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AUSTRALIAN HIGH SCHOOL PRINCIPALS ASSOCIATION

ANNUAL CONFERENCE, HOBART, 16 JULY 1980

'EDUCATION IN TRANSITION'

LAW AND SOCIETY IN A TIME OF CHANGE

The Hon Mr Justice M D Kirby
Chairman of the Australian Law Reform Commission

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LAW AND EDUCATION IN A TIME OF CHANGE

Education is in transition because our society is going through a period of unprecedented change. The watch word for our time is change. The law, its procedures and institutions are also changing. In part, the demands for change which build up are accommodated by our busy Parliaments, which every year, between them, enact more than 1,000 statutes for this continent. In part, the judiciary, armed with the innovative powers of the common law of England, stretch and develop old precedents to apply to new times. In part, the Executive Government, administratively, develops laws in practices in tune with today's needs. Because the pressures for change have tended to outstrip the law making institutions, and because laws today must address more sensitive, complicated, controversial questions from a starting point of fewer certitudes, law reform bodies have been established by Federal and State Parliaments. By procedures of public consultation, discussion with the experts and the community at large, we seek to help law makers to adjust to the challenge of today: the challenge of change.

The modern Australian Parliament has been described as a 'weak and weakening institution'.[1] The courts are less inclined today than they were in past centuries, to

develop new laws. They tend to leave this task to Parliament and the Executive Government.[2] Yet Parliament and the Executive Government, distracted by recurring elections and diverted by the heady controversies of political life and personality politics, turn away from the hard issues of adjusting the legal system, inherited from earlier times, to our times. In this coincidence of unprecedented pressures for change and institutional disinclination to meet those pressures, there lie many dangers. Lord Hailsham has said that the 'banner' of Western countries is the rule of law.[3] That is, we live in a community in which, ultimately, disputes and differences may be resolved by reference to given rules, defined impartially in independent courts and applied to all, high and low, government official, big business or little citizen, 'without fear or favour, affection or illwill'.[4] If this is the unique feature of our form of society (as I think it is) and if it is a feature worth preserving (as I am sure it is) we must consider the implication for it of our time of change. We must seek to identify the chief forces of change and address the consequences those forces have for the laws by which we are all governed. It is a statement of the obvious which must constantly be made that the endeavour to impose on an educated community, unacceptable rules and values of times gone by will lead to a breakdown of respect for the law and endanger the rule of law itself. In a more educated and better informed community, abject, unquestioning acceptance of the law (particularly of outmoded rules) can no longer be assumed. The courts of Australia do not have armies waiting at the ready to enforce their decisions. Orderly government and peaceful resolution of conflict in society (ultimately in the courts) depends very much upon community consensus and the willingness to accept the judgment of the independent umpire. It is now time for me to state my theses. Each is relevant to education in transition. One is a consequence of the same forces that are at work in education. The other is a consequence of education itself. My theses are two.

- First, that the unprecedented changes which require a re-examination of education in transition also impact the law, its institutions and rules. Society should face up to this impact and so adjust the law that it is brought into harmony with the society of today.

- Secondly, our better educated citizens have a right to a fuller appreciation of the institutions of the law and at least their chief legal rights and duties, than was thought necessary in times gone by. A society which acknowledges this proposition will act to put it into practice. There is no better place for community legal education than in school. The legal education of future Australians will go beyond instruction in the motor traffic code, necessary to secure a driver's licence. Lamentably, that is the extent of the systematic knowledge of the law which, until recently, has been considered necessary in our country.

FOUR FORCES FOR CHANGE

What are the chief forces of change that are at work in the legal system? I would identify four main themes.

- the growing importance of the role of government in the lives of all of us;
- the growing importance of big business and the decisions made in large corporations, affecting our lives;
- the changing moral values and social attitudes which are, in part, the product of an education system which is 'free, universal and compulsory'; and
- above all, the force of science and technology, the most dynamic factor in the equation and the one which most obviously imposes the necessities of transition on us.

