

THE FUTURE OF AUSTRALIAN LEGAL EDUCATION – A COMPARATIVE VIEW

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I have been admitted as a legal practitioner in England, New Zealand and Australia, taught in all three countries and Canada and been Dean of the University of Canterbury, Bond and Waikato Law Schools. I was a Society of Public Teachers of Law representative on the United Kingdom Committee chaired by Lord Cross set up after the Ormrod report on legal education in the 1970's, twice a member of the New Zealand Council of Legal Education and a member of the Queensland Attorney General's Committee on Legal Education, and with the late Sir Ivor Richardson I was involved in setting up the Institute of Professional Legal Studies in New Zealand in the 1980's. This experience makes me approach the future of Australian legal education with a degree of pessimism which I have struggled to overcome as I am a reformer by nature and wish to conclude on a positive note.

In this paper I start with some general remarks and then focus on five aspects of contemporary legal education from a comparative perspective—the providers, questions of access, gender and financing, core curricula, professional training and skills and developing a suitable institutional framework for the future. It is probably in the fifth that I shall be the most radical in my remarks.

Coping with the Complex Nature of Law

First let me make some preliminary remarks about the nature of Law and how this should affect legal education. Law can be looked on as a normative order as rules, principles, and policies.¹ Each of these has its own logic which we often neglect.²

While HLA Hart³ analysed a legal system as a union of primary and secondary rules he did not pursue the logic of reasoning by rule. Attempts by philosophers to analyse deontic logic⁴ seem to have petered out in common law countries although some work has been done by computer scientists. Ronald Dworkin⁵ criticised Hart and emphasised principle and policy in legal reasoning. He gave examples of this but did not do detailed work on the logic of reasoning by principle and policy. In turn he was criticised by Joseph Raz⁶ who probably had the ability to pursue the matter further but even he stopped. The main points seem to be that reasoning with principle involves a higher level of generality and often although not always involves ethical considerations. Reasoning with policy is much looser and involves practical reason and the

adequacy of reasons. It often involves interests, values and economic considerations⁷. We need to spend more time considering these questions in legal education. I regard the failure to do so as a significant failure.

Linked with this is the question of appropriate research methodologies in law.⁸ We assume that we know what we are talking about when we talk about legal doctrine. But do we? We need to consider the relevance of different social science research methods to what we do. I attended a course on this in Cambridge in the 1970's which was sponsored by one of the foundations which influenced the development of socio legal studies in the United Kingdom. Socio legal studies have received strong criticism for the lack of fundamental theory but some of the work done by the Oxford Centre has been useful particularly in the area of Family Law and Welfare Law.⁹ While some work of this kind is done in Australia courses and research are often done in Arts and Social Science Faculties rather than Law Schools.

Australian Law Schools tend to neglect the European developments in Sociology of Law and Social Theory. Writers like Luhmann¹⁰ and Teubner¹¹ which discuss law as a self referring system are worth studying. At the same time perhaps too much attention is paid to some of the more iconoclastic writings of some French authors¹².

Laws can also be looked as a system – Parliament, the courts, the legal profession and other people servicing the system: The latter lends itself more readily to social scientific study.¹³

The complex nature of Law makes it all the more necessary to adopt an interdisciplinary approach and teach Law in context¹⁴. This has not been all that fashionable in Australia although La Trobe and Macquarie Universities persisted with that kind of emphasis against a background at times of some hostility from other law schools and the profession.¹⁵

The result has been that Law has been taught in many Law Schools in a technical “black letter” way and there has been relatively little attention paid to law and economics. Compared with New Zealand, basic legal method has not been all that well taught. In particular legislation has been taught narrowly instead of having an emphasis on the legislative process as Hart and Sacks did at Harvard Law School.¹⁶

Although the Pearce Report¹⁷ recommended a new emphasis on skills this has not taken place in a systematic way except at Bond which has persevered for nearly 30 years with some success¹⁸ which to some extent has been ignored.

Most Law Schools do not teach a transactional approach¹⁹ unlike some of the newer UK Law Schools where students join a “firm” in their first year of study²⁰. Traditionally Law Schools have not been good at this kind of thing.

