

# LEGAL EDUCATION

## LEGAL EDUCATION WATERSHED

The map of Australian legal education is being redrawn as law schools emerge at university after university. A few years ago there were a dozen; now there are nearly twice that number and a reasonable bet would be that by the end of the century there will be about 30. Some questions I want to address are: why so many law schools? What are the implications? How is this beginning to affect the legal profession and its relationship with the law schools?

### Why law schools?

First, from the point of view of a university, law schools bring prestige. New and regional universities are now seeking to gain that prestige. In the Dawkins/Baldwin era they are not being deterred as it is a way to legitimate the rhetoric, indeed, to provide some substance to the notion of university autonomy. Second, historically law students have been relatively inexpensive to educate while at the same time being seen as scholastic achievers. While the Pearce Report into Australian Legal Education and the Committee of Australian Law Deans have sought to change the attitude of governments and university administrators towards funding of legal education, nevertheless that historical legacy has proved difficult to shake off.

Third, no doubt less important, a view of legal education as belonging once again in the academy may now be operating. Certainly the transformation of legal education from black-letter professional training to a more liberal project has meant that in academic terms law can be welcomed almost as a prodigal son back into the community of scholarship. At least the argument on traditional academic grounds against a professional school, raised interestingly at Macquarie university when the establishment of a Law School was first mooted in the late 1960s, is no longer tenable.

Fourth, the huge student demand for university legal education probably

reflects a contemporary perception of law as a glamorous or at least affluent profession, powerful too, and one that provides interesting and steady work, with some good works thrown in as well. Whether any of this is true for more than a minority is beside the point; popular culture persuades us that it is, e.g. *LA Law*.

Fifth, the reality of contemporary life is that we live in an increasingly juridicalised society. Thus we *experience* law more and more. Everybody goes to law to assert their rights. Or goes to law to assert that they have been refused rights. Like the USA, we are becoming an extremely litigious society, with lawyers being the linchpin for an alienated citizenry knowing not how to deal with the fringing bureaucratic state, the too powerful corporate bodies in our society, or the anonymous neighbour who makes our life a misery.

Sixth, flowing from five, law is being reconceptualised as a general education. If the law permeates every institution, every social relation (e.g. kids divorcing their parents!) how can you afford not to have legal knowledge? It is now seen both as an appropriate, indeed central, part of any comprehensive liberal education (as in three above) but also another invaluable string to the vocational bow, thus for example, the upsurge in accounting/law majors in recent years.

### Legal education explosion

There are exciting things happening in the new Law Schools and the older ones too, as the former seek to find a place in the sun and the latter re-assess their customary ways. In future columns we shall look at some of the specific developments. Here it is sufficient to say that ironically, at the same time that the good sense of Pearce was being enthroned, i.e. the end of formalism and the need for more theory and critical analysis; the desirability of a broad historical and philosophical approach to legal study; the undesir-

ability of ill thought out and superficial course-work masters degrees, governmental and professional policies are forcing many Law Schools to hedge their bets. Thus there is economic pressure to develop course-work masters degrees (and quickie continuing education courses) not least those attractive to overseas students, in order to gain much needed revenue; and there is professional pressure to engage in practical legal training in one form or another (see below). Also, the necessity to ensure a substantial and continuing pool of students seen as academically sound is probably a major reason for a significant degree of specialisation to be creeping into some curricula.

### Where stands the legal profession?

Two interesting developments have occurred in recent months which are bound to have an impact on legal education. First, in April the Consultative Committee of State and Territorial Law Admitting Authorities produced a Discussion Paper with Recommendations on the Adoption of Uniform Admission Requirements across Australia. As a part of the broader agenda to remove interstate restrictions on goods and services, including the professions, lawyers will soon be able to gain admission to practise in more than one state with little impediment. What makes this important for the future of legal education is the recommendation that there be a basic Law School curriculum consisting of 11 compulsory 'areas of knowledge': Criminal Law and Procedure; Torts; Contracts; Property (including Torrens Land); Equity (including Trusts); Administrative Law; Federal and State Constitutional Law; Civil Procedure; Evidence; Professional Conduct; Company Law. All of this is essentially derived from the Victorian experience with the McGarvie Committee. Not surprisingly then, in view of the interventionist nature of Victorian pol-