The Growth and Importance of Government. Take, first, big government. The common law of England, which is the basis of the Australian legal system, stretches for at least 800 years. But during the first 750 years, the role of government was distinctly circumscribed. Naturally enough, the legal remedies that were developed for the citizen reflected this limited conception of the functions of government. It is only really in this century, and indeed in recent decades, that the public sector has come to assume such a significant role in the daily life of virtually every one. Perceiving this development the Lord Chief Justice of England, Lord Hewart in 1930 sounded a warning in his book 'The New Despotism'. He alerted lawyers and law makers to the dangers for the individual (and for the rule of law) of large numbers of bureaucrats, working without effective judicial supervision and within very wide discretions conferred in ample terms by legislation, frequently designed by themselves.

It is only in the last decade that, in Australia, Lord Hewart's warning has been answered. One of the happiest developments of law reform in our country has occurred at a Federal level and under successive governments of different political persuasion. It has produced what has been called 'the new administrative law'.[5] An Ombudsman has been established. An Administrative Appeals Tribunal has been set up, headed by judges, to review, on the merits, certain Commonwealth administrative decisions. An Administrative Review Council has been established to develop new administrative remedies in a systematic way. An important measure has been passed through Parliament and, with amendment, may be proclaimed this year. It will, for the first time, confer on people in Australia a legal right to have reasons given to them for discretionary decisions made by Commonwealth public servants affecting them.[6] In the place of bland uncommunicative

decisions, the individual will be entitled to a reasoned response. As far as I am aware, only in the Federal Republic of Germany and in Israel is there similar legislation. Freedom of information legislation is before Federal Parliament. Though there has been criticism concerning the areas of exemption from the right of access, critics should not lose sight of the fundamental change which the legislation envisages. In place of the basic rule of secrecy of bureaucratic procedures, will be a basic rule of openness and the right of access. Refusals of access will generally be the subject of independent review in the Administrative Appeals Tribunal. Privacy legislation, to be proposed by the Law Reform Commission, and a basic code of fair administrative procedures will complete this 'new administrative law'. Although these developments have so far been limited to the Commonwealth's sphere, moves are afoot for similar changes in the States. The role of government and its employees has increased and is likely to continue to increase. The law has begun the long haul of responding to this phenomenon: providing individuals with accessible, low key effective remedies of review and reconsideration by external and independent machinery. The skill and dedication of the public officer is submitted to the civilising test of 'fairness' on the part of generalists, upholding the rights of the individual.

Growth and Change in Business. The second force for change in the law is the changing face of business. The mass production of goods and services gathered momentum from the autombile industry and is now an important feature of our society. Yet many of our laws reflect the business methods of earlier times and fail to reflect the realities of the mass consumer market of today. The common law of contract assumed an equal bargaining position between the vendor on the one hand and the purchaser on the other. It is precisely to meet the reality, which is different, that we know find most jurisdictions in Australia and elsewhere have enacted consumer protection legislation to ensure that basic conditions are met in fairness to the consumer.

Several of the tasks before the Australian Law Reform Commission illustrate the way in which it is necessary to bring laws developed in earlier times into harmony with the commercial realities of today. Our project on consumer indebtedness led to a report which suggests a new approach to the problems of small but honest consumer debtors. Our debt recovery laws pre-date the enormous expansion of consumer credit that followed the second World War. Accordingly, they are imbued with a philosophy that debt is never innocent and should be dealt with individually. The Commission's report faced up to the reality of the modern extension of credit, the reliance nowadays of creditors upon a credit reference system to protect them and the need to take individual debt not necessarily as a sign of moral culpability but often as an instance of incompetence in coping with the credit community of today. Procedures for credit counselling, aggregation of debts and systems of regular repayment of debts were suggested in the place of present procedures of court action and bankruptcy.

Likewise, the Commission's project on insurance seeks to adjust the law to an age of mass consumer insurance. The law governing the relations between insurer and insured was basically developed in the 18th Century, long before mass produced insurance polices were sold by radio and television to people of varying understanding and little inclination to read the policy terms. The imposition upon consumer insurance of the obligation worked out in an earlier time for different kinds of transactions is scarcely appropriate. Yet unless there is reform of the law, that is what will continue to be the case.[8]

The Australian Law Reform Commission has also been asked to report on class actions: a legal procedure which has been developed in the United States. Class actions permit consumers and others to aggregate their claims into one big action, making litigation between the consumer and big business a more equal proposition than may be the case in an isolated individual claim.[9] These are just a few instances of the way in which proposals are being made to adjust the legal system to the commercial realities of today.

