COMMERCIAL TEACHERS' ASSOCIATION OF SOUTH AUSTRALIA

LEGAL STUDIES CURRICULUM COMMITTEE

ADELAIDE, 16 APRIL 1982, 7.30 P.M.

LAW, EDUCATION AND TECHNOLOGY

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

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INNOCENT ABROAD

Educationally speaking, I am an innocent abroad. Some of you may not believe this. But I plan to demonstrate it to you. I am 'innocent' because education is not my professional discipline, although I do regard part of my function as Chairman of the Law Reform Commission to promote community discussion about the law, its purposes, its personnel, its defects and its renewal. In that sense only, I am one of you : a teacher. But basically, I am a lawyer with only so much right to offer opinions on education as you have to offer opinions about the law. For present purposes, that will give me a pretty free rein.

I am an innocent 'abroad' because here I am in South Australia, where so many things are different from my home State of New South Wales. I do not even have to go back to the difference between the proud establishment of your State and Province by free settlers when compared to the very high legal content in the early establishment of the mother Colony. New South Wales grew out of the necessities of the administration of justice in the United Kingdom, when she lost her North American settlements. In that sense, the law has always been at the heart of public life in New South Wales. The more peaceful, ordered society of South Australia, with its large component of German settlers, could relegate the law to a lesser place than was ever possible in the restive atmosphere around Sydney Cove and its hinterland.

Despite the growth of the Commonwealth's role in the funding of education in Australia, it remains, overwhelmingly, State business. Things differ markedly from State to State. One can look on this as an advantage of federalism. The former Chief Justice of South Australia, Dr. Bray, once described diversity of laws in Australia as the 'protectress of freedom'.[1] Certainly our capacity to experiment and push society and its laws forward is a valuable feature of our Federal system of government. In

the last decade, many were the legislative reforms first introduced in South Australia which later came to be accepted in other parts of the nation.[2] Frustration sets in, however, when a good idea is accepted and seen to work in one part of the country but is then resisted, delayed or just plain obstructed in other parts of the country.

We do not have permanent institutional machinery for achieving uniform laws in selected areas, as they do in the great English-speaking federations of North America. Similarly, in education we all tend to 'go it alone' : each educational bureaucracy insisting on its own separate machinery of review and development. That is no doubt why, in the last three years or so, we have seen in Australia a remarkable proliferation of inquiries into the future directions of education in this country. In Victoria, a White Paper. In Tasmania, a Report tabled by Mr. Holgate. In New South Wales, the McGowan Report. In South Australia, the Education Department's 'Into the 80s' and the Interim and Final Keeves Reports.[3] On top of these and other reports (for I have not mentioned the Jones and McKinnon Reports) there are the institutional statements of the Federal and State Commissions and Departments, ministerial announcements, new administrative practices and occasionally legislative changes. All of this is terribly confusing and enough to give us indigestion. Most of these reports are addressing common problems which arise from the expansion, during the 1950s and 1960s of the availability of secondary education to an increasing proportion of young people. Unfortunately, the expansion nowhere took into sufficient account the diverse needs and interests of the broader spectrum of young people who would be absorbed into continuing education. Instead, for want of insight or imagination, the education offered largely replicated the courses previously developed for the minority of students who would go on to matriculation in the universities. Understandably, the universities did not wish to lower their matriculation standards. The net result, as I see it, was the imposition on large numbers who did not need it, of the classical kind of education I received but which was considered uninteresting, irrelevant and just plain boring and dreary for many who remained at our schools.

It is difficult to change these things. Teachers with limited specialties have been recruited and have tenure. School buildings have been designed around the classical classroom and curriculum. Teacher unions, responsive to their members, are anxious about change. Parents and citizen groups, and politicians, are notoriously conservative about educational policy. Many want no change from the kind of education they received. All too many stress vocational education. They believe that, somehow, miraculously, this will solve the problems of post-education unemployment, despite increasing evidence that vocational education may simply lock young people into highly specific training which is itself overtaken and rendered irrelevant by fast-moving technology.

