

NEW PERSPECTIVES FOR TEACHING LEGAL STUDIES

By G T Lansdell and E E Clark

FOREWORD

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Foreword

The Hon Justice Michael Kirby CMG Hon D Litt

I first became interested in the teaching of legal studies in the schools of Australia about 10 years ago. Stimulated by the request to write this foreword (and a similar foreword for a book for New South Wales schools) I extracted the first speech which I delivered on the subject. It was to the Australasian Commercial and Economic Teachers' Association at its conference in Canberra on 31 August 1979. At that time, I was still the Chairman of the Australian Law Reform Commission. Raising the community's consciousness about the law, legal policy and the choices to be made in the reform of the law was a major aspect of that office, as I conceived it. Stumping the country from one conference-room to another was the counterpoint to scholarly work on the technical reform of the law and pouring over legal texts. I lost count of how many chicken legs I consumed in the service of law reform.

For many of the teachers at that conference in Canberra in 1979, I was the first real live judge they had met. Certainly, I was the first they had ever questioned. I fear

I did not quite meet their stereotyped image of a crusty judge, weighed down with years and with the cares of office. But that was ten years ago.

If the law moves at a languid pace, the educational establishment is not much better. Ten years have passed. In many parts of Australia, the introduction of legal studies into school curricula was very slow.

It is not as if the arguments for the teaching of the subject were unconvincing. On the contrary, they were as powerful in 1979 as they are now. The teaching of legal studies in schools was already well advanced in Victoria a decade ago. There were then some 14 000 Year 11 students in approximately 250 secondary schools studying it. Only English, a compulsory subject, and biology and Australian history outranked the subject as an option of choice. It was gradually being introduced in South Australia, Western Australian and the Territories. In Tasmania, the whole idea was at first condemned in Parliament, including by Mr G A Pearsall (later Deputy Premier). He saw legal studies in schools as giving rise to "all sorts of trouble":

"People get themselves into major contractual dangers with a basic insight into the law. They will walk about thinking they know sufficient about the law and do things themselves."

Yet now the course is up and running in Tasmania. This book is designed to stimulate the teaching of law-related education. It aims to help the teachers of Legal Studies in Tasmania and, in this way, their students. It follows a

survey conducted with the support of those teachers, many of whom have no formal education in law. One consequence of the writing of the book may be a strengthened link between the schools and the University of Tasmania with its distinguished Law School.

I confess now, as I did to that busy Canberra conference ten years ago, that my objective in promoting the study of the law in schools was fundamentally political. If the law is seen as the lawyers' business - the concern of judges and a few other people rushing around in black robes, horsehair wigs or three-piece suits - it is easy for citizens to convince themselves that there is nothing they can do about injustice. Such burdens, like "the law's delay" must just be shrugged off and accepted. The whole point of my time in the Law Reform Commission was to establish the fact that we are all responsible for the system of law we live under. Out of a knowledge of the basic rules of the law will come a sense of involvement in it and a feeling of obligation to right wrongs. Such wrongs do not generally occur because of the passage of wicked laws by Parliament or the development of such laws by judges. Usually, injustice arises because the circumstances in which an old law was made have changed or because the law books are silent on a new problem. This is where law reform comes in. We must inculcate in our society an insistence upon the constant updating, simplification and reform of the laws we live by. A community in which a sizeable number of citizens have some

exposure to the law's institutions, procedures and basic rules may be a community which is more sensitive to the righting of wrongs and more insistent that its representatives in Parliament attend to that obligation. It has always struck me as a trifle unrealistic, even absurd, to insist that everyone is deemed to know the vast body of the law when (until now) our community has done precious little to bring its basic rules to the attention of its citizens. It has also seemed a trifle unconvincing to boast of the rule of law, and of a government under law, without paying attention to the justice of the law which is thereby enforced.

This is why, for philosophical and practical reasons, the introduction of legal studies into the Tasmanian educational syllabus is to be warmly welcomed. It is why the new and closer relationship between the schools and the University in this area is to be welcomed. The training of teachers who have a realistic knowledge of the operation of the legal system will be important. This book will be a contribution to that process.

Never for a moment think that the pages of this book contain mere words and dry-as-dust legal prose. They contain the rules by which we live together in Australian society. The cases of conflict and violence, of business disputes and personal crises are frequently brought to resolution according to legal rules. Far from being boring, the law is the very stuff of life.

M D KIRBY

Court of Appeal, Sydney
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