Changing Social and Moral Perceptions. The third force, for change is more difficult to describe. It is probably bound up in higher levels of education, longer school retention and improved methods of the distribution of information by radio, television and the printed word. I refer to the changing moral and social attitudes which are such a feature of our time. There are many forces at work and some of them, I know you have been considering in this Conference. In the space of a few decades we have moved from official acceptance of 'white Australia' to official (and increasing community) support for a more multi-cultural society. The last decade saw the rise of the women's movement, of anti-discrimination boards, of efforts to eradicate 'sexual oppression'. There has been talk of the rights of the child. Next year will be the Year of Disabled Persons. I predict that the growing numbers of the aging in our society will lead to new emphasis upon the rights of the old. Successive governments have carried forward policies to reverse decades of neglect and worse in relation to our Aboriginals. These are just a few of the recent social changes.

For some citizens, especially those of the older generation, it must all seem as if the world has been turned on its head. Not two decades ago, it was the received cultural wisdom that Australia was a man's country of decidedly British values. Others could like it or lump it. Everyone they had to comply with the accepted norm and be assimilated and integrated into it. Now the despised and disadvantaged groups of the recent past are listened to earnestly with growing community appreciation: ethnic groups, women, homosexuals, paraplegics and the disabled, the mentally ill and retarded, women, Aboriginals, the old. Football and cricket still draw record crowds but so now do our theatres, our films and the arts generally. Puritan morality has given way to open advertisement of massage parlors. Nude beaches flourish in at least some of the warmer

These changes cannot come about without affecting the law and its institutions. People, including people in high places, begin to ask why there are so few women in the judiciary of Australia?[10] Why various laws still discriminate against migrant newcomers?[11] Why the criminal law contines to enforce, in the so called 'victimless crimes', attitudes to morality which are not now held by the great majority of citizens. In no other Commonwealth Act has the changing community morality been more vividly reflected than in the Family Law Act 1975. That Act substantially replaced the notion of fault as the basis for the disillusion of marriage, replacing it by a new test: the irretrievable breakdown of the marriage. As in education, so in law. In a time of transition, it is uncomfortable for those who cling to the values and certainties of the past. There are many sincere citizens who bemoan the radical changes, some of which I have touched on. No recent piece of Federal legislation has been so beset by heartfelt controversy than the Family Law Act itself. Yet if community attitudes and standards are changing, the endeavour through the law, to enforce the attitudes and standards of an earlier time is bound, in the end, to fail, unless it has substantial support or at least acquiscance in the community. Laws of earlier times applying on a social base that has shifted tend not to uphold past morality but simply to bring contempt for the law and its institutions. They breed cynicism and even corruption which undermines the rule of law itself. The moral of this tale is that, whilst the law must necessarily tread cautiously, its rules and their enforcement should never be too far distant from current perceptions of right and wrong. When those perceptions are changing rapidly, as they are just now, it is a difficult time for law makers and those who advise them. In a time of transition, it is also a difficult time both for those who support reform of the law and those would cling to old ways. The attitudes of each must be understood and respected.

Dynamic Science and Technology. The fourth force for change in the law is equally at work in education. I refer to the dynamic of science and technology. The birth, in recent weeks in Melbourne of a child fertilised in vitro heralds remarkable developments in biology which will pose dilemmas for society and the law. Cloning, which has been developed in plants and more recently in prize bulls is now, we are told, a feasible possibility for human beings. Human tissue transplantation is occurring regularly in all parts of Australia, as scientists overcome the body's natural immune rejection of organs and tissues from other persons.

The developments of computerisation, particularly as linked to telecommunications, present many problems for society, including its educators. By a remarkable combination of photo reduction techniques, dazzling amounts of information can now be included in the circuit of a tiny microchip. The computerised society may reduce the needs of employment, increase the vulnerability of society, magnify our reliance on overseas data bases and endanger the privacy of individuals.

These and other developments raise questions which the law of the future will have to answer on behalf of society. Should human cloning be permitted and if so under what conditions. Is it acceptable to contemplate genetic manipulation, consciously disturbing the random procedures that have occurred since the beginning of time? In the case of artificial insemination by a donor other than a husband, what rules should govern the discovery of the identity of the donor, if this is ever to be permitted? What rules should govern the passing of property and how can we prevent accidental incest in a world of unidentified donors? Should we permit the storage of sensitive personal data about Australians in overseas data bases and if so under what conditions? What requirement should be imposed for the supply of data in one computer to another? Is the systematic matching of computer tapes a permissible check against fraud or a new form of general search warrant which should be submitted to judicial pre-conditions? Under what circumstances are we prepared to tolerate telephone tapping to combat crime? Is junk mail a passing nuisance or unacceptable invasion of privacy?