It is into this scene that reports such as the Keeves Report are delivered. Now, when I was in Whyalla last month, rashly suggesting that the juggernaut of education could occasionally be stimulated by a well chosen court case, I was told by many teachers with whom I spoke that the Keeves Report was 'an accountant's view of education'. Its major concern was seen to be cost cutting, staff ceilings and administrative efficiency. I have also read the criticism of the first Keeves Report, written by Don Novik in the bulletin Pivot.[4] It would not be appropriate for me as a Commonwealth officer and as a laymen to comment in detail on these views. But I do want to say that I believe there are many recommendations in the Keeves Report that point in the right direction. For present purposes, those I wish to emphasise the recommendations that:

- greater flexibility should be introduced into the timetable of the secondary school to permit small units of instruction to be presented that will provide options for students to study minor courses occupying less than six periods a week for a few weeks, a term or half a year;[5] and
- the reconstituted Public Examinations Board should serve the needs of the whole of the year 12 student group and not just the interests of those students who are preparing to enter institutions of higher education.[6]

The statement by the South Australian Minister of Education, Mr. Allison, in February 1982 that the matriculation examination and the Public Examinations Board will be replaced by a new public examining authority to conduct a year 12 examination, is to be welcomed. Releasing the entirity of students from being captives to the necessities of university preparation, required only by a minority is, in my view, a clear step in the right direction. Moreover, relevantly for this evening's teachers, these developments offer the possibility of a more positive educational response to the study of law in society. The development of greater flexibility in the curriculum of secondary schools will permit a greater open-mindedness to the introduction of legal studies subjects into the course. It will also help to overcome the impediment of the lack of teachers with the knowledge and self confidence to take on a full course in legal studies but willing to teach aspects of the subject in a wider context.

LEGAL STUDIES IN SCHOOLS

I said that one aspect of the diversity of federations, when we go beyond the 'protectress', is a sense of frustration when a good idea developed and demonstrated elsewhere does not take on because of bureaucratic or other resistance or lack of imagination over the border. I believe that this is what has happened in the teaching of legal studies in schools in Australia. The idea was promoted in Victoria, where it is now, as you would all know, the third most popular optional subject in higher secondary education. The fact that it is so popular, although not regarded as a 'soft option', is a tribute not only to the enthusiasm and dedication of the teachers of legal studies in Victoria. It is in part, I believe, a commentary on the society in that State which has always tended to be more interested in ideas and issues than other societies in Australia. But it is also a reflection of the fact that the law is intensely interesting. It is about the disputes and conflicts of society, the government and order of the community; it is about the way in which we live together in relative peace. In Australia, despite its great distances, we are overwhelmingly a metropolitan people for whom the effective operation of the law is vitally important.

Both in the Education Department's Into The 80s' and in the Keeves Report, there is a recognition that knowledge about the law and its role in society is an essential part of modern schooling. 'Into the 80s' put it this way, in expressing the 'twelve expectations':

> Schools should ensure that students gain an understanding and appreciation of the Australian environment — political, legal, historical, cultural, social, economic and physical.[7]

Happily, this statement goes on to make the point that:

> In learning about their country and their heritage, students should be encouraged to develop a pride in being Australian. This does not mean an uncritical acceptance of all things Australian. Rather, it is to suggest that if Australians are to make a positive contribution to their nation's development, they will need to understand their past, their present social and geographical context and the potential for future development.[8]

The Keeves Report, more specifically, turned its attention to the problems that stand in the way of developing a more flexible curriculum that could permit the offering of legal studies — whether as a major subject in its own right (as in Victoria) or as a course grafted on to existing social studies courses (as has tended to happen elsewhere). Keeves again:

