Sir Walter Murdoch Memorial Lecture (1978)

As I remember Him: Reflections of an Academic Life

Lecture delivered by: Sir Zelman Cowan

I am pleased that you have invited me to deliver the Murdoch Lecture. I know, however, that it occupies a special place in the academic calendar of the University, and for that reason I hesitated to accept the invitation. In the first demanding year of my new and busy office, it has not been possible to undertake the research to present a learned lecture appropriate to the occasion. I have thought, however, that, in a university, I might offer a fragment of academic autobiography: that I might say something about a lifetime spent in universities principally in this country, and also in the United Kingdom and the United States. Until I assumed this office, and with the exception of the war years, I had spent the whole of my working life in universities, as a teacher and administrator.

Over those years, I have written from time to time about a variety of problems and issues associated with universities, as well as on matters specifically related to my academic discipline. On this occasion, I have thought that I might look back in a personal way, and that serves to explain the title of this lecture. I hope that it may be of some interest.

Over many years, I have come to Western Australia for occasions associated with the University and the law. As Vice-Chancellor of the University of Queensland, I attended celebrations to mark the inauguration of this University, and I have sat as a colleague with your Vice-Chancellor on the Australian Vice-Chancellor's Committee. I have a long-standing association with your Chancellor, founded first in the law, and developed in a university context. I also have special reason to remember this University. In my New England days, an enquiry was instituted into the provision of veterinary education. Those were more expansive days: questions were directed to the need for additional facilities, and the expert appointed to make the enquiry recommended the establishment of a fourth veterinary school, and indicated that a fifth school might later be required.

The immediate issue was the establishment of the fourth school. In company with my informed colleagues, I pressed the case for the establishment of the School in the University of New England; I pointed to the existing and impressive infrastructure to support it, both within
the University and in the surrounding economy. The argument or the facts carried conviction: New England was recommended as the site in that report, and in the subsequent report of the Universities Commission. The fourth Veterinary School was, however, established at Murdoch.

I spoke only a short time ago at the opening of the Australian Veterinary Association meeting in Sydney. Sadly, questions were being asked about the present oversupply of veterinary places in universities, having regard to the current opportunities for employment. It is not the first time that yesterday's predictions of shortage turn into today's concerns about oversupply, and it points to the difficulties in precise manpower planning. In a situation which is generally tight, and in which expansion in the tertiary sector is severely limited, no one contemplates further growth in veterinary education, and in some places, anyway, there is a cutback in available places. You, however, have your veterinary school which is the only one outside the eastern seaboard - a factor which may explain why Murdoch was preferred to New England - and I wish it well.

I do not want to spend more time on this, but I am bound to tell you a story told to me about the Murdoch Veterinary School. A distinguished person associated with this University was abroad, and her canary, left behind, was ailing. One of the eminent veterinarians in Murdoch was consulted and after examining the canary, reported gloomily. He had, however, a very practical suggestion: replacement by an identical canary.

I have said that I have spent my life in universities. It was not my intention to become a professional university teacher. I was committed from earliest infancy, some say maternally, by my mother, to the practice of the law. It has been told to me that as a very small boy I would say that my name was Casey because my mother had taught me that I was Zelman Cowen, K.C. I have always wanted to believe that, though in the event, long afterwards, I became Q.C. The goal ardently desired by me, and nurtured by the reading of the famous cases of famous barristers, was practice at the Bar. I came up to the University of Melbourne with that intent, though in those days of depression, as the then Dean, Professor Bailey, told the incoming class, the prospects were dismal.

I was deflected from my wish to pursue the shortest course to graduation in law by a determined Master of Ormond College, D.K. Picken, who insisted that one so young should have a longer and a broader education. So it was that I studied Arts in History and Political Science and Law, and I have on many occasions acknowledged the wisdom of that dogmatic mathematician who fitted me into his system, and in doing so gave me a broader and more humane education, and exposed me to the skills and
scholarship of some of the University's best teachers. That was a time when the Law School was manned principally by part time lecturers, who made their lives in the practice of the law. There were only two full time teachers: Professors Bailey and Paton who gave us a taste of what a professional law school might be. It was not, however, until I came to Oxford that I had the experience of legal education at the hands, or it may be at the feet, of men who made their careers as professional teachers of the law.