All Law Schools are coping with the disrupting innovation occasioned by information technology²¹. The legal services industry is now in the early stage of disruption as advances in technology alongside business model innovations are altering the traditional world of legal services. This is leading to standardized and commoditised services, reducing the need for more lawyers at a time of overproduction and the breaking of lawyers' monopoly

Impact of Globalisation

Globalisation

Globalisation is a word which dates back to the 1960s and connotes internationalisation, interconnectedness and to some extent standardisation. It can be thought of in economic terms but it can also refer to social, political and other cultural matters. World trade dates back many centuries.²²

Prof Harry Arthurs²³, the distinguished Canadian academic has referred to globalisation of the mind. He thinks that it involves a change in our social values and in our fundamental understanding about what role law does play and should play in society. In other words it is an ideology and this is what makes the rise of China and the war on terror enter into the equation in a complex way. Under the Clinton administration it provided a way of filling a gap and was thought of in terms of US domination. This led to the promotion of the so called Washington consensus ideas.²⁴

These were undermined by the Global Financial Crisis²⁵ which demonstrated US economic weakness for the first time. Earlier the war on terror demonstrated a Moslem radical challenge to a globalised world.

We are now in a paradoxical world where the Trump administration questions globalisation and China is a major advocate.²⁶

When we think of Australia we were a colonial outpost and adopted English law and the imperial model²⁷ which in a way was mini-globalisation which served the economic interests of the mother country. When the United Kingdom joined the European Union that model came under increased question.

Australia and New Zealand have a Closer Economics Relations Agreement but New Zealand has been more inclined to look to North America for reform ideas.²⁸ Both countries and Canada were keen promoters of the Trans Pacific Partnership which has now faltered.

Both Australia and New Zealand have benefited from world trade and globalisation but are threatened by increasing uncertainty. Law schools have become dependent on foreign students

who come to learn English and the common law. Many have an eye to immigration. However these benefits are now under threat

Globalisation and legal services

A useful report produced by the Canadian Bar Association on *The Future of Legal Services in Canada: Trends and Issues*²⁹ in 2013 as part of its Legal Futures Initiative listed six factors of change for legal services:-

1. globalisation;
2. technology;
3. liberalization of Markets;
4. deregulation;
5. demographics;
6. general economic conditions.

These are not separate factors but are closely linked with each other.

Markets for most products are now increasingly global.

Service Industries are catching up, with the invasion of foreign law firms into Australia and the demands of clients' interests.

Technology leads to networks, social media and the breakdown of barriers.

The liberalization of product and financial markets has been part of these trends. Deregulation has been part of it but led to aspects of the Global Financial Crisis.

Another trend has been the spread of financialisation.³⁰ This has resulted in innovation in financial products, speculation and manipulation of stock markets. This marks the rise of the finance economy over the product economy and contributes to the instability of the economic system

Globalisation has led to migration and this is now compounded by the refugee crisis.

Globalisation has led to outsourcing of legal and customer services.

The Global Financial Crisis and Euro crisis have led to massive destabilization of markets and the world is taking a long time to recover³¹

Some Comparisons

Providers

In Australia the universities and the profession have kept a jealous hold on legal education. The same is true in New Zealand, Canada and the United States. On the other hand the United Kingdom has seen the advent of new providers like BPP and Kaplan, both now owned by US business entities³². These have had a remarkable degree of success and it is interesting to consider why. There seem to be two main reasons – dissatisfaction by the public and the profession with the law schools and the reluctance on the part of the universities to innovate and meet the changing needs of the profession³³. There seems to be growing dissatisfaction in Canada. In New Zealand the Council of Legal Education is a useful forum to consider these questions. This led in the 1980's, to the adoption of the British Columbia skills based model of legal training and in 2006 to support for my initiative for a limited online programme, video streaming of lectures to the Bay of Plenty and having local tutorials by practitioners. We also allowed competition by the College of Law and have accepted online delivery. Australia and Canada need a national body like as this. I will come back to this later.

Access, Gender and Financing

When I applied for university we were interviewed for admission to test our aptitude for Law. This has long since disappeared as time consuming but in the United Kingdom aptitude tests on the LSAT Model are being introduced. LSAT tests are the norm in Canada. Melbourne and the University of New South Wales have adopted them in Australia. While these tests have their uses they arguably point to defects in secondary education which does not do enough to inculcate these skills.