> [S]tudents are not provided with choices that would enable them to select from a range of alternatives a course that would be of particular interest to them. There is, in addition, some expectation that schools should not be involved in the offering of courses that appear to have a vocational emphasis. A ... major constraint arises from the way in which decisions are made in the Education Department and within schools. Both the composition of the Curriculum Co-ordinating Committee of the Education Department and the senior master structure within schools lead to decisions being made by persons trained in and committed to the traditional disciplines. Thus small classes can exist in many schools for teaching of Art/Design, Modern Languages, Music and branches of History, because these are the interests and concerns of those who are primarily involved in decision-making in schools. The development of new courses in Legal Studies, Sociology, Psychology, Accounting, Business Studies, Computing, Computer Science, Electronics and Technological Science is seen as using up the limited resources of the schools and a threat to subjects on the decline and facing problems of survival.[9]

The Keeves Committee recommended that Commerce and Business Studies subjects should be provided at year 12 as tertiary entry subjects. It also made suggestions for improving the courses offered relevant to the new technology. It made a plea for greater flexibility in the curriculum and the removal of the institutional impediments which prevent the introduction of new courses:

> that have greater relevance and thus greater attraction for students during their final two years of schooling. It is essential that challenging courses should be available at the end of secondary schooling to extend the most able. However, it is also important that all engaged in the planning of programs at the terminal secondary school stage should recognise their obligation to provide courses that will attract students who are not currently attracted by the traditional academic subjects being offered.[10]

These conclusions are clearly right. If their essential reasoning is accepted, in South Australia and beyond, there will inevitably be a great future for teaching of Law and law-related subjects in our schools. It is interesting. It is relevant to the lives people will have to lead in society. It is a prerequisite to the assertion and use of rights and facilities conferred by law. It is a necessity for obedience to the principal duties imposed by the law. It has never struck me as terribly just to deem everybody to know the law and to keep making more and more laws which they are deemed to know, yet at the same time doing precious little to ensure that people know at least the basic rules by which they are governed. Keeves again:

> Unless the upper secondary school introduces radical reforms during the next decade, it will fail in its responsibility to youth to equip them for a changing world and a society in which they will live.[11]

Perhaps if more attention were paid to making the upper secondary school relevant and interesting to the mass of students, instead of trying to force so many of them into the straight jacket of subjects suitable and necessary only for university entrants, we, in Australia, might be doing better than we are in keeping our young people in education. This is a subject to which I adverted in Whyalla. It is much more important than the subject of a few court cases against teachers which caught the media's eye. All of us should be studying and reflecting upon the OECD tables contained in the Keeves Report concerning the relative success of countries of the Western community in keeping their young people in education. Those tables show that we in Australia are not doing well at it. The United States, Japan and Canada keep about 70% of their young people between 16 and 18 in full time education. We in Australia barely manage 40%. Instead, our young people leave school and, unhappily many of them do not go into employment. There is a gap of despair that is growing between the failure of the Australian education system to keep people at school and the growing percentages of youth unemployment (given at 11% for boys and 17% for girls under the age of 18).[12] I call this a 'gap of despair' because it would be better, as it seems to me, if the young people on the dole queue could be retained in education that was relevant to their needs in life, including training in basic law matters that would affect them and which would give them a sense of responsibility for their society and its laws. I set out below the enrolment rate for students in full time education published by the OECD and reproduced in the Keeves Report.[13]

TABLE

ENROLMENT RATES FOR STUDENTS IN FULL-TIME EDUCATION AGED 16—18 YEARS AND IN HIGHER EDUCATION 1976

Enrolment Rates of Persons Aged 16-18 Years		Enrolment Rates in Higher Education		
Country	Percentage	Country	Age Span	Percentage
United States	75.7	United States	18-22	29.1
Japan	74.8	Japan	18-22	26.6
Switzerland	71.0	Canada	18-22	18.3
Canada	66.0	Denmark	20-24	13.2
Norway	64.1	Greece (1972)	18-22	12.1
The Netherlands	63.1	Spain (1975)	18-22	11.7
Sweden	56.8	Germany	20-24	11.6
Denmark	55.6	Australia	17-21	11.2
France	54.0	Norway	20-24	10.7
Greece (1975)	49.0	Sweden (1975)	20-24	10.3
Ireland(1975)	47.3	Ireland(1975)	18-22	9.9
Italy (1975)	43.7	New Zealand	18-22	9.6
New Zealand	40.4	Austria	19-23	8.6
Australia	40.2	Switzerland	20-24	8.5
United Kingdom	37.4	[a]United Kingdom	17-20	6.3
Spain (1975)	36.2	Portugal(1975)	19-23	4.8
Fed. Rep. Germany	35.2			
Portugal (1975)	33.2			
Austria	28.6			