The part time teachers in Melbourne varied in their approaches and their styles, and they were very able lawyers, many of whom later attained the distinction of the Bench. Yet it was the case that their relationship with the University was episodic; their courses could not be supported by the reading, reflection and research which is central to the life of a full time professional teacher. In later years, in the post-war period, when law schools in Australia were becoming professionalised, in the sense in which I have used that word, it was argued that the law schools would lose professional and practical touch if the part time, practising part time, teachers were to go.

I think that, except in special cases, this was not so. My recollection of many of the courses taught part time was that they were really not infused by a distinctively practical touch; they often were quite formal expositions of legal principle and doctrine. I recall vividly the pleasure with which I attended the classes of the best of the full time professional teachers at Oxford soon after the war's end. The breadth of reading and reflection was evident in what they taught and in how they taught, and this was reinforced by an experience of the great law schools of the United States. There is too often, in professional education, a tension between the practitioner and the academic teacher. It is reflected in criticism of programmes and curricula, and in arguments about ends and purpose. It is sometimes cruelly said that he who can does, that he who cannot teaches.

I think that this is generally wrong; that while there will be and have been some eminent teachers who have won fame as scholars, but no distinction as practitioners, there are many able professional teachers of law who would have attained great distinction and reward in the practice of the law. One of the encouraging things in teaching the law in the University of Melbourne, was that some of our ablest young graduates, who would certainly have succeeded brilliantly in practice, chose to pursue post graduate study and then teaching careers in the Australian university law schools. I like to think that that was, in part at least, a response to the enthusiasm and the sense of purpose and mission,
if you will forgive the words, of the law school of those days - in the nineteen fifties.

What was also significant was that a number of able students who subsequently did very well in practice, chose to postpone their entry into practice until they had gone abroad for further study and taken post graduate degrees in overseas law schools, particularly, in those days, in the United States. That, I think, was important in encouraging a regard for and understanding of the values of academic professional education, and that, I think, is important for the development, the character and style of the profession.

I have always felt that the persisting tensions between the practising profession and the university law schools were regrettable. It was the case that throughout my time in the Melbourne University Law School there were substantial and important links between the practice and the teaching in a variety of ways: in membership of University faculties, in association on committees concerned with law reform and like matters. I think that it has been one of the encouraging developments of more recent years, that there has been a deeper concern on the part of professional bodies and organisations with the design and purpose of legal education in Australia.

In 1976, the Law Council of Australia took an active part in a searching symposium on legal education which was held in Sydney. It was a most encouraging and important development, and members of the practising professions, in private and public practice, and law teachers and law students came together for that purpose. I was invited to speak on that occasion - I was then Vice-Chancellor of the University of Queensland - and I expressed, among other things, my view that professional teachers should themselves have had a working experience in the practice of the law.

It is the case that a substantial number of law teachers has had no great experience of practice. In this respect, their situation is very different from that of professional full time teachers in the fields of medicine, dentistry and other professions. There has been a tendency, the reasons for which can be explained without much difficulty, particularly in a situation in which professional law schools were expanding, in which there was an unsatisfied demand for academically well qualified teachers to move from university study to university teaching directly, or immediately after undertaking post graduate work abroad. I anticipate the story, but it was my own case. It happened that I followed an academic and not a practising career. During my long years in the teaching of the law, opportunities to engage in practice, through appearances in a variety of jurisdictions and through paper work - opinions and the like - presented themselves and I valued them. I never had, however, an extended systematic period of practice, and I
believe that I am the poorer for that. More than that, I think that it tends to widen the "gap" between the practising lawyer and the teacher. In such cases, they have not met on common ground. There is mutual criticism, not bad in itself, but bad if framed in hostile stand-off terms on both sides. It seems to me that there is a case for requiring of a professional law teacher that he should have had a period in practice. In earlier days, there was some fear that, once established in rewarding practice, an able man would be reluctant to move across to the academic profession of the law, where there were less attractive financial prospects, and where the life, in one sense, lacked the same excitement. Particularly at a time when the professions are themselves under critical review, it seems to me that there should be strong links between practising and teaching professions. Even if there be mutual tensions, they should not arise as a result of such a significant gap in mutually shared experience.