Almost every task given by successive Attorneys-General to the Law Reform Commission raises an issue about the impact of science and technology on the law. In our project on criminal investigation, we had to look to ways in which police procedures could have grafted onto them the advantages and disciplines of new scientific advances.[12] In our report on human tissue transplanation, we had to work out the rules that should govern the taking or organs from one person for the benefit of another.[13] We also had to answer the question of how death is to be defined in modern terms. Should young people ever be entitled to donate a non-regenerative organ to a sibling and if so under what conditions? Should positive donation be required or can we legally impute a general community willingness to donate organs after death. Our project on defamation law required us to face the realities of defamation today: no longer an insult hurled over the back fence but now a hurt that may be carried to the four corners of the country.[14] Our reference on privacy requires us to examine the ways in which we can preserve respect for individual privacy whilst taking advantage of the computerisation of society.[15] Even our most recent project on reform of the law of evidence requires us to rescrutinise some of the accepted rules of evidence against modern psychological and other studies which suggest that many of the accepted tenets of the law do not stand up to empirical scrutiny.

There is no doubt that computing will affect the teaching profession. Indeed the advent of the new information science should be seen in the same way as the introduction of electricity: it will be permeate almost every aspect of life. Its impact will not be confined to factory workers. None of the professions will be exempt. In the same way as pocket calculators took over from mathmatical tables and slide rules in the 1970s, so pocket instructors will come upon the teaching scene in the 1980s: particularly in such disciplines as languages and the physical sciences.[16]

EDUCATION IN TRANSITION

If the coincidence of such forces for change and the inability of law makers to cope presents institutional problems for the law, there are equivalent institutional problems in education. One of the chief of them is that high technology promotes at the one time structural unemployment which leads to calls for greater vocational emphasis in education. Yet the technology itself seems certain to diminish the needs of employment of large numbers of people doing routine work. Consequently, in point of logic, our education system should be addressing its attention to new forms of education which will suit Australians of the future for a society in which there is much more leisure and consequently greater need for preparation to fill it. What I am suggesting is that the changes which confront the law, equally confront education. As in the law they pull in competing directions. We have all of us heard the demand for a return to the three Rs. We have all heard calls that education should 'return' to an emphasis upon preparing the young person to win against his fellows in the battle for scarce post-education jobs. Though our school retention rates are still low by a OECD standards, when they increased in the 60s and 70s, they did so largely by applying to the greater numbers, the educational system traditionally offerred for the smaller numbers entering the old professions in earlier times. In October 1979 Professor (now Sir Bruce) Williams in this city delivered his analysis of 'technological employment and unemployment and its implications for education'. His address contained a plea for the avoidance of the mindless pursuit of vocational forces in education:

> That primary and secondary education should never be solely vocational is obvious from the extent of leisure and probable increases in it, from the prospective changes in the nature of work, from the importance of citizens who appreciate the virtues of honesty, integrity, tolerance and concern for others, and from the need for voters with a sufficient understanding of economic and political processes to make democracy work effectively. The view that there is necessary dichotomy between liberal education and vocational education is false, but it is sufficiently widespread to retard sensible reforms.[17]

I said our school retention rates are low. By comparison to those of Japan and the United States (countries with whom we trade and have many dealings and similarities) they are very low. OECD figures compare the numbers of 17 year olds who are in full-time education. In 1976, the last year of available comparative statistics, Japan had 88.1% in secondary and tertiary education. The United States had 84.6%. We in Australia can boast 39.9%.[18] And our situation has, if anything, deteriorated since 1976 as the recession invites anxious school leavers to quit education on the prospect of a sure job.

Sir Bruce Williams suggests that part of the problem may be the endeavour to stamp on greater numbers a system of education developed and suitable for a few traditional occupations and largely uninteresting and seen as irrelevant to the preparation of most young people for life in a technological age.