Since my time at university there has been a vast increase in the number of women studying Law. In most law schools in Australia and New Zealand they now outnumber men. Although a few studies³⁴³⁴ have been done of this it is disappointing how little attention has been paid to this in the FLIP Report commissioned by the New South Wales Law Society. The structure and culture of the legal profession are still very masculine and in these respects are similar to public company boards. We need to have positive discrimination in partnerships and at the Bar. We also need more positive discrimination in favour of women on the Bench. In future we may need to consider positive discrimination in favour of men for appointments to the Bench.

When I attended university my State Scholarship and County Major Scholarships met all my costs. I later managed to get County financing for the College of Law. Premiums for articles were going out and I got good articles on a living wage with what was then Coward, Chance. They were very generous. I was lucky. Others were not.

Now students are saddled with debt either via HECS (Fee Help), or a bank loan. These are real impediments to an able person from a poor family to do Law. We have gone backwards. Consider for example the cost for an English law student. University fees of 9,000 pounds per annum, 14, 000 pounds for the year long Solicitor's course, 18 000 pounds for the Bar Course plus the cost of living in London or a regional centre. This is a lot of debt to incur and contributes to a class based legal profession. This perpetuates inequalities in society.

Core Curricula

Opinions naturally differ on core curricula.³⁵ The English approach since the Ormrod Report has been to separate academic from the professional and the current core is seven modules drawn from the following subject areas:—

1. Public Law;
2. European Union Law
3. Procedural Law (including Evidence);
4. Criminal Law;
5. Law of Obligations;
6. Property Law;
7. Trusts and Equity;

The Australian prescribed areas of knowledge are more extensive and cover the following:-

1. Criminal Law and Procedure;
2. Torts;
3. Contracts;
4. Property Law;
5. Equity;
6. Company Law;
7. Administrative Law;
8. Federal and State Constitutional Law;
9. Civil Procedure;
10. Evidence;
11. Ethics and Professional Responsibility;

The New Zealand core subjects are:

1. Legal System;
2. Contract;
3. Torts;
4. Public Law;
5. Criminal Law;
6. Property Law which includes Land Law, Equity and Succession;

In Canada following the Ontario model there are normally 25 subject areas of which 9 are compulsory core subjects in a Common Law Degree:-

1. Canadian Constitutional Law;
2. Canadian Administrative Law;
3. Canadian Criminal Law;
4. Foundations of Canadian Law;
5. Canadian Professional Responsibility.

These are mandatory

The other four core subjects are:-

1. Contracts;
2. Property;
3. Torts;
4. Business Organisations;

Study in a Common Law jurisdiction may satisfy these four. Bond has a large number of Canadian students.

As can be seen the Australian rules mix academic and professional subjects. Canada only does this with Canadian Professional Responsibility. Australia has the longest list of prescribed areas. Australia and Canada include Administrative Law which is an increasingly important area of practice,,particularly in a federal system

Added to these are basic knowledge and skills adopted by the Council of Australian Law Deans and the Canadian Common Law Degree Statement³⁶ Both draw on a lot of sources but do not tell us a lot that is new.

Professional Training and Skills

The following are Practical Legal Training providers in Australia;

- Australian National University Legal Workshop
- Bond University Post Graduate Diploma of Legal Practices
- College of Law
- Griffith University Legal Practice Centre
- Leo Cussen
- Queensland University of Technology Legal Practice Course
- Law Society of South Australia Graduate Diploma in Legal Practice (this program is offered with the University of Adelaide)
- University of Tasmania Centre for Legal Studies
- University of Technology Sydney PLT

These can be full-time or part-time, face to face or by distance learning .A legal practice placement of 20 to 80 days is required as part of this. There are separate Bar courses in New South Wales, Victoria and Queensland.

In England and Wales there are separate courses for solicitors and barristers.

In New Zealand PLT courses are provided by the Institute of Professional Legal Studies and the College of Law.

In Canada the practice differs from province to province. Quebec has a separate civil law system. The Prairie Provinces combine articling with a mostly online program. Ontario is experimenting with a three pronged approach – articling, the Ryerson Program combining four months skills training with four months placement and the Lakehead Integrated Practice

Curriculum. Lakehead followed the Bond model of including skills in the Law Degree and adopted elements of the GDLP program. It has a significant indigenous student body.

I find it surprising that Canada has not made more progress on a uniform system. In the 1980's the New Zealand Council of Legal Education found the then British Columbia skills based training a very useful model.