This has led me out a long way from the account of my student experience. I found university life a very enjoyable and stimulating experience, and I suppose that a combination of factors and events drew me into academic life rather than into practice. In 1940, which was my last student year in Melbourne, I was elected Rhodes Scholar for Victoria. There was no immediate prospect of taking up the scholarship because of the war, and I was already a member of the Naval Reserve, and about to enter naval service. In the war years that followed, after a period of fallow, I began to read law again, and I looked forward to the experience of Oxford at the war's end.

With a picture of professional life derived from the difficult pre-war years, I feared that the delay in entry into practice, through years spent in Oxford, would prejudice professional prospects in practice, and I came to think about the desirability of an academic life. When, in 1945, at the end of the German war, the Rhodes Trustees indicated that Rhodes Scholars should make preparations to come, I was alerted. I was demobilised early in 1945. The Rhodes Trustees took account of the years that had passed, and the rule that a Scholar must be unmarried was waived. So it was that we married in June 1945, and on the very morning of that day I was advised by telephone that sea passages were available to us.

We sailed for England in July 1945 under uncomfortable conditions, and the Japanese war came to an end while we were at sea. I looked forward with great pleasure to resuming systematic legal study. Although I had started to read law again during the war years, there were great gaps. I read for a post graduate degree by examination: the Bachelor of Civil Law. It happened that my life took an odd course; within a term I was offered an opportunity to teach in the place of a don who had been recalled to
government service. At the end of the first academic year, I was appointed to an Oxford teaching post in Oriel College. So it was that for five of the six terms during which I studied for my degree, I had a heavy teaching programme. Because of my teaching appointment, the Rhodes Trustees took away half of my emolument; a strange reading, as it still seems to me, of Rhodes' regard for effort. It was a hard and exhausting time, with two lives in teaching and in course study. I don't suppose that there was ever a time when I knew the law - the classic common law anyway - so well in breadth and depth, and I had the stimulating experience of association with distinguished, elegant and eminent teachers of the law.

In the event all worked out well; I took a satisfactory degree, and Oriel College offered me a Fellowship. There was a nice compliment: the Fellowship was offered before I sat for the examination for my degree. It was a generous vote of confidence, and fortunately I was able to justify it. There followed three years as a Fellow of an Oxford College, and a full participation in the life of the University. Had I gone back to Australia, just having taken my degree, I should have had a useful but a limited experience of the life and resource of Oxford. As a married Rhodes Scholar, I did not live in College, but in rooms in suburban Oxford, and I was weighed down by a great burden of teaching and study. In the years that followed, from late 1947 until the end of 1950, as an Oxford teacher, I carried a burden of teaching which modern day Australian teachers would reject, with some reason, as appallingly heavy, but there was still a full opportunity to engage in the intellectual and social and cultural life of Oxford.

