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AUSTRALIAN INSTITUTE OF CRIMINOLOGY

SEMINAR ON LEGAL AND LAW-RELATED EDUCATION

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COMMUNITY LEGAL EDUCATION AND LAW REFORM

Hon. Mr. Justice M.D. Kirby

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"UNINTENTIONAL" LEGAL EDUCATION

A recent review of community legal education in Australia asserted that the Australian Law Reform Commission had "unintentionally" become involved in community legal education.

> "Law reform activities can also provide valuable information and practical training in the mysteries of the law. The A.L.R.C. with its emphasis on socially oriented references and its practice of pursuing those matters in a very public way through media publicity, the encouragement of submissions from interested parties, public hearings advertised as such and the extra-ordinary round of conference lecturing pursued by the current Chairman, Mr. Justice M.D. Kirby, has raised public interest and involvement in law reform as never before. These are commendable initiatives which could well be emulated by other State law reform bodies. The A.L.R.C. *perhaps unintentionally* has done as much in C.L.E. as any other legal institution in the past few years".[1]

The tribute is generous and I say nothing of it. But the allegation of unintention is not accepted. From its establishment the Australian Law Reform Commission saw as one of its functions the raising of community consciousness about the problems and defects in the legal system of this country. By doing this, expectations of actual reform and the achievement of orderly change are raised. Such expectations carry with them the imperative of modernisation, review and simplification of the legal system which is the statutory charter of the Law Reform Commission.

I start by congratulating the Australian Institute of Criminology upon yet another splendid initiative, this time in organising a seminar, the first of its kind, on Legal and Law-Related Education in Australia. It is a signal of the versatility and imagination of those who direct the Institute. I hope this seminar is the first of many, within the Institute and elsewhere, upon community legal education in this country.

The Law Reform Commission and the Australian Institute of Criminology are two national bodies, established by Commonwealth legislation, to stand to the side of the legal system observing it and commenting upon it with constructive criticism. We in the Law Reform Commission are privileged to be associated with the Institute in a number of important projects. In the past, we have had help from the Institute in the preparation of reports to the Commonwealth Government. At present, the Institute is helping us actively in two current projects of law reform. The first is the reference we have received to reform the law relating to the punishment and sentencing of Commonwealth offenders throughout Australia. In this matter, the Institute has arranged seminars, provided research assistance and supplied advice and counsel to the Commissioner in charge of the project, Professor Duncan Chappell.

As recently as last week, the Attorney-General announced the appointment of a Senior Criminologist within the Institute, Dr. John Seymour, as the latest Commissioner of the Law Reform Commission. This appointment, and the promise it bears of close co-operation between the Institute and the Commission in the project on child welfare laws, cements firmly the co-operative relationship that has been established between the Commission and the Institute. We in the Commission are proud to be associated with Australia's national criminology institute which is earning for itself a splendid name in the international community of the intellect.

I am also glad to see that a number of the lecturers in the seminar are persons with whom the Law Reform Commission is actively engaged. We have taken advice from Mr. Tjerk Dusseldorp on our processes of consultation. Mr. John Goldring is a consultant to the Commission in one of its important projects. Mr. Terry Purcell of the Law Foundation of New South Wales is also a consultant and his Foundation is playing an active and constructive part in our project on sentencing. By the assistance of funds, manpower and advice, the Foundation has helped to launch a most imaginative survey of the judicial officers of Australia concerning the defects that are perceived by them in sentencing law and practice. I look forward to even closer co-operation between the Institute of Criminology, bodies such as the Law Foundation and the Law Reform Commission. The purpose of these words is to enliven your interest in the Law Reform Commission, its work, its achievements and its methodology.

THE COMMISSION

The Australian Law Reform Commission (A.L.R.C.) is a Commonwealth authority, permanently established by an Act of the Federal Parliament, the *Law Reform Commission Act* 1973. The first Commissioners were appointed in 1975. There are now twelve Commissioners, four of whom are full-time, the balance, like Dr. Seymour, part-time. The Commission's office is established in Sydney. It has a staff of nineteen. It works upon references received from the Commonwealth Attorney-General.