> There is a need to establish a range of education programs suited to the interests and needs of very different groups of students. I doubt whether we will find such a set of programs until many administrators and teachers overcome some strong inhibitions which attach of vocational education.[19]

What inferences are to be drawn from our comparatively low school retention rates? First, I agree with Professor Williams that the percentage of retention is too low and that this 'will become increasingly obvious as further changes in technology reduce the employment of teenagers with low levels of manual and mental skills'[20] Secondly, important changes will be needed if our educational system is to adjust to the new task of preparing young people for a world in which (at least in the forseeable future) full employment will not be guaranteed and indeed a steady level of youth unemployment may be endemic.[21]

Realization of the need for change seems to be coming. In most parts of Australia enquiries about the structure of education have either been begun, are in being or have recently been concluded. At a secondary level, a New South Wales Parliamentary Committee is busily at work. The Minister of Education for Victoria has issued a Green Paper on stratagies and structures for education in Victoria.[22] The weekend press contained the notice of the Committee of Enquiry into Education in South Australia under Dr. J.P. Keeves. One of his particular terms of reference is to examine:

> The means by which curricular and teaching methods of the schools and colleges should be changed to meet new technology and changing employment patterns.

A common theme of curriculum policies adopted, proposed or under study for secondary schools in most places of Australia is a greater emphasis on decentralization of curriculum decision making. Intrinsic to this movement is the involvement of individual schools in the making of decisions about the adoption, adaptation or creation of new curricula. Yet unless pressure is exerted from those who are looking at the long haul of education, I predict that the easy path of leaving things as they are and of succumbing to short vision pressure for more vocational emphasis, will persist unabated.

LAw IN SCHOOLS

I want in my closing remarks to say something about the teaching of law in schools. The subject has the endorsement of no less an educationalist than the Governor-General, Sir Zelman Cowen, who we are proud to list as a past Commissioner of the Law Reform commission. Recently he said this:

> Taught imaginatively, it seems to me that [a knowledge of selected areas of the law of direct concern to ordinary members of society] can be a most valuable contribution to the understanding of social institutions ... The task of teaching it well and perceptively and within appropriate limits is a very difficult one and the education of teachers themselves is very important ...[24]

I have been urging the utility of such courses for some years now. They seem to me to be precisely the kind of studies that are objectively needed, if citizens are to fulfil their proper part in our democracy. But they may also be specially useful if taught in a non-vocational way as providing pupils with skills and knowledge that will be of practical help to them in identifying their rights and duties in society or of knowing when they have rights or duties and what to do about them.

The call for the imaginative instruction of school students in the basics of the law is not confined to our country. In New Zealand, Professor Bernard Brown of the Auckland University has said that:

> It is hard to conceive of a more potent instrumentality than school to carry out the necessary educative tasks [of better informing young people about law] ... The course should strive to broaden their perspectives on society by introducing them to issues of topical controversy and, through discussion, acquaint them with the particular problems they will meet in an adult world. Teachers will need a ready supply of information, together with short orientation courses.[25]

In Canada, one of the Justices of the Supreme Court, Mr. Justice McIntyre told a conference held in Saskatoon that school students in Canada should be informed about the substance and procedure of the law, about their rights and liberties and 'above all on need for the rule of law'. He said that legal education in schools was a new field of education, the goal of which should not be to make everyone into a lawyer but to make ordinary members of society 'aware of the law and of their rights and responsibilities'.[26]

In Australia, law related education is beginning to flourish. It has taken a different course in different parts of the nation varying from an extremely popular detailed and specific subject in the Victorian secondary curriculum to an effort to graft legal themes onto established curricula in other States.[27]

I am aware of the difficulty of imposing curriculum changes from above by administrative fiat. Efforts to do so with science and other material have too often come unstuck.[28] For all that, there is a clear need for us to do more to prepare citizens for the complexity of the legal rules with which they will be confronted in life. Everyone is deemed to know the law. Parliaments produce more and more laws. I hope I will live to see the day when the enthusiasm for new law-making will be equalled by a passionate concern to bring the chief rights and duties of people affected to their specific notice. School is, as it seems to me, the place to start this endeavour. So long as the law is perceived as a remote thing, a mystery, the possession of judges and lawyers and others sworn in the priestly caste, ordinary folk will not assume their proper measure of responsibility for the state of the law. Knowledge of some laws, if widespread throughout the community, would, I am sure, lead to strong demands for their repeal, improvement or reform. Apathy about the intermittent injustice of the law would be lessened by greater civic knowledge about the law, about how to find it, about how to use its institutions and procedures and about how to secure its orderly improvement and renewal.