In those days, my wife and I counted ourselves among the most favoured of mortals, and we thought that we should never leave Oxford. An invitation came, however, to teach for the summer of 1949 in the University of Chicago. It was a very exciting prospect and I prepared for it, and we spent the hot summer of that year there. It was an enormously stimulating experience, discovering the qualities and style of a great American law school, and relishing the experience of living in the United States. It was the first of many visits to the United States, and the first of a number of links with great American law schools. I had a sense of being stretched out intellectually, then and later, when I came again to American schools, which I have not experienced in quite the same way elsewhere. I returned to Oxford in the autumn of 1949; my wife made a visit to Australia and rejoined me early in 1950, but I did not settle easily into Oxford again. The excitement and the stimulus of the American experience were very great; it seemed to me that Oxford had limitations which I had not earlier perceived. The balance was restored at a later time, but it was not the same again. It was not, oddly, that I was moved to return to the United States, but rather to go home. In the event, the
opportunity presented itself in a most happy way: a Chair of Law became vacant in the University of Melbourne Law School; my attention was drawn to the vacancy for which I applied, and I was appointed. We arrived back in Melbourne early in February 1951, and because of the appointment of George Paton as Vice-Chancellor of the University, I was not only Professor of Public Law, but also Dean of the Law School. It was a homecoming in the fullest sense, and the most exciting prospects opened up.

From 1951-1966, I held this appointment. Later in the 1950's, the Murray Committee reported on the threadbare condition of the Australian universities, and the committee was certainly right. It did not, however, operate in a discouraging way on us in the Law School. As I know, law schools do not impose heavy costs upon a university, and during the years of the fifties, we in the Melbourne Law School were expanding, were developing new programmes, were in a very real sense establishing new horizons for Australian law schools. We were a small group of professional law teachers, slowly but steadily expanding, and opportunities opened up for many of us to travel the world, and widen experience and horizons.

My Chicago connections enabled us to secure a short term appointment there for one of our teachers; in 1953-4, I went, for the first time, to Harvard Law School as a visiting professor. In the years that followed, I went abroad and established links with a number of major American schools; so did my colleagues and this, in the expanding American scene, opened up scholarship resource for good graduates of the Melbourne Law School to go to the United States for post graduate work. Our experiences in the American schools led to curriculum and teaching experiment at home, not always received without suspicion by a profession watching the capers of a body of active and vocal young men. We received distinguished scholars and teachers from the United States and the United Kingdom. We began to explore Asian legal studies, particularly in the Indonesian context.

I think that those of us who lived and worked in Melbourne in those years have reason to look back on them as important, exciting, historic years. There is a recent centenary history of the Melbourne University Law School which tells briefly of what went on, and it is still possible to recapture the excitement. Of course there has been a massive expansion and development since then, but I think that history will show that, in Australian legal education, they were important years. We were a body of colleagues who worked harmoniously and with shared excitement and purpose at the tasks. For me there was a wide range of activities outside the law school: in adult education: in radio broadcasting and then in television, when it made, its appearance late in 1956: in
speaking on a variety of platforms. As I have said, I was a comparatively frequent visitor to American law schools, and the American connection was of great importance and value in those days. In addition, through my appointment as Australian Liaison Officer to the British Colonial Office, the school began to establish a variety of links with areas of Asia. I was involved as an adviser (as part of a small team) in the planning of legal education in Ghana, Hong Kong and the British West Indies.

Such an account of activities suggests a wild dissipation of energies and distraction from rigorous academic pursuits. I believe that it was not so, and a great deal of energy went into academic concerns. We learned, particularly from the great American schools, of their deep commitment to the teaching of students. That communicated itself powerfully to those of us who had that experience: while it did not necessarily mean a making over of our school in the American image - though it was charged against us at times that it did - it meant that we paid close attention, individually and collectively, to the problems of teaching. We concerned ourselves with curriculum, with examinations, but it was also the case that, over the years, the school had a very good record of scholarship and scholarly publications.

In my Oxford years I had developed special interests in Private International Law, Evidence and in areas of public, and particularly constitutional law. This was reflected in my writings, and in my teaching. In some of these fields, my American involvements and interests led me to look at Australian law to see whether, in our federal structure, there were distinctive problems and concerns, as in the field of Private International Law. Whether, in the event, I was right or wrong, from what are now primitive writings in Australian Private International Law, there have come substantial treatises by later scholars, and if it is not vanity to say so, there is satisfaction in seeing some influence stemming from my early work. I did some work in the complex areas of jurisdiction, and produced a book on Federal Jurisdiction in Australia in 1959. A second edition of this book, for which Professor Leslie Zines of the Australian National University is principally responsible, will appear this year.