One teacher union correspondent, critical of my Whyalla observations, said that we should not be worried about being down at the bottom of the OECD league in education retention. It did not matter that we were there with Spain and Portugal because we were still doing better than the United Kingdom with 37.4%. Frankly, I do not regard the United Kingdom's position as so relevant as that of our competitors in this region, the United States, Japan and Canada. With 3,000,000 unemployed in Britain, many of them young people, I do not think the United Kingdom has much to teach us in this department. Indeed, we may have inherited United Kingdom approaches to community education. The attitudes and needs of the Oxford Don and the preparation for his mode of life still limits the imagination of courses for the enormous variety of young people in secondary education in Australian schools. We just lacked the imagination to do things differently. Now, as Keeves rightly points out, technological and social change force the pace and the need for a more flexible curriculum is becoming more obvious.

LAW IN SCHOOLS : A CHOICE

If it can be assumed that the stimulus of the Keeves' recommendations in this area at least, and the announcement of the Minister in February, will lead on to a more flexible curriculum development in South Australia, the prospects for Legal and Business Studies in the schools will become much brighter. There is, at the outset, a debate about whether Legal Studies should be offered as a separate subject confined to senior students, many of whom will go on to Law, Economics and Commerce courses in the universities or CAEs or whether it should be grafted on to the curriculum and directed primarily at younger students, say those 14 to 15 years of age. Here there is room for experimentation. The Victorians have taken the former course. The High School Education Law Project (HELP) of the Law Foundation of New South Wales has taken the latter course. I have mentioned the Victorian success. Let me say something about the New South Wales approach.

The initial funding for the HELP project was offered by the Law Foundation in 1975. It was based on research among early New South Wales school leavers (of whom 40 per cent only complete high school) concerning their understanding about the law. The research indicated that:

- those young people saw the law as something they would not be involved in unless they were in trouble ('me? no, I never do nothing wrong');
- at the same time, most were able to describe a variety of situations they had been involved in since leaving school where they lacked any practical understanding of the law related consequences of their action or inaction; and

. their recollection of school work was that it was mostly designed for the 'others' and had nothing about the law, except, sometimes, consideration of traffic rules.

The Law Foundation of New South Wales set to work developing school materials for law related subjects. It also sought to promote teacher interest in the law and confidence about the ability of the lay teacher, with the help of appropriate material, to provide a useful and accurate introduction.

. A journal, 'Legal Eagle', was produced in an attractive format and sent to 308 subscribing high schools.
. The case book series dealing with topical issues such as:
  .. jobs and the law;
  .. consumer protection;
  .. environment;
  .. family law,

  was developed and went into some six hundred schools.
. Over 150 teacher-short workshops were conducted reaching some 3,500 teachers in New South Wales.
. The curriculum authorities were persuaded to include law in the new commerce syllabus.

A number of other initiatives were taken and much enthusiasm was reported from teachers and pupils. However, although a high level advisory committee was appointed including the Director of Studies of the Department of Education, representatives from the P & C Federation, teacher associations, police, law societies, the Catholic Education Office and others as well as Mr Justice Samuels of the NSW Supreme Court and myself, what I have called the 'juggernaut' syndrome soon manifested itself. The lack of real enthusiasm at the official level and lack of flexibility in the curriculum threatens to kill this delicate plant. Naturally enough, the Law Foundation sees the problem as basically one for education authorities. It questions why it should have to continue funding indefinitely. Whether it is indifference, apathy or just plain old-fashioned resistance of the educational establishment, I am not sure. Whatever it is, I do not like it. I do not need to regale you at length with this lament. It is a tale with which you will doubtless be familiar. The brave experiment of the Law Foundation of New South Wales deserves the strongest commendation. The lack of responsiveness by educational and curricula authority is a source of the most profound disappointment to me. Whilst ever we maintain the position that law is really only the business of the legal profession, we will condemn our people to an indifference about the state of their laws and a feeling of resignation about injustice and an acceptance that it is somebody else's responsibility to secure a juster society and reformed laws.