It reports to him. Its reports may not be lost in the bureaucracy but must, under the Statute, be tabled by the Attorney-General within a short time of receipt. Its task under the Act is to review, modernise and simplify the laws of this country which are within Commonwealth i.e. federal jurisdiction. It has an important responsibility, in preparing suggestions for law reform, to keep in mind the desirability of securing, in appropriate areas, uniformity between the laws of the Territories (for which the Commonwealth is responsible) and the laws of the States.

COMPLETED PROJECTS

The Commission's references have been many and varied but I think the commentator's statement that they have a common emphasis on social policy is a fair one. The first reference we received, from the Labor Government, involved an examination of two separate but related issues. The first produced the report, Complaints Against Police,[2] the second led to the report on Criminal Investigation.[3] From the present Administration we have received equally controversial and policy-pregnant references. Mr. Ellicott's first assignment related to the breathalyzer laws of the Australian Capital Territory. In discharge of this reference, we produced our report, Alcohol, Drugs & Driving.[4] Subsequently we delivered reports on Insolvency : The Regular Payment of Debts,[5] suggesting major changes in Australia's bankcruptcy, insolvency and debt recovery laws. We also produced a report on Human Tissue Transplants.6

In addition to these reports, the Commission has produced discussion papers on a wide variety of other assignments. These discussion papers foretell reports which will be produced after the Commission has had the opportunity of considering reaction to tentative suggestions for reform.

THE PROGRAMME IN PROSPECT

The Commission is presently working upon a number of references and will report in turn on each. Some of them contain deadlines for report, a new and not always welcome innovation in law reform. The Commission worked to deadlines in the reports on Complaints Against Police, Criminal Investigation, Alcohol, Drugs & Driving and Human Tissue Transplants. In each case where a deadline has been fixed by successive Attorneys-General, the Commission has met the time limit and reports in due time. Two of the projects currently before the Commission include such time limits. These are the latest references received from Attorney-General Durack. They relate to the reform of sentencing law and child welfare law. Each of them requires a report during 1979. The fixing of a time limit indicates the priorities which government give to the programme of the Commission.

Among the other tasks are major exercises in the modernisation of our legal system. The next report, about to be delivered, relates to Unfair Publication : Defamation and Privac The report on this subject, suggesting important changes in defamation law and procedure, will be delivered within the next few weeks. The Commission will proceed to deal with other aspects of its reference on privacy. Generally speaking the law of Australia gives inadequate and piecemeal protection to individual privacy. The Commonwealth Government has now asked the Commission to provide new laws that will ensure workable machinery for the protection of privacy, particularly in information systems of various kinds, including computerised or automatic data systems.

The Commission is also working on a project for the reform of the law of standing i.e. the question of what interest is required before a person can move the courts to a concern in his complaint. Parallel with this is our project on class actions : to decide whether this American procedure of mass litigation should be imported into Australia. A class action is an American device by which one person sues, often for damages

on behalf of a whole group of persons who have been affected similarly to himself. A discussion paper on this matter will be published shortly.

Another reference requires us to look at the law relating to lands acquisition under compulsory process by the Commonwealth. A discussion paper has already been published on this subject as on several of the topics I have mentioned. Perhaps our most difficult task is that which asks us whether, and if so to what extent and how, Aboriginal customary laws should be recognised in the criminal justice system of Australia. The white settlers came to this country. In their cour they paid no heed to the laws and customs of the Aboriginal people. But law can be a positive force for stability and order in society. The question asked of the Law Reform Commission is whether the time has come for us to utilise Aboriginal customs in our legal system and thereby to avoid the injustices of double punishment that can sometimes arise, particularly in the case of traditional Aboriginals.

The Commission also has a reference on insurance contracts : designed to face up to the mass consumer nature of modern insurance and to bring the law into closer contact with the reality of modern insurance practices.[9] Finally, the Commission is also working on an overhaul of the law of debt recovery, an extension of the early project which led to our sixth report.[10]

IMPLEMENTATION OF REFORM

The Act establishing the Law Reform Commission is silent about what happens after a law reform report is delivered to the government. The establishment of a law reform body which produced excellent reports but whose labours led to no actual reform of the law and of our society governed by the law would be a waste of energies and public funds. This truth has been perceived and articulated by successive Attorneys-General, including Senator Durack.

