practical examples; enthusiastic teachers; and so on. Additionally, it could require students to complete some practical exercise in class, participate in discussions, or perhaps work on assignments or projects¹⁰⁶ where the lecturer has some input.

Alternatively, some universities offer bonus reward points and there is some evidence that this encourages student attendance.¹⁰⁷ However, other studies have found that increased attendances may not improve performance, suggesting that ‘attendance *per se* does not ensure that learning takes place’.¹⁰⁸ Others have considered all of the studies that have gone before and concluded that it is better to force attendance, reasoning that there is something about ‘being there’.¹⁰⁹ If students attend, then there is a chance that they will find all of the elements they are looking for. They will find the content interesting, the teaching engaging and become familiar with the expectations that underlie the assessment items. In other words, there could be a change of attitude leading to intentions which translate into behaviour and engagement.¹¹⁰ Interestingly, it appears that forms of assessment which are now considered pedagogically unsound, such as 100 per cent end-of-semester closed-book exams, may drive

¹⁰² Linda S Lumsden, ‘Student Motivation to Learn’ (1994) 92 *ERIC Digest*, cited in David Burgess and Ernest Brewer, ‘Professor’s Role in Motivating Students to Attend Class’ (2005) 42 *Journal of Industrial Teacher Education* 23 <<http://scholar.lib.vt.edu/ejournals/JITE/v42n3/brewer.html>>.

¹⁰³ For definitions see Krause, above n 6; ACER, above n 7.

¹⁰⁴ Tolhurst, above n 38, 221.

¹⁰⁵ Steven E Gump, ‘Guess Who’s (Not) Coming to Class: Student Attitudes as Indicators of Attendance’ (2006) 32 *Educational Studies* 39; Randy Moore, ‘Does Improving Developmental Education Students’ Understanding of the Importance of Class Attendance Improve Students’ Attendance and Academic Performance’ (2004) 20 *Research & Teaching in Developmental Education* 24.

¹⁰⁶ Friedman, Rodriguez and McComb, above n 1.

¹⁰⁷ Hansen, above note 82, 307; Margaret H Launius, ‘College Student Attendance: Attitudes and Academic Performance’ (1997) 31 *College Student Journal* 86; Robert E Ledman and Felix U Kamuche Jr, ‘Improving Student Attendance’ (2003) 7(3) *Academic Exchange Quarterly* 288.

¹⁰⁸ Joan R Rodgers, ‘Encouraging Tutorial Attendance at University Did Not Improve Performance’ (2002) 41 *Australian Economic Papers* 255.

¹⁰⁹ Marvin Druger, ‘Being There: A Perspective on Class Attendance’ (2003) 32(5) *Journal of College Science Teaching* 350.

¹¹⁰ Martin Fishbein and Icek Ajzen, *Belief, Attitude, Intention and Behaviour: An Introduction to Theory and Research* (1975), cited in Gump, ‘Guess Who’s (Not) Coming to Class’, above n 105.

student attendance through a fear factor. However, it would be a very large (and we would consider retrograde) step for law schools to abandon richer forms of continuous assessment in favour of this form of traditional assessment simply to drive attendance.

There is some support for the observation that student patterns of behaviour may indicate how they will behave in the working world.¹¹¹ This may be particularly important for the legal profession, whose members frame the work they do in terms of a service to the public.¹¹² This conclusion increases the significance of this study, since 90 per cent of the survey participants identified that they are intending to practice law. This is an obvious area for future research. Their comments concerning the factors that motivate them and what they perceive as quality are therefore worthy of attention if we as teachers are serious about encouraging our students to engage with the learning opportunity.

Taking into account the information we have gathered, we would suggest that one way to encourage student engagement — particularly noting the instrumental approach that our students adopt — is to commence each course by referring them to some of the statistical literature covered in this article to demonstrate that attendance and student engagement produce student benefits in terms of achievement. Lecturers might also point out that students generally are overly optimistic and tend to place too much store in their ability to learn without attending. In doing so, lecturers may be able to appeal to the instrumental nature of students and motivate them to attend and engage. Additionally, teachers might also want to reinforce why their courses are structured in a particular way, perhaps by reference to evaluations previously gathered, and how the assessment relates to the objectives. In other words, show the relevance of the learning opportunities and how attendance will benefit their learning and achievement.

In adopting this approach, care should be taken. As St Clair and others have argued, it is important for students to feel that they are controlling their engagement — simply presenting evidence to first-year students may not be enough. It may be wise to help students more proactively to develop learning patterns that will help them to succeed. If that is so, then it seems to follow that universities should have a policy that prescribes attendance in early year courses¹¹³ to instil practices that encourage attendance, thereby modelling

¹¹¹ Cohn and Johnson, above n 1, 212, which suggests that ‘class attendance might foster good work habits, teach responsibility, and improve social skills’.

¹¹² It is our view that legal education and the legal profession may benefit from future research projects that explore the link between student behaviour and their professional behaviour.

¹¹³ We would suggest that this could simply be marks for attendance or perhaps, more usefully, marks attached to participation. Griffith Law School has adopted this approach so that students become used to attending and ultimately engaging.

what we have argued is best practice. Then there will be a chance that students' attitudes to attending will lead to behaviours where students engage fully. Of course, ultimately students need to take responsibility for their own engagement and learning.

Student engagement is vital. 'Education is not a spectator sport; it is a transforming encounter. It demands active engagement, not passive submission; personal participation, not listless attendance.'¹¹⁴ However, as we have argued in this article, attendance is critical to engagement. If we cannot get students into our classes, our chances of engaging them in the responsibility of their own learning are severely impacted.

¹¹⁴ Frank H T Rhodes, *The Creation of the Future: The Role of the American University* (2001), cited in Steven E Gump, 'The Cost of Cutting Class: Attendance as a Predictor of Student Success' (2005) 53(1) *College Teaching* 21.

APPENDIX 'A'

Survey administered in week 7 of the semester:

1. What is your student number?
2. How many lectures have you attended so far this semester?
3. If you have not attended all of the lectures, then please state as clearly as possible the reasons why you chose not to attend, or the circumstances that prevented your attendance?
4. How many small groups have you attended so far this semester?
5. If you have not attended all of the small groups, then please state as clearly as possible the reasons why you chose not to attend, or the circumstances that prevented your attendance?
6. If you have attended some classes in this course, what has motivated you to do so? Do you have any comments about what motivates you to attend lectures or small groups in your other courses? Do you have any comments about your motivations to attend any lectures or small groups across the law degree?
7. Do you believe that the lectures and small groups in this course are adding to your learning experience? Do you have any comments about your learning experience in other courses?
8. If you do not attend all classes in this course or others, do you think that you are engaging with the material and acquiring the knowledge and skills required?
9. If you do not attend all classes in this course or others, can you describe how you go about learning the material in this course, or others?
10. Are you part of a learning group that meets regularly, or do you meet with a group to discuss specific assessment items?
11. If so, why? What do you hope to gain from this?
12. Would you prefer it if there was a substitute for lectures? Why/why not?
13. What grade are you striving to achieve in this course?
14. At this stage in the course, do you feel confident that you are learning the material effectively? Can you explain why?
15. Do you have a sense of the grade you will be awarded for this course?
16. Are you planning a legal career? If so, what sort of legal career? If not, what other career do you have in mind?