There is plenty of room, in my view, for both legal studies of the kind that have proved so successful in Victoria and legal educational across the curriculum, as pioneered by the New South Wales HELP Project. In this regard I agree with what Mr Tucker, the Co-ordinator of the Legal Studies Curriculum Committee of South Australia has said is your approach in this State:

> Our Committee has considered that both approaches can co-exist, although we recognise that whichever approach is adopted will have a great influence on the type of materials, both student and teacher produced, to support these courses. Within budget and personnel constraints, we have endeavoured to pursue both projects.[14]

In South Australia, part of the problem in the way of introducing a specific course in legal studies of the kind that has succeeded in Victoria has been the lack of trained teachers. As Mr Tucker points out there there is, here, a 'Catch 22' irony:

> Currently in South Australia it is not possible for a trainee teacher to undertake a major study in law in any of the Colleges of Advanced Education. The Colleges have indicated a desire to offer these courses, but whilst there is no matriculation course they do not consider they can fund such a program.[15]

The impediment to the matriculation recognition is said to be the attitude of the universities. I do hope that those university and other people who make the decisions about matriculation qualifications in South Australia will study what is happening in Victoria. I hope they will reflect upon what is written in the Keeves Report and upon the legitimacy of legal studies as an authentic discipline of appropriate intellectual rigor as well as a subject of great importance including to all university men and women: whether they go on ultimately to become engineers, scientists, economists, captains of industry or lawyers.

I am pleased to see the trialling of legal studies for secondary school certificate course alternative to matriculation subjects. However, at that level, the subject will never flourish until it is accepted for matriculation purposes, particularly because of the financial pressures currently upon schools that limit staffing and course development opportunities. I add my voice to those which urge the serious consideration of Year 11 and 12 courses in legal studies in secondary schools.

So far as courses in the Junior School are concerned, the probable development of more flexible curriculum arrangements in the wake of the Keeves Report and the Minister's announcement in February, provide the opportunity which should be grasped by the Commercial Teachers' Association and legal studies teachers in particular. Quite apart from giving people a basic understanding of law making in Australia, the Australian Constitution and the kinds of problems that young people are likely to face in connection with the law, one could readily identify the subjects that should be included as part of the basic specific training of all people in the Junior School. Clear candidates for attention include training in the basic laws and procedures governing:

- criminal investigation;
- the criminal law, especially as affecting young people;
- workers' compensation entitlements and procedures;
- consumer protection machinery, e.g., in buying a new car or taking out a loan;
- pensions and benefits procedures;
- dealings with the bureaucracy, including the role of the Ombudsman;
- laws governing housing, home purchase, home finance;
- motor traffic laws and the police;
- relations between young people.

This list is not exclusive. Further highly interesting and relevant topics can be found in the South Australia Legal Resources Handbook published by the Legal Services Commission of South Australia.

WHY SHOULD WE BOTHER?