Although the initiative for the implementation of reports lies outside the Commission, it has to be said that the response of governments, Commonwealth and State, has so far been encouraging. The report on Complaints Against Police was accepted by the former Administration and was the subject of legislation in the Australia Police Bill 1975. However, this Bill lapsed in November 1975 and was not reintroduced with the change of government. The new government asked the Commission to revise its proposals, in the light of the decision not to establish the Australia Police. The revised report[11] suggested retention of the basic scheme proposed. Meanwhile, the New South Wales Government adopted this scheme and introduced it in legislation governing the largest police force in Australia : Police Regulation (Allegations of Misconduct Act 1978. The Commonwealth authorities are examining the Commission's report in relation to the proposed Federal Police of Australia. I expect that we will see a scheme very similar to that put forward by the Commission introduced in federal legislation. Additionally, the Victorian and South Australian Police have adopted administratively one of the key proposals put forward by us (the introduction of a special unit of the police to handle citizen complaints). The Queensland Parliament also enacted legislation in 1978 which included certain of the proposals advanced in the Commission's report (dealing with vicarious liability for police).

So far as the report on Criminal Investigation is concerned, Attorney-General Ellicott introduced the Criminal Investigation Bill 1977, based on the report, and described it as "a major measure of reform". The Bill lapsed in 1977 but Senator Durack has indicated that he hopes to reintroduce it in Parliament this year, with some modifications. As well, the New South Wales Government has picked up some of the proposals in the report dealing with bail law reform and enacted the Bail Act 1978. The Northern Territory Government also adopted a number of the proposals, including such novel suggestions as the use of telephones to permit judicial supervision of arrest and search warrants in the great distances of the Northern Territory.

The repoft on Alcohol, Drugs & Driving was implemented in the Capital Territory in the Motor Traffic (Alcohol & Drugs) Ordinance 1977. It introduces the most modern breathalyzer equipment, including the facility of a "printout" to the citizen charged with an offence. It also introduced procedures for taking blood tests to counteract the growing use of drugs other than alcohol, to which the breathalyzer is not specific. Many other suggestions for reform were contained in the report and implemented by the Ordinance.

The report on Human Tissue Transplants has created worldwide interest. It was praised in the British Medical Journal and is shortly to be translated into Spanish for distribution throughout Latin America to governments concerned with the universal problem of updating the law to deal with transplant surgery. The draft legislation attached to the report has now been implemented in the Capital Territory.[12] The Deputy Premier of Queensland has indicated that the law will be introduced in that State.

Even in advance of reports, proposals put forward in discussion papers on lands acquisition and defamation have been adopted by governments. Perhaps the most surprising is the indication we have from Barbados, in the West Indies, that they propose to adopt our suggestions for reform of defamation law and procedures.

THE METHODOLOGY OF REFORM : COMMUNITY PARTICIPATION

The orthodox method of preparing laws in British societies has been a highly secretive one. Laws are prepared behind closed doors and are generally unavailable until they are tabled in Parliament. The Law Commission of England, established in 1965, reversed this procedure. By developing working papers or "Green Papers" as they become to be known from their cover, the Law Commission put about tentative ideas for improvement in the law, precisely in order to encourage public debate and to secure ideas for the law's improvement.

We in the Australian Law Reform Commission have taken this a step further. Instead of lengthy working papers we have prepared documents in clear English, stating the problem to be addressed and the Commission's proposals for reform. These documents are widely distributed in legal and other circles and are available free of charge from the Commission.

A team of honorary consultants is appointed in every reference. There has been no difficulty in securing consultants of the highest quality to assist the Commission in its projects, without cost to the Commonwealth.

Public sittings have been held in many centres throughout Australia, to which ordinary citizens, lobby groups and experts come : voicing in an informal way the suggestions they have for the improvement of the law. The increasing numbers attending the public sittings indicate the growing understanding of the methodology of the Law Reform Commission and the growing willingness of people in our community to come forward and express their views. There is something of a controversy about the desirability of public sittings. In his recent Nehru Lectures, Lord Scarman, the first Chairman of the English Law Commission, put it this way :