Early in the 1960's, my interest in judicial biography began to develop. As a student, I had read many of the judgments of Isaac Isaacs, as a Justice of the High Court. He had had an extraordinary career, starting life in 1855 as the son of recently arrived Jewish migrant parents, who shortly thereafter went from Melbourne to North Eastern Victoria. He was successively school teacher, law clerk, lawyer, member and minister in the Victorian Parliament, founding father of the Australian Commonwealth Constitution, member and Attorney-General in the federal sphere, Justice of the High Court of
Australia and then Chief Justice, the first Australian born Governor-General of Australia, and he died at the age of 92 in 1948 after more than a decade of vigorous and controversial retirement. There had been a biography of him written by Max Gordon who was not a lawyer, and I decided to write on him. I published a short biography in the Oxford Great Australians series, and during the 1960's I worked on a larger book. It was held up for various reasons, not the least of which was the difficulty of obtaining material. I was very happy when a Melbourne solicitor gave me a collection of papers and documents, including a hand written note by Isaacs of what the Prime Minister, Scullin, had told him about his discussions with the Private Secretary to The King and with King George V over Isaacs' appointment as Governor-General. There were also remarkable letters by Isaacs, as a judge of the High Court in his fifties, to his very powerful and remarkable mother.

Then I received a large number of letters written late in life to his daughter, Marjorie Cohen. This gave me personal insights, which were sorely needed in writing about this remarkable, controversial and now sadly forgotten man whose life provides a conspicuous example, in a country of heavy migration, of the career open to talent. Since that time I have gathered more information about Isaacs - I published the book in 1967 - and it is odd to think that, having been the biographer of the first Australian born Governor-General, who in 1930 was appointed to the Office amid great controversy over the propriety of appointing a local man, I should now hold that office myself. I find myself thinking about how he performed the duties of his office, now almost fifty years ago.

While I was working on the book on Isaacs, I was invited in 1965 to give the Macrossan Lectures in the University of Queensland on Sir John Latham. Latham had been an important figure in Australian politics in the 1920's and early 1930's, and in 1935 was appointed as Chief Justice of the High Court. In 1930, as leader of the Opposition in the Commonwealth Parliament, he had been a very vocal opponent of the appointment of Isaacs as Governor-General. Latham retired as Chief Justice early in the 1950's, and he lived an active and vigorous public life until his death in 1964. I saw him often during those years, and enjoyed my meetings with him. I was very pleased to accept the invitation to give the Macrossan Lectures, in which I dealt with Latham in politics and in the law.

I remember that when I was working on Isaacs and Latham concurrently, I sought the help of Sir Owen Dixon. Dixon is, by general consent, accounted among the very greatest of our lawyers; without much doubt the greatest, and he succeeded Latham as
Chief Justice of the High Court. He had been a member of that Court since 1929. This meant that he was there in Isaacs' last year, and, as a leading member of the Bar, he had appeared before Isaacs many times. He was also a member of the Court during Latham's time. He knew both men well, and I remember "a long and, indeed, unforgettable evening in the study of Dixon's house when he talked to me about both men, and mainly about Isaacs. There was a disposition on the part of many prominent lawyers to disparage Isaacs, but Dixon did not do that. He judged him coolly and with sharp perception, and that night's talk - on my part, listening - remains vivid with me.

It has been a great satisfaction to make a contribution to judicial biography, which has not been a much developed art in Australia. In 1970, when I was Vice-Chancellor of Queensland, I spoke and wrote about Sir John Barry, a former justice of the Supreme Court of Victoria, and a man of very considerable talent, learning and breadth of outlook, when I gave the Turner Lecture in Tasmania. I had known Barry well for many years, and he had died in the previous year, 1969.