Added to this we have had the invasion of the area by Commonwealth Tertiary Quality and Standards Agency which leads to further bureaucratisation of tertiary education without any tangible benefit³⁷. When I was Acting Vice Chancellor of Bond University in the 1990's I wanted to adopt the Industry Standard of Total Quality Management long before the public universities adopted standards. It is a pity that my successor did not persist with this. The public service does not do this kind of thing well.

Developing a Suitable Institutional Framework

Under the new uniform arrangements a Legal Services Council and Commissioner for Uniform Legal Services have been set up to oversee the implementation of the uniform scheme.³⁸ The Victorian Council of Legal Education seems to have disappeared with the new uniform arrangements and been replaced by an over elaborate structure on which law schools are not adequately represented.

Legal Service Council

The Legal Service Council monitors the overall operation of the Legal Profession Uniform Framework and is responsible for making Uniform Rules

The Council's objectives are to:

- monitor the Uniform Law's implementation and ensure that it is applied consistently;
- ensure the Uniform Framework remains efficient, targeted and effective, and promotes the maintenance of professional standards; and
- ensure the Uniform Framework appropriately accounts for the interests and protection of clients of law practices

The Council consists of five members drawn from participating jurisdictions and appointed by the Attorney-General of Victoria, the Attorney-General of the host jurisdiction for the Uniform Law.

Commissioner for Uniform Legal Services Regulation

The Commissioner for Uniform Legal Services Regulation ensures the dispute resolution and professional discipline arrangements set out in Chapter 5 of the Uniform Law are implemented

consistently and effectively The Commissioner also promotes compliance with the Uniform Law and raises awareness about the Uniform Framework and its objectives.

The Commissioner is also the Chief Executive Office of the Legal Services Council – supporting the Council in the performance of its functions and providing advice.

Admissions Committee

Members of the inaugural Admissions Committee were appointed by the Legal Services Council in November 2014.

The Committee is responsible for developing Admission Rules. The Admission Rules set out the qualifications that a person who wants to practise law must obtain before being admitted to the legal profession by the relevant Supreme Court. The Committee also has a broader role providing advice to the Council about admission matters.

Under the Admissions Committee there is the Academic Course Appraisal Committee This consists of :-

- Elizabeth Boros
- Ian Hardingham
- Simon Evans
- Breen Creighton
- Magda Karagiannakis

The Practical Legal Training Committee consists of:-

- Sandford Clark
- Breen Creighton
- Adrian Evan
- Hugh Murray

The Overseas Applications Committee consists of

- Sandford Clark and Richard Besley

Some of these members have had distinguished academic careers but are being chosen from the profession.

What is clear from the above is that there are a lot of committees and inadequate representation of the law deans on the Legal Services Council and the new committees and a disconnection with the earlier stage of legal education. Australia always seems to make things complicated. New Zealand does things simpler.

The problems are caused by the overexpansion of Australian Law Schools and the resulting inability of the Council of Australian Law Deans to take a coherent leadership role. The profession and the judiciary do not find it easy to deal with CALD with its fluctuating membership and attendance and are confused about the increasing involvement of Government bureaucracy. They therefore prefer to do things their way.

Australian and Canadian legal education still need a National Council of Legal Education on the New Zealand model created by referral from the states, territories and provinces where judges, the profession and the Deans are all adequately represented.

The New Zealand Council of Legal Education was set up after the 1925 Royal Commission on University Education and was based on a Victorian model adopted in 1903. This also arose out of a Royal Commission on Legal Education and was supported by Sir William Irvine who was Chief Justice and a former Premier and Attorney General.³⁹

The New Zealand CLE has been a forum for robust debate on legal education and professional training.

A national CLE should consist of three judges, three practitioners, three law deans and three members representing the public interest. One of the judges should chair it. The three law deans should be chosen from three constituencies—the old universities, the universities set up 1960-80 and the law schools set up from 1980 to the present day.

This could be part of the new uniform legal practitioner system by amendment to the Legal Profession Uniform Law which so far has only been adopted by New South Wales and Victoria in any event.