> "Lord Chancellor Gardiner frequently suggested to me ... that consultation could not be complete without public meetings held in various parts of the country to discuss the tentative proposals contained in a working paper. Kirby J. the ... Chairman of the Australian Law Reform Commission, tells me that they hold such meetings in Australia. Though we have not felt the need for them in the United Kingdom, I would not rule them out. Perhaps, for us, they are unnecessary because of the existence of so many societies, lobbies and pressure groups upon every conceivable topic of social or economic importance. Our consultations embrace them : they have their say : and there is little left to be said when they have finished".[13]

It seemed to the A.L.R.C. that the consultation with the public was both right in principle and efficient in practice. It is right that the community governed by the law should have the opportunity to express its views on the defects in the law. Powerful and interested lobby groups do not always perceive the law in the same way as citizens "on the receiving end". That is why we have made positive efforts to secure the opinion of ordinary people. We have also found that such opinion, and the recounting of actual experiences in the law, are very helpful in grasping a practical solution to deliver real law reform. The temptation is always there to produce yet another statute which looks fine on paper. The duty of the Law Reform Commission is actually to improve the administration of justice and not simply to produce fine reports.

In addition to these means of consulting the public, we have used public opinion polls. This cannot be done within our own resources and accordingly we have utilised the regular national polls carried out by newspaper chains, who are happy to make available a few questions relevant to the issues before the Commission. In this way we can gauge public opinion and thereby protect the Commission's reports from the criticism that they are unrepresentative and the views of an elite few. In addition to consulting the whole community, we seek to procure the opinions of specially interested groups. In our task on sentencing, for example, we are surveying the whole of the judiciary of Australia : more than five hundred judges and magistrates, in every part of the nation. They are being asked to state their views on sentencing and the ways in which sentencing law and practice could be improved. The independence of the judiciary and its remove from matters of high controversy require that this should be done by an independent body and in an anonymous and confidential way. This is the kind of thing which the Law Reform Commission can do. It will allow the judges and magistrates to speak, through us, to Parliament and voice their concerns about failings in our system of criminal justice, and the way to cure them.

In addition to all this, the Commission has used the television, the radio, talkback programmes, the printed media, magazines and so on to explain the tasks before it and to elicit public comment and assistance in discharging its functions. Of course, he who uses the media, rides a tiger. It is not always a disinterested distributor of information. Nevertheless, we have generally found the printed and electronic media in Australia only too happy to write up stories about the law and its problems. Until now, there have been few opportunities to speak constructively of the legal system and to examine its substantive and procedural rules critically, with the hope for improvement. The A.L.R.C. and the State law reform bodies provide vehicles to permit the focus of public debate upon the fundamental principles which should guide the legal system. All of the references given to the Law Reform Commission have been controversial ones. Not for us has been the highly technical areas of so-called "lawyers law" which, up till now, has been the general diet of law reform commissions. This consideration and the reasons of principle and practicality I have mentioned dictate that we should spare no effort in engaging in a community debate and raising community consciousness about the law and its practitioners.

Nor are we in the A.L.R.C. the only innovators. The New South Wales Law Reform Commission, which has a vital reference on the reform of the legal profession, has taken new steps itself in the procedures of consultation. Its commissioner have sat in country districts to hear views on the reform of the legal profession both from legal practitioners and clients, including disaffected clients. The result has been an informal process of consultation with gets away from the intimidating procedures of courtrooms and Royal Commissions of the past. We can all learn from each other in the business of consultation. We in the A.L.R.C. have looked to Tjerk Dusseldorp for positive advice in the way in which we can write our discussion papers in a language which is more readily understood by the layman. Lawyers tend to speak a special patois. Translating lawyers' language into plain English may be a job for educators. Teaching lawyers to speak to the community as a whole may be just as important as teaching the community the fundamentsl of the law and of legal method.

TWO THEMES

Running through the references that have been given by successive Attorneys-General in different Administrations are two major themes. The first is the impact of science and technology upon the law. Our reference on human tissue transplantion illustrates this. So does our task on criminal investigation, with the suggestions of the use of tape recordings, videotapes, photography and other means to set at rest the bitter debates about police interrogation and investigation. The project on defamation arises, in part, from the mass means of communication that are available today. The project on privacy arises substantially out of the development of computing and telecommunications technology which threatened to submerge the individual in mass information systems.

The second theme is the changing social values of our country. This is the theme which is relevant to community legal education. It should not really be a matter of surprise that the value system of our society is changing. The information with which the community is bombarded, principally by the media, has risen enormously both in quantity and quality in the last few decades. It will continue to rise at an exponential rate with the advance of computing science.

