

Launch of the Australian Academy of Law
Government House, Brisbane
17 July 2007

Your Excellency, Chief Justices, Attorneys-General, Fellows and most distinguished guests

At long last.

It is with great pleasure — and some considerable relief — that I am here to help launch, after several years of hard work, planning and preparation, Australia's newest learned society, the Australian Academy of Law.

The need for an Australian Academy of Law (AAL) was first raised by the Australian Law Reform Commission (ALRC) in our landmark report *Managing Justice: a review of the federal civil justice system* (ALRC 89, 2000).

One of the key findings of *Managing Justice* was that while it is naturally “*very important*” to get the right structures, rules, practices and procedures [in place] ... it is *absolutely essential* to maintain a healthy culture” if we are going to operate an efficient and effective legal system, since:

- a healthy legal culture will overcome structural weaknesses and accommodate change;
- whereas an *unhealthy* culture will subvert even well-intentioned and well-designed structures.

The ALRC described the attributes of a healthy legal culture as including:

- an honest, open and self-critical nature;
- respect for, and effective communications among, stakeholders;
- a willingness to experiment/adapt (ie, not resistant to change);
- commitment to lifelong learning as an important aspect of professionalism; and
- the cultivation of a deep sense of ethics and professional responsibility—especially ‘the service ideal’.

This prompted the ALRC to spend considerably more time than anticipated (and two of nine chapters) on matters of:

- primary and continuing legal education,
- judicial education and complaints handling, and
- national professional practice standards and rules of ethics.

The ALRC expressed a general concern that these had not kept pace with:

- the dramatically changing patterns of legal practice;
- the changing expectations of lawyers/legal services; and
- the competitive and other challenges facing the profession

(about which I'll speak a little more this afternoon, at the start of the Symposium).

For example, the report traced the rapid growth and diversification of the Australian legal profession, and noted that:

This growth and fragmentation present serious challenges to the maintenance of a coherent professional identity, and render difficult the maintenance of traditional collegiate approaches. Without positive action the single 'legal profession' could become a multiplicity of 'legal occupations', none of which sees itself as part of a larger whole.

The ALRC called for the creation of

an institution which can draw together the various strands of the legal community to facilitate effective intellectual interchange of discussion and research of issues of concern, and nurture coalitions of interest. Such an institution should have a special focus on issues of professionalism (including ethics) and professional identity, and on education and training.

The ALRC formally recommended (R6) that the major stakeholders come together to establish an Australian Academy of Law, involving all members of the legal profession—practitioners, academics and judges—in promoting high standards of learning and conduct and appropriate collegiality across the profession.

The ALRC suggested that the members of an Australian Academy of Law should be 'selected on the basis of professional achievement and demonstrated interest in the improvement of the law', and that the objects of the association be to promote:

- excellence in legal scholarship and the publication of contributions to legal knowledge;
- collegiality among members of the judiciary, legal practitioners and law teachers;
- high standards within the legal profession;
- the advancement of legal practice in Australia;
- the professional development of members of the legal profession; and
- the advancement and dissemination of knowledge about the law and the legal system;

... which in fact are now embedded in the Objects clause of the AAL Constitution.

No existing institution in Australia could fill this niche—nor is there any existing body which could be adapted readily for these purposes.

It was noted that in the United Kingdom, the Inns of Court serve as places for judges, lawyers, academics and law students to gather together and share experiences, and in

the US the American Bar Association and the American Law Institute fulfilled many of these roles.

In Singapore, an Academy of Law was established in 1998, patterned after the Inns of Court, but also bringing together under one umbrella the Judiciary, the Bar, the Academy and the Government Legal Service. The ALRC noted that the Singapore model could provide ‘a point of departure for customising an institution which would best suit the interests of Australia’.

While the focus of those other bodies is very much on substantive law and practice, I have already indicated that our new Academy has broader and bolder ambitions. The Australian Academy brings together the leading members of the various branches of the profession as equal partners — something that has not been a distinguishing feature of Australian legal professional associations in the past.

A group of Foundation Fellows of the AAL, including the Chief Justice, and 36 other eminent persons—drawn from the senior ranks of the judiciary, the practising profession and the university law schools, and with demonstrated commitment to the aims of the new Academy—has worked to develop the AAL’s Foundation Constitution (including the rules for the election of further Fellows) and to conclude the formalities for registration of the Academy as a not-for-profit corporation in the ACT.

Thus the AAL that we launch today is a hybrid, recognising its roots in the legal profession but also patterned on the four learned societies already in existence in Australia: the Academy of the Social Sciences in Australia (ASSA), the Australian Academy of Humanities (AAH), the Australian Academy of Science (AAS), and the Academy of Technological Sciences and Engineering (ATSE).

Those four academies operate as autonomous NGOs, and cooperate through the National Academies Forum, formed in 1995. Each has a membership of roughly 400 — a number we hope to reach as well in the not too distant future. Funding comes from subscriptions and a small annual grant from the federal government. Theoretically lawyers are eligible for membership in the other academies—even if treated as curiosities—but only the Academy of Social Sciences has any modest crossover interest in law and jurisprudence, with about 20 Fellows with legal (mainly academic) backgrounds.

Thus, we will now move to two basic categories of membership in the AAL: (a) elected Fellows in the normal manner of an Academy, and (b) ex officio Fellows. We feel it is critical to the character and success of the AAL that we recognise and incorporate those who hold key leadership positions in the profession: chief justices, High Court judges, attorneys-general, law deans and others.

I am delighted to report that the establishment of the AAL has won warm and enthusiastic support from these leaders — only one person has turned down the invitation for ex officio membership.

It is intended that the AAL will provide a great forum for the consideration of issues of common interest across the profession. However, the idea is not simply to provide

another conference opportunity or a talking shop; rather, the intention is for the AAL to become a vehicle for translating informed debate into actions aimed at improving the quality of our legal system.

As we know only too well, ALRC reports and recommendations are not self-executing—we look to Government and other institutions for follow-up action and implementation.

Thanks:

In this case, the dream was kept alive for some years through the urging of the Council of Australian Law Deans—especially Professors David Barker and Michael Coper—so I would like to acknowledge their support, cooperation and efforts to get us to this point. David has also voluntarily assumed the Company Secretary role, and the responsibilities associated with that.

Special thanks as well must go to the Chief Justice, Murray Gleeson, for so readily agreeing to be the Patron of this new organisation, and then for providing us with the benefits of his wisdom and experience thereafter.

My warmest thanks and appreciation also must go to Amanda Stephens and Neal Parkinson of Minter Ellisons, Canberra — for handling, on a pro bono basis, all of the legal work associated with establishing a new company, including drafting the Constitution, the articles of association etc. It must take a VERY brave lawyer to undertake this for an organisation full of judges and lawyers who have never seen a document they couldn't improve.

Similarly, Deloitte has agreed to become the Academy's auditors on a pro bono basis.

At the ALRC, a truly extraordinary amount of work in support of the establishment of the Academy and the organisation of this Launch has been undertaken by Alayne Harland, as well as Alan Kirkland and Prof Ros Croucher.

Our warmest thanks and appreciation also go to Her Excellency Quentin Bryce AC — who is one of the Foundation Fellows — and her staff, for generously hosting this Launch at Government House, and turning an event into a real occasion.

And finally, as mentioned, we would not be here without the support and effort of the Foundation Fellows of the Academy. It is now my great honour to call up individually those who are present to receive their certificate of membership from the Chief Justice and Patron.

Emeritus Professor David Weisbrot AM
17 July 2007