I now turn to why we should bother about all this. I realise that among some people, possibly especially in the universities and some of the older members of the legal profession, there is resistance to the notion of training in the law. A little knowledge, we are constantly told, is a dangerous thing. People should be encouraged to get expert legal advice to leave the law where it has always been, in the hands of lawmakers and the legal profession. That has never been an attractive argument to me. It might have been suitable for the days before general compulsory education and the modern media of communication lifted the levels of understanding and knowledge of the community. It is not suitable for 21st Century Australians. It might have been suitable when law existed basically to service the propertied class and when the only contact of the general community with the law was with the criminal law that brought so many early settlers to this country. Nowadays, our busy parliaments enact wide-ranging rights and duties. It might have been possible in earlier times for good citizens simply to rely upon their instincts of what was right and wrong. In a country which produces more than a thousand Acts of

Parliament each year, this is no longer a safe assumption. Statutory rights and duties are now quite complex. It is irresponsible of parliaments to proliferate legislation and to pay no attention to the commensurate duty to ensure community knowledge about the chief purport of that legislation. Film, radio and television can come to the aid of community legal education. But the start must be made in the classroom. Whilst I appreciate that there are competing demands upon scarce curriculum time, the law is the one discipline that affects everybody in the community. It is fantastic how little we do to bring even its basic principles home to our community. It is especially appalling as Australia becomes a multi-cultural society, whose members do not now share a precisely common cultural background. Even if it were ever justified to assume that the Anglo-Saxon school child absorbed the common law of England and of Australia by a process of osmosis, this is not a reasonable assumption for a community that has welcomed people from more than 120 countries and where more than 80 languages are spoken at home.

The notion of teaching law in school is not the hobby horse of a few eccentric law reformers. It has the endorsement of thinking people in the most important offices of this country. Sir Zelman Cowen, a past Commissioner of the Australian Law Reform Commission, and a distingished educationalist expressed his view on the subject in may 1980. 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 and I am pleased that the response to the offering of the subjects [in some of the States] has been so great. The task of teaching it well and perceptively and within appropriate limits is a very difficult one, and the education of the teachers themselves is very important.[16]

In September 1980, Sir Zelman expressed this view:

> I believe that Mr Justice Kirby is right when he warns of the need for a clear understanding of the targets to be aimed at in the teaching of legal studies which, well designed and taught, can contribute significantly to civic education. It is not easy: in a society in which, to use words to which I recur, the consensus is often fragile, questions about the nature of law, the source of its authority and its appropriate reach are hard enough for the most acute and well informed lawyer and legal philosopher and the issues have to be communicated, in a meaningful way, by teachers, who themselves understand them, to senior school students. The difficulty does not diminish the importance of the task.[17]

I have previously offered at least four reasons for advancing law and law related teaching in our schools. They are:

- First, it is important for citizens in a democratic community to have some understanding of the character of the law and of its impact on society and the individual. It is not that every man should seek to be his own lawyer. But he is more likely to have an understanding of the way society works if he grasps the general principles of the law, the machinery of lawmaking and in particular the basic rules in those areas of the law which are likely to have a special concern for and impact upon him.

- Secondly, an understanding of institutions can provide the future citizen with a greater opportunity for participation in the lawmaking process. The long-established institutions, new tribunals and also the more recent law reform bodies now provide growing opportunities for participation including in the design of the content of the law. It is a participation which we should be encouraging citizens to take and utilise to the full.

- Thirdly, the law has a positive role to improve society. A better understanding of the law on the part of the citizen will allow the individual to comprehend more fully its operation and his personal responsibility for the state of the law. The time must end when we can abdicate this responsibility, blaming unidentified others for laws which have become out of date, obscure, irrelevant and obstructive to society as it is.

- Fourthly, the Rule of Law is said to be the special feature of Western democracy. It is asserted as an essential ingredient in the assurance and protection of freedom. A society which does not take its citizens into its confidence but simply imposes on them obligations of obeying a vast and ever-growing storehouse of legal rules (whilst doing precious little to instruct in even the fundamental rules) is engaging in a dangerous hypocrisy.

My calls for attention to community legal education, including in the schools, have been mirrored in other countries. 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.[19]

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'.[19]

LAW, EDUCATION AND TECHNOLOGY

In my concluding remarks, I want to say something about the place of legal studies in an age of mature science and technology.