Additionally, our community is now better educated than ever before and more able to absorb the massive flows of information it receives. In twenty five years, the numbers of graduates leaving Australian universities have increased from about 3,000 a year to 25,000 a year. At the same time 83 Colleges of Advanced Education have been established. In the past ten years, the numbers of girls going on to higher education beyond the age of sixteen years has doubled. Such changes in the information levels of our society create new demands for access to the law and for a more rational and fair system of justice. In such an age, it is inevitable that the demand for knowledge about the law should increase, for this is the discipline which is all pervading and which governs each and every member of our organised community. It is possible, though unlikely, to go through life without medical and dental troubles, and never to require an engineer or a botanis

But in every waking day, persons living in the Australian community are confronted by legal rules. It is the universality of the law that creates the necessity of community education in it.

THE IMPEDIMENTS TO C.L.E.

There are many impediments in the way of advancing community legal education. In the first place, the legal profession has hitherto been unenthusiastic for it. The law is a conservatising force. It is inevitable that lawyers should be, generally, a conservative group, unsympathetic to radical change. The studies done by John Goldring indicate the highly limited socio-economic groups from whom the great majority of lawyers come.[14]

Their background, education, training and the nature of their discipline tends to encourage the "mystic cult" syndrome. These fancies are developed by the extraordinary dress into which they must bedeck themselves to perform their routine tasks. It seems to me an extraordinary thing that today, we are still wearing black robes in mourning for Queen Anne. The seventeenth century periwigs are a relic which serve to alienate those who practise the profession of the law from those outside the charmed circle. This is unfortunate, because it inhibits the recognition of the great social utility of the law and the postive force which the law can be for orderly change in our society.

There are some writers who assert that the basic impediment to change is a frank economic one : the existence of monopolies and economic advantage, hard won and not readily released. But quite apart from these impediments of the legal profession, there are other inhibitions in the advance of community legal education. Our statute laws are obscure to the point of incomprehensibility on occasions. A writer in a recent law review described the legislation enacted by Federal Parliament in terms that are hardly flattering :

> "Because of the pressures under which [Parliamentary Counsel] must work, they tend to develop habits in drafting which, though unconducive to clarity and simplicity, are unlikely to be modified because Parliamentary Counsel so seldom have the time to make a thorough review and reappraisal of established drafting practices. Some of the habits which have become entrenched in this way are the tendency to use participles and ablative absolutes instead of indicative verbs, and the stubborn refusal to break a subsection into two or more sentences. This latter practice in particular, which produces what must be the most breathless, tedious and confusing legislation in the English-speaking world is not explicable on the grounds of ancient practice ..."[15]

In addition to the defaults of laws made by Parliament, the language in which judges couch their expressions is sometimes obscure and convoluted with excessive reference to authority and inadequate attention to principle and concept. The law is also unavailable to practitioner and layman alike. The statutes of many States of Australia are difficult to obtain until, in many cases, months after Assent. Yet they govern the community as soon as they are proclaimed to commence. The subordinate legislation (regulations, ordinances and by-laws) are even more difficult to come by. The most modern computerised method of retrieving legal information is difficult to sell to a profession which is unresponsive to the pressures for change and to governments who believe that there are few votes to be earned in activities of this kind. The availability of the decisions of the High Court of Australia to ordinary citizens is, in practice, limited. This great institution : the third arm of government in this country, publishes its decisions through many specialist journals available to the legal profession. However, the costs to the citizen of getting access to the decisions of the High Court of Australia is high, if not prohibitive.

> "It is virtually impossible to obtain copies of High Court judgments without paying an annual subscription to the Commonwealth Law Reports ($38.50), purchasing a "part" of a volume ($11.00), reading the transcript in the High Court Registry or purchasing a copy of the transcript at 50c per page. When one considers the enormous volume of unreadable bureaucratic reportage that is produced by A.G.P.S. every year, at public expense, this is surely ridiculous".[16]

Is it unreasonable to hope that, at a time when substantial funds are being spent on court buildings, some attention will also be given to the supply and distribution of the intellectual product of the courts, in a form that can be readily appreciated by the community? If we do nothing to recognise the growing literacy and legitimate interest of the people in the courts, we will be accused, and perhaps rightly accused, of ill assessed priorities and seduction by the "outward show" of the law and its institutions. Because news reports of decisions of our highest courts are so few and, when they occur, often so ill balanced, and even inaccurate, I look to a time when specially appointed officers take on the task of accurately summarising important court decisions and explaining their significance to the ordinary man and woman. Dare I say it? It might even be helpful for busy lawyers to have such information.