The work of the Law Reform Commission proceeds in a way that is quite different to the preparation of most of the laws of our country. Laws made by Parliament are traditionally prepared in secret. They are first publicly revealed when they are tabled in Parliament. This secrecy is designed to permit reflective consideration of competing possibilities free from outside pressure. It is also designed to maximize the political advantage of the Executive Government of the day.

In the many controversial tasks given to the Law Reform Commission, we proceed in exactly the opposite way. We issue discussion papers with tentative proposals for improvement of the law and identification of current defects. We distribute widely pamphlets which summarize the points being made. We hold public hearings at which experts, lobby groups and ordinary citizens can come along to express their views about the current law and the Commission's tentative suggestions to improve it. We hold public seminars and numerous private consultations. We use the media, including talk-back programmes to convey our proposals to interested Australians. We use public opinion polls and specialized surveys, such as the recent survey conducted of all judges and magistrates in Australia taking part in sentencing. Special efforts are made to consult disadvantaged groups: migrants, children, Aboriginals and so on.

These efforts will come to nothing if the view persists that the law is somebody else's responsibility. At a time of rapid change, leaving it to others may be specially perilous. One of the chief reasons for community legal education, as I see it, is to ready the members of Australian society to take a more active part in the machinery of government, specifically law making. I believe that in the future there will be many more opportunities for people to take part in the design of Australian society. Until lately, our education system has tended to anaesthetize the community to its responsibility for the state of the law. The teaching of law related subjects in schools may rectify this. The large numbers of students flocking to take the course in Victorian schools is an indication that what every lawyers knows: that the law is not a dry and dusty thing, devoid of human interest and full of technicalities and Latinisms. These are misconceptions about the law. It is, on the contrary, the living instrument by which human problems are solved, injustices can be righted and society protected against those who would do it harm.

There are practical things that can be done to translate pious these sentiments into action.

- Education authorities can introduce law related education into the specific school curriculum, providing consultants and material for use by teachers who will often approach the law with a feeling of diffidence and lack of confidence. On a local level, headmasters and others can encourage the adoption of law related courses as 'Other Approved Studies' i.e. as optional subjects for the school curriculum. I have no doubt that lawyers throughout Australia would be only too glad to be rostered to help teachers, though I caution that education is a job for educationalists, not lawyers.

- Court visits should become a regular feature of education at school. In Victoria 16,000 secondary students visited the Supreme Court and Country Court of Victoria in 1978. Similar numbers have visited the courts since then. Many citizens have never been in a court and have a distorted image of the law, chiefly the result of American television programs.

- Liaison between education departments and the legal professional bodies has been achieved in Victoria. It has led to the supply of material to schools and to a supportive involvement of the legal profession in community legal education. Video tape and films of courtroom scenes (real and simulated) have already been produced or are in production. Film Australia, for example, is preparing a series to illustrate the problems faced in a variety or legal situations and to promote classroom discussion about the solutions. Such discussion should identify the values which the law is seeking to uphold. It could promote a healthy respect for the law based on knowledge rather than on ignorance and fear.

CONCLUSIONS

Ignorance, fear, a fealing of remoteness, costliness, inaccessibility. All too often these are the reactions of good decent Australian citizens to their law, its institutions and procedures. We are living through a time of transition. I have sought to identify the chief forces that are at work for the change of the law. It seems incredible to me that we have got by for so long with such puny efforts to teach future citizens at school about the law and its institutions. In earlier times with fewer laws, fewer rights and duties and less concern that courts and tribunals should be available for ordinary people, the lack of instruction may not have been a problem. Today, it is a defect in our society. It should be rectified.

I fully realise that there are many pressures for the change of the curriculum. There are those who call for better instruction in community health. There are those who want specific instruction in the new technology. Equally vocal are those who want to return to the three Rs and a strict concentration on preparation for the vocations that are now scarce and must competed for. I recognise these many pressures. But, without apology I add my voice because I believe that the law is the one discipline from which no one in society can escape. Every time you cross the road, every time you buy a bus ticket, every time you purchase a sandwich, drive your car, buy a home, fall at work, chastise a child or purchase some shares, you are engaged in conduct about which the law has things to say. A community which deems everyone to know the law and does precious little to turn this presumption into at least the beginnings of reality inevitably engenders an attitude of cynicism and helplessness. I hope that before this Century is out, indeed in this decade, schools and colleges throughout Australia will embrace community legal education. Properly presented, students will like it. Moreover it will be good for them. Moreover it will be good for Australian society.