Tasks before the law reform bodies of Australia constantly demonstrate the fact that one of the chief forces behind the need for law reform in Australia today is the dynamic of science and technology. The importance of adapting the school curriculum to scientific changes is recognised in the Keeves Report. But what a barren study it will be if no thought is given and no discussion is offered about the important social, moral and legal choices that have to be faced as the new technology penetrates our society.

It has been said that there are three main technologies at work in the world today. They are: developments in the energy sciences, developments in information sciences and developments of biotechnology. I will say nothing of energy sciences. The legal implications of solar energy were examined by the South Australian Law Reform Committee. Clearly, if our society moves to nuclear energy, important moral and legal consequences will ensue, particularly for the modification of civil liberties that would be necessary in a community dependent upon nuclear facilities.

So far as the information sciences are concerned, there are many implications of computing, married to telecommunications, that require the attention of the lawyer and the educationalist seeking to promote sensitivity among young people to the advantages and social dangers of the new technology. Issues that have to be addressed include:

- Vulnerability. The greater vulnerability of the wired society — vulnerability to accident, industrial action, war, terrorism and just plain mistaken negligence.

- Privacy. The tendency of computications to endanger civil liberty by the capacity to collect more and more personal information about all of us, aggregating data profiles and placing great power in the hands of computer specialists and those who can have access to such information. The Law Reform Commission is specifically examining the design of data protection and data security laws for Australia. It will be providing a report on this subject with draft Federal legislation by the end of the year.

- Computer crime is a new problem whose ramifications will far outstrip the impact of most anti-social activity today. We will need new laws, new, highly trained, police, new investigation procedures and possibly new decision-makers to cope with the high technology of the computer criminal. Just one example is the possible need for reform of the law of theft. At common law, 'theft' involves taking away the 'goods' of another. The computer criminal may remove no goods but may steal valuable information. The criminal law will need to be adjusted so that these activities can be brought within its operation.

- Courtroom evidence will need to be modified. The English trial system which we have inherited in Australia puts great stress upon the need to avoid hearsay evidence and to offer direct oral evidence. Yet the world will increasingly move to electronic information. If courts insist upon proof only by the original evidence, they may become irrelevant to problem solving in society. The Law Reform Commission is looking at this subject to in its inquiry into the reform of the laws of evidence in Federal courts.

Even more complex than these are the problems presented by the new biotechnology. Bioethics is not a subject for a few priests and theological students. It is a topic that should be considered in the school. Controversies for the law and for the community continue to tumble out of the minds of our scientific wizards:

- Should cloning of the human species by permitted? It is said to be technologically feasible within 20 years. Scientists have already cloned mice. Should the law be silent on this?

- Should it be posssible to patent life forms? The U.S. Supreme Court, held, narrowly, that it should. A statute is before the Fe leral Australian Parliament to permit ownership of newly developed plant varieties. Yet some opponents say basic life forms belong to humanity and ought not to be the property of individuals or corporations.

- Under what rules should in vitro fertilisation — the so called test tube babies — be developed. Should the facility be available to people who are not married? Should surrogates by permitted to carry an IVF baby? Should it be possible to freeze the fertilised embryo and put it aside for up to 400 years? What happens to the frozen embryos on the death or divorce of the donor? These and many other issues are to come before expert committees recently established in Victoria and New South Wales.

- What should the law say about children born grossly deformed or mentally retarded? Should doctors be permitted in some circumstances to kill such babies to save the enormous costs to society of keeping them in institutions? Is there a moral difference between giving them a needle and putting them in a corner to die for want of nourishment as sometimes happens?

- Should people be entitled to fill in a 'living will' by which they exclude extraordinary medical treatment, if that is the only way of holding up the inevitable consequences of a terminal disease?

These and many other problems of biotechnology now face our society. It is essential that in developing social responses to these problems, our lawmakers in Parliament should consult the community. But there may not be great utility in doing so, if the community has not spared a moment's thought for such issues and has no frame of reference to which it can appeal in deciding its standards. A community informed about bioethical developments depends upon sensitive classroom instruction about science and technology, including instruction directed at the moral and legal dilemmas that are sometimes posed by new scientific and technological developments.