BREACHING THE WALL

Despite all these impediments, there is no doubt that the wall has lately been breached. Community legal education is now with us in Australia. The teaching of law and law-related subjects in schools is a growing, busy, reality in the school curriculum in several States. The publication of periodicals such as "Legal Eagle", the "Legal Service Bulletin" and the A.L.R.C. bulletin "Reform", represent efforts to bridge the gulf between the law and its practitioners and a wider interested community. Production of the Legal Resources Book by the Fitzroy Legal Service and the Redfern Legal Centre has been a remarkable success in providing relevant information upon daily legal problems.

The legal profession itself is changing. Lawyers are taking their part in teaching law to laymen and in schools. Committees have been established to examine community legal education. The Australian Legal Education Council has deputed a sub-committee under Mr. Justice Samuels and Professor Lindgren to examine ways in which the organised legal profession can taken an active part in promoting community legal education. Recently, the Chief Justice of New South Wales informed me that his Legal Education Consultative Committee had resolved on 20 March 1979 to establish a sub-committee in relation to community legal education. The sub-committee comprises Mr. Justice Samuels, Mr. Purcell of the Law Foundation, Mr. P. Correy and an academic member. The question of further enlargement of the sub-committee was to be considered later.

In addition to these initiatives, the New South Wales Government has given the Law Reform Commission of that State a most challenging task to review the future role and regulation of the legal profession. No-one believes that important reforms of the legal profession of New South Wales will be limited to that State. In a real sense, the scrutiny by the New South Wales Law Reform Commission of the lawyers of New South Wales will be a catalyst for the future of the legal profession in Australia. Already the inquiry has led to a general acknowledgement, in many quarters, that some of the monopolies of the past must go. This inquiry, the committees specifically looking at community legal education and the role of the legal profession in it and the great shift in the age structure of the legal profession of Australia, towards youth, betoken a more optimistic relationship between lawyers and the community in the future. The fact that there are many lawyers now who cannot obtain premium work in the profession and that many young lawyers choose to pursue a more imaginative career than in days gone by will probably release a number of trained lawyers to take an active, professional interest in legal education of the community as a whole. I am not unmindful of the criticism of lawyers as educators. But it seems to me that lawyers should take an active part in interpreting their profession and its precepts to the community and in learning

from the community the inevitable criticisms that will come from knowledge.

C.L.E. : IS THERE A NEED?

What are the chief reasons for the need for community legal education? Among them, appear to be to be four. First, our legislators are annually producing more than a thousand Acts in the Parliaments of Australia. This says nothing of the subordinate legislation, the case law and other rules by which we are governed. Some say we are over-governed by the law and that there is too much law. But there is no evidence that the tide is about to be stemmed. On the contrary, the bulk and complexity of laws grows daily. The law governs us all. Ignorance of the law is no excuse. It scarcely needs elaboration to say that lawmakers who produce laws and take no interest in bringing their product to the attention of those governed by the law are acting irresponsibly. Fairness dictates an equal concern with lawmaking and legal education. I realise, of course, that it is impossible to bring each and every law to the attention of every person. Indeed, it is impossible for the modern lawyer to keep pace with more than the broad developments of the law. Increasingly, the complexity of legislation and other lawmaking has forced specialisation upon what was, until recently, a catholic and universal profession. But it is one thing not to inform people about the law. It is entirely another to obstruct efforts to gain access to the law or to fail to teach the community generally about broad principles of the law and the machinery by which it is made. I realise that it is easy in developing course curricula to limit teaching to a number of very specific rules. Such a methodology is simpler for curriculum development and for examination and assessment of students. It is not, however, the way I believe responsible community education in the law should develop. More important is the teaching of the machinery of lawmaking, the general principles of the law and, especially, of areas of the law with which the ordinary citizen may become concerned. One of the chief arguments for class actions advanced to the Law Reform Commission is that it provides a realistic way in which large numbers of consumers