FOOTNOTES

1. See G. Reid, 'The Changing Political Framework', Quadrant (January/February 1980) 5. See also [1980] Reform 45.

2. See e.g. Government Insurance Office v. Trigwell (1979) 26 ALR 67 (Barwick CJ and Mason J). Cf [1980] Reform 5.

3. Lord Hailsham, Robert Menzies Inaugural Oration, 1978 How Free Are We? mimeo, 22.

4. This is the language of the Judicial Oath.

5. G.D.S. Taylor, 'The New Administrative Law' (1977) 51 Australian Law Journal 804.

6. Administrative Decisions (Judicial Review) Act 1977 (Cwlth). Note that an amending Bill was introduced into the Australian Parliament in May 1980.

7. Australian Law Reform Commission, Insolvency: The Regular Payment of Debts (ALRC 6), AGPS, Canberra, 1977.

8. Australian Law Reform Commission, Discussion Paper No. 7, Insurance Contracts, 1978.

9. Australian Law Reform Commission, Discussion Paper No. 11, Access to the Courts - II Class Actions, 1979.

10. Mr Justice Murphy in an address to the National Press Club, Canberra, 21 May 1980.

11. Australian Law Reform Commission, Criminal Investigation (ALRC 2) (Interim Report), AGPS, Camberra 1975. See esp. paras.259ff (special problems of non-English speakers). See also M.D. Kirby, New Laws for New Australians, Sir Robert Garran Memorial Lecture, mimeo, 24 June 1980.

12. ALRC 2, above. Amongst suggestions made were sound recording of confessional evidence, telephone warrants for urgent searches and arrests and photography or video tapping of identification procedures.

13. Australian Law Reform Commission, Human Tissue Transplants (ALRC 7), AGPS, Canberra, 1978.

14. Australian Law Reform Commission, Unfair Publication: Defamation and Privacy (ALRC 11), AGPS, Canberra, 1979.

15. Australian Reform Commission, Discussion Paper No. 14 Privacy and Personal Information, 1980.

16. M.D. Kirby, 'The New Technology and the Teaching of Legal Studies', mimeo, Melbourne, 10 July 1980. See also C. Evans, 'The Mighty Micro' 1979, Chapter 9.

17. B.R. Williams, 'Technological Employment and Unemployment and the Implications for Education', Lecture at the University of Tasmania, mimeo, 10 October 1979, 14.

18. M.D. Kirby, 'Under Educated Australia: The New Helots?' address at Macquarie University, mimeo, 23 May 1980.

19. Williams, 13.

20. B.R. Williams, Occasional Address, Sydney University, mimeo, 24 May 1980, 2.

21. P. Karmel, 'The Employment of the Young', Occasional Address Macquarie University, mimeo, 21 May 1980, 3.

22. Green Paper on Strategies on Structures for Education in Victoria, paper presented for discussion by the Hon. A.J. Hunt, MLC (Minister of Education) and the Hon. Norman Lacy, MP (Assistant Minister of Education), undated (1980) Government Printer, Melbourne.

23. The terms of reference appeared in the Australian, 12 July 1980.

24. Z. Cowen, The Buntine Oration, 21st Annual Conference of the Australian College of Education, Brisbane, mimeo, 12 May 1980, 23.

25. Professor Bernard Brown cited in J. Vaughan, 'H.E.L.P. - Whence? Wither? Paper for the Advisory Committee on Legal Education in Schools (N.S.W.), March/April 1980, mimeo, 14-15.

26. As reported in Canadian Bar Association National, June 1980, 4.

27. M.D. Kirby, 'Law in Schools', Australasian Commercial and Economic Teachers' Association, Canberra, mimeo, 31 August 1979.

28. See for example United Kingdom Schools Council, Impact and Take-up Project (condensed Interim Report) 1978 and R.W. Howe, 'Impact of [National Science Foundation of the United States] sponsored programs on Elementary and Secondary Schools Programs, Teachers and Students, mimeo, prepared for the Exploratory Conference on the National Science Foundation's Impact on U.S. Science Curriculum and Development (Maryland Impact Conference) 1971.