The functions of the CLE are set out in section 274 of the New Zealand Lawyers and Conveyancers Act 2006. Section 274 provides:-

The functions of the Council are:-

- (a) subject to this Act, to set the qualification and educational requirements for candidates for admission as barristers and solicitors of the High Court;
- (b) subject to this Act, to define, prescribe, and approve, from time to time and as it thinks fit, the courses of study required to be undertaken by candidates for admission as barristers and solicitors;
- (c) to arrange for the delivery of the courses of study referred to in paragraph (b) or to provide those courses where necessary;
- (d) to deliver courses of legal study in practical training for candidates for admission as barristers and solicitors or to license other persons to deliver those courses;
- (e) to arrange for the courses of study referred to in paragraph (b) to be monitored and assessed;

- (f) to prescribe, in relation to the admission of barristers and solicitors, mechanisms and criteria for:-
 - (i) the recognition of foreign qualifications, registration, and experience; and
 - (ii) the recognition of qualifications for the purposes of the principle set out in section 15 of the Trans-Tasman Mutual Recognition Act 1997;
- (g) to tender advice to the council of any university on any matter relating to legal education; and
- (h) to inquire into, consider and report to the Minister on any matter relating to legal education as the Minister may, from time to time, require.

This would be a useful precedent.

Conclusion

In an age of globalisation, rapid technology and social change, Law and legal education cannot stand still or cling to outdated models. Both are businesses hamstrung by competition policy and the need for new markets. All western countries face these common challenges. There is a need for more emphasis in Law on the differences between reasoning with rule, principle and policy and on Law in context, particularly the economic context. There is a need for more emphasis on business and law as a business in a changing environment and greater consideration of client needs. The first should be at the academic stage, the second at the professional stage. No jurisdiction has responded all that well to change Canada and New Zealand pioneered a skills based approach but Canada has still failed to achieve a national system. New Zealand has successfully adopted the earlier British Columbia model and has allowed competition from the College of Law and the development of online programs. Only Bond and Lakehead Law Schools have introduced skills into the LLB and JD in a systematic way.

The movement towards a uniform legal service model in Australia has highlighted the need for a National Council of Legal Education. The Victorian model of 1903 adopted in New Zealand in 1930 has worked well as a forum for robust debate where all relevant interest groups are adequately represented.

In the United Kingdom, New Zealand and Australia Government bureaucracy has begun to invade the territory. What is needed is greater awareness of the public interest but not more bureaucracy⁴⁰. The public service in my experience tends to look after itself and has a natural tendency to bureaucracy. It is not a good arbiter of quality or catalyst for innovation in a changing world.

* I am grateful for the comments and criticisms of my colleague Professor Mary Hiscock on an earlier draft. Mary lent me Legal Education in Australia, Discussion Papers from a National

Conference of the Law Council of Australia in Sydney, August 15 - 20 1976. Plus ca change.
Plus c'est la meme chose

- ¹ Ronald Dworkin, "The Model of Rules" (1967) 35 U Chi L Rev 14 and Law's Empire, Fontana 1986, See also J.Raz "Legal Principles and the Limits of Law" (1972) 81 Yale LJ 823. See too Dworkin's response, (1972) 81 Yale LJ 82
- ² See JH Farrar, Legal Reasoning, Lawbook Co (2010), 9-11
- ³ The Concept of Law, Clarendon Press, Oxford 1961. Second edition 1994
- ⁴ See GH Von Wright, "Deontic Logic", (1951) 60 Mind 1 - 15
- ⁵ Dworkin op cit.
- ⁶ Raz op cit.
- ⁷ See JH Farrar, "Reasoning by Analogy in Law" (2009) 9 The Judicial Review 309
- ⁸ See Mark Van Hoecke (ed) Methodologies of Legal Research, Hart Publishing, 2011
- ⁹ See the Centre for Socio-Legal Studies website.
- ¹⁰ See N. Luhmann, Law as a Social System, Oxford University Press, Oxford, 2004
- ¹¹ See G. Teubner, Law as an Autopoietic System, Oxford University Press Oxford 1993
- ¹² Such as M. Foucault and J. Derrida.
- ¹³ See for example Hamish Ross Law as a Social Institution, Hart Publishing, 2001. See too Richard Nobles and David Schiff, A Sociology of Jurisprudence, Hart Publishing, 2006 which follows N Luhmann, Law as Social System, Oxford, University Press, 2004
- ¹⁴ See W Twining, Law in Context, Oxford University Press, 1997. S. Bottomley and S Bronitt, Law in Context, 4th ed. Federation Press, 2012
- ¹⁵ See D Pearce, E Campbell and D Harding, Australian Law Schools A Discipline Assessment for the Commonwealth Tertiary Education Commission, AGPS Canberra 1987
- ¹⁶ See Hart and Sacks The Legal Process, Basic Problems in the Making and Application of the Law, West 1995
- ¹⁷ Op cit – AGPS Canberra (1987), recommendation 44. Compare its more positive assessment of La Trobe (not then a Law School) at 21.4 For an update in 1994 See C. McInnis and S Marginson, Australian Law Schools After The 1987 Pearce Report, AGIS Canberra 1994, 99 and 13"
- ¹⁸ See E Colvin, "Bond Law School: Reflection on the First Ten Years" (1999) Bond L R 162