CONCLUSIONS

My conclusions can be briefly stated. We are going through a period of soul searching about education in Australia. There are now plenty of reports before the Australian community pointing the way ahead in education. Every informed citizen has views about education because all of us have had a little of it. Ultimately, the shape of education is not a matter for theoretical experts. I have called attention to two problems which concern me:

. The very low retention of our young people in education, especially when compared with our competitors in the region -- the United States, Japan and Canada, which keep nearly twice as many people in education after 16 than we do. This is an especially worrying statistic when one looks at the coincidental rise in youth unemployment.

. The relative inflexibility of the curriculum which accompanied the explosion of higher secondary education in the 1950s and 60s. This, at least, now seems to be within the reformers' sights. The Keeves Report and the South Australia Government's announcement seem to indicate that changes are coming in this State.

These changes will, I hope, open up the possibility of greater flexibility in the curriculum. That opportunity should be seized by those who would advance the teaching of legal studies and law relating subjects in our schools. Whether this is to be done by a specific matriculation course or by a broad based infusion of relevant legal topics, or both, is a matter for future debate. What is not open to debate is the need of the community to have a better understanding of its basic legal rights and duties than it does at present. Finally, I have pointed to the great engine of science and technology which motivates our time. It presents enormous challenges to education, not least because it requires fast footwork on the part of teachers struggling to keep up, even generally with developments. But it also presents challenges to society and the law. We will only keep democratic institutions relevant in the age of science and technology, if we have an informed community. The effort must begin in the classroom.

I close by congratulating you on your efforts. You can be encouraged by the sure conviction that you are on the right track.

FOOTNOTES

1. J. Bray, 'The Juristic Basis of the Law Relating to Offences Against Public Morality and Decency' (1972) 46 Australian Law Journal 100.

2. See eg Sex Discrimination Act 1975 (S.A.); Consumer Credit Act 1972 (S.A.); Consumer Transactions Act 1972 (S.A.); Manufacturers Warranties Act 1974 (S.A.); Second Hand Motor Vehicles Act 1971 (S.A.); Fair Credit Reports Act 1974 (S.A.); Pyramid Sales Act 1973 (S.A.); Mock Auctions Act 1972 (S.A.); Unordered Goods and Services Act 1972 (S.A.); Misrepresentation Act 1971 (S.A.).

3. South Australia, Committee of Inquiry into Education in South Australia, Education and Change in South Australia, Final Report, January 1982 (Dr J.P. Keeves, Chairman) (hereafter Keeves Report).

4. D. Novick, 'The Keeves Report', Pivot, Vol. 8, 1981, 42—45. (This critique was written about the first report of the Keeves Committee).

5. Keeves Report, xxvi (Recommendation 7.1).

6. ibid., xxviii (Recommendation 8.3).

7. Education Department of South Australia, 'Our Schools and Their Purposes: Into the Eighties', 1981, 30.

8. ibid.

9. Keeves Report, 130 (para. 8.9).

10. Keeves Report, 142.

11. ibid.

12. A table setting out the unemployment rate of persons aged 15 to 19 years, 1966 to 1981 is reproduced in P. Karmel, 'Quality of Life — The Continuing Challenge', unpublished paper for the Diamond Jubilee Conference of the Australian Federation of University Women, 24 January 1982, 3. It shows that in August 1966 2.5 per cent of males and 4 per cent of females were looking for full-time and part-time work. In the same month in 1981 11.2 per cent of males and 17.1 per cent of females were so classified.

13. Keeves Report, 125.

14. R. Tucker, 'Issues and Resources in Legal Studies: A South Australia Perspective', unpublished paper delivered to the Australian Commercial Education Teachers' Association Conference, Sydney 1981, 2.

15. ibid.

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

17. Z. Cowen, Some Thoughts on Education, Annual Address to Convocation, University of Sydney, Sydney, mimeo, 13 September 1980, 22.

18. 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.

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

20. Plant Variety Rights Bill 1981 (Cwlth).