can enforce the remedial consumer protection legislation which otherwise lies unknown and unused or is unenforceable in the hands of the ordinary citizen. The removal of myths, a familiarity with the machinery of the system and a broad appreciation of the general principles of the law, rather than a detailed study of commercial law subjects, is the way I believe community education in the law should develop. This may mean the inclusion of law and lawmaking in social studies and other like courses rather than the devotion of particular attention to law as a set of rules. From the point of view of the reformer, it is much more important to have a community that knows how the system works than to have a limited number of top students who have a necessarily superficial smattering of the principles of commercial and contract law.

Secondly, I believe the need for community legal education is shown by the response of ordinary Australians to the law when it is available and explained to them. I understand that Legal Studies is now one of the most popular curriculum courses in Victorian schools. Certainly, the responses to the Law Reform Commission's efforts promoting a community debate about the references given to it tend to indicate a great interest in law and its improvement. The Prime Minister, Mr. Fraser, said to the assembled lawyers, when opening the last Australian Legal Convention that it takes a Cabinet of Farmers to produce a Government of Law Reformers. There is a keen interest in law in the community because unlike other disciplines, legal rules can generally be appreciated, if not approved, by the layman when explained.

Thirdly, I am convinced that the law has a positive role to play in improving our society. Knowledge of its machinery and of the opportunity to advance society, governed by the law, will enhance the role of the law and lawyers not as obstructions in the way to a better society but as vehicles to promote agreed improvements in our country.

Fourthly, the Banner of the West is said to be societies living under the Rule of Law. It is this that is said to distinguish us from so many other less happy regimes and to provide order and liberty under the law for our community. A society that proclaims a belief in the Rule of Law but which then does little to inform its citizenry of the law which is enforced is engaging, to my mind, in a dangerous hypocrisy. It is an empty, shallow boast to assert the Rule of Law but to provide ordinary people with little, if any, knowledge of the Law by which they are ruled.

More should be done than is being done. But an important start has been made. It is for that reason that I was delighted to take part in this important seminar. I congratulate the Institute of Criminology for arranging it. I hope it will be followed by many like seminars here and elsewhere in the future. I also hope that the importance of the subject will be brought home to many whose responsibility it is to design school curricula and to choose between the competing arguments about this or that subject as prerequisites in the education of civilised men and women. If the Banner of the West is the Rule of Law, there can be no more important matter for our future citizens to learn than the organisation of their society, the way in which its rules are made and the way in which they are open to change and improvement and reform. I am pleased to be described as a community legal educator. It is not an unintentional vocation. The way of the reformer in Australia may be hard, as some assert, but it is eased by raising the community's knowledge of the law as it is and the community's expectations of the law as it should be.

FOOTNOTES

* Chairman of the Australian Law Reform Commission.

1. B. Keon-Cohen, "Community Legal Education in Australia", (1978) 4 Monash University Law Review 292, 317.

2. A.L.R.C.1., Canberra, 1975.

3. A.L.R.C.2., Canberra, 1975.

4. A.L.R.C.4., Canberra, 1976.

5. A.L.R.C.6., Canberra, 1977.

6. A.L.R.C.7., Canberra, 1977.

7. A.L.R.C.11., Canberra, 1979.

8. A.L.R.C., Discussion Paper No. 5., "Lands Acquisition Law : Reform Proposals", 1977.

9. A.L.R.C., Discussion Paper No. 7., "Insurance Contracts" 1978.

10. A.L.R.C., Discussion Paper No. 6, "Debt Recovery & Insolvency", 1978.

11. Complaints Against Police : Supplementary Report (A.L.R. Canberra, 1978.

12. Anatomy and Transplantation Ordinance, 1978 (A.C.T.)

13. Lord Scarman, Nehru Lectures, 1979, Lecture II "The Law Commission - As It Is, And How It Does", 6 January 1979, mimeo 4.

14. J. Goldring "Admission to Law Courses in Australia" (1977) 20 Vestes (Australian Universities Review), 61.

15. G. de Q. Walker, Book Review (1978) 9 Federal Law Review 523.

16. Keon-Cohen, op.cit. 315. The subscription figures quoted were as at 1977.