- ¹⁹ See Tina Stack, "Thinking Like a Deal Lawyer" (2004) 54 *Journal of Legal Education* 223; Amy Westbrook, "Learning from Wall Street: A Venture in Transactional Legal Education" (2004) 27 *Quinnipiac Law Review* 227
- ²⁰ See York University Website Law School Review 227 website. For the literature on the role and value of business lawyers see R. Gibson, "Value Creation by Business Lawyers: Legal Skills and Asset Pricing" (1954) 94 *Yale L J* 239; S Schwartz, "Explaining the Value of Transactional Lawyering" (2006-7) 12 *Stan J L Bus. & Fin.* 486; George Dent, "Business Lawyers as Enterprise Architects" (2005-9) 64 *Bus. Law* 279
- ²¹ See Michelle Pistone and Michael Horn, Disrupting Law School: How Disruptive Innovation will Revolutionize the Legal World, Clayton Christensen Institute
- ²² See JH Farrar and David G Mayes (eds), Globalisation, the Global Financial Crisis and the State, Edward Elgar, Cheltenham 2013, Chapter 1
- ²³ "Law and Learning in an Era of Globalisation" (2009) 10 *German Law Review* 629
- ²⁴ Farrar and Mayes op cit.
- ²⁵ Ibid 1.2.
- ²⁶ See Shuenglin Lin "Fiscal Policy and China's Economic Growth" Chapter 3 in Vai Lo Lo and Mary Hiscock (eds) The Rise of the BRICS in the Global Political Economy and Changing Paradigms Edward Elgar, Cheltenham 2014
- ²⁷ See Farrar and Mayes op cit 2.
- ²⁸ See JH Farrar "Harmonisation of Business Law Between Australia and New Zealand" (1989) 19 *VUWLR* 435
- ²⁹ Canadian Bar Association, Ottawa 2013. See also their Futures, Transforming the Delivery of Legal Services in Canada, Ottawa, 2014
- ³⁰ See JH Farrar and P Hanrahan, Corporate Governance Lexis Nexis, 2016
- ³¹ See *Opera cit passim*
- ³² BPP Law School is now owned by Apollo Education Group which also own the University of Phoenix. IV is based in Phoenix, Arizona. Kaplan is owned by Kaplan Inc. of Florida.
- ³³ See Report and Recommendations of American Bar Association Task Force on the Future of Legal Education, ABA, 2014
- ³⁴ See, for example, Caroline Morris "Mean Hard Place? Law Students tell it as it is." (2005) 36 *VUWLR* 197; Harvard Law School Center on the Legal Profession The Women and Men of Harvard Law School: Preliminary results from the HLS Career Study. (2015)

- ³⁵ See, for example, M. Coper *Internationalisation and Standards, National symposium on Internationalising the Australian Law Curriculum, Canberra 2012*, 9. See the *Final Report of the UK Legal Education and Training Independent Research Team*, June 2013 Annex 11 (Canada)
- ³⁶ See Coper op cit 10 et seq
- ³⁷ See Jill McKeough, "Graduate Attributes – the Priestley Areas of Knowledge and the Broader Educational Context," National Symposium Canberra, 2012, 5 et seq
- ³⁸ See Legal Services Council Website <http://www.legalservices.org.au>
- ³⁹ See Ruth Campbell *A History of the Melbourne Law School 1857-1973*, Melbourne 1977, 12-3. See J. Waugh, *First Principles: The Melbourne Law School 1857-2007* 12-13 Miegunyah Press 2007, 110 et seq
- ⁴⁰ See Alan Paterson, *Lawyers and the Public Good: Democracy in Action*, Hamlyn Lectures Cambridge University Press, 2011, Chapter 5. More lay involvement in the professional regulation.