In more recent years, I have thought about other essays in legal biography. At one stage I thought to write about one of the original judges of the High Court, R.E. O'Connor, but the papers were thin, and I did not follow it through. I have dreamed of writing a history of the High Court of Australia, perhaps with a first volume covering its first fifty years, up to the retirement of Latham. That would be a major, and I think a useful enterprise, but I do not know whether I shall ever attempt it. I have encouraged others to work in this area: I persuaded one brilliant colleague in the University of Melbourne to work on Samuel Griffith, the first Chief Justice of the High Court and the principal draftsman of the 1891 text of the Australian Constitution. He did some work on Griffith and published some good papers, but he has gone to the Bar, where he has built a great practice, and I do not know that the book will ever emerge. I believe that another scholar, a lawyer-historian, is working on Griffith.

During the years in Melbourne, there was constant opportunity to stimulate other, and particularly young and able scholars, to enter new and significant areas of legal study. It is a great pleasure to see the fruits of their work. When my appointment as Governor-General was announced, I received very many cordial letters and messages. Among them were letters from former students of the Melbourne days. Some of them I remembered; some I have forgotten, and in writing about the appointment, they recalled things that I had said or done; things that I had done which had been helpful to them in some or other way. It is one of the most moving things to happen to a man, or at least to this man, to know that in one way or another, he has been able to help some of his students along the way. It seems that while he may have forgotten, they remember. There are few greater satisfactions.
I left the University of Melbourne to become Vice-Chancellor of the University of New England at the end of 1966. I had been in Melbourne for sixteen years, and I was ready to do something else. Yet I was unclear about the next step. In 1954, I had been invited to go permanently to the United States as Professor in the University of Chicago Law School. It was a magnificent and sorely tempting offer: indeed, I wrote accepting, after much agonising, and then withdrew. In the sixties there were renewed invitations to go permanently to the United States to law schools. I had always enjoyed my visits to the United States, and my periods as a visiting teacher there, very much indeed. I had always left with reluctance, and it took some time to resettle. Yet I did not respond to the opportunity to go to the United States permanently, and I cannot confidently say why. Whether it was that I should be a confined specialist in a law school, I don't know; it wasn't necessarily so, as the careers of others who have gone have demonstrated, and it wasn't a bad fate anyway. Whatever the reason, and my wife shared my view, we did not go.

Late in 1965, there came to me in Melbourne a letter from the Chancellor of the University of New England, the late Philip Wright. He enquired whether I would be interested in appointment as Vice-Chancellor. I had never been in that University or known much about it. It was of all the universities, the most remote from urban centres, and it had no professional faculties, and certainly no law school. Yet I responded, saying that I would be interested. Things moved slowly, but early in 1966, when I was in Hong Kong, letters arrived for me from New England, asking me to visit with my wife as soon as I returned to Australia. We did so; we were there for a day; an offer was made and accepted.

I remember telling my colleagues in the Melbourne Law School of what I had done. There was, I think, some surprise that with my urban background and specifically professional interests, I should have chosen to make such a move. It is the case that I did so with little knowledge of the University of New England. I had a picture of the possibility of creating in a pre-eminently residential university, a national university in Australia - national in the sense that it would have a student body in residence drawn from all over the country. It was a harking back to an Oxford vision for an Australian environment, and one really not attainable within the framework and pattern of our society.

I think that what weighed heavily was the wish to do something different after so many years in Melbourne. To be sure, that had been a life filled with interest, but it had been
my job for sixteen years. I was at an age, in my mid-forties, at which, if change was to come, it was appropriate. I had not long before declined invitations to go to the United States, and the challenge of a Vice-Chancellorship, though unexpected, was attractive. If it was not a carefully reasoned decision, it was one that I never regretted. In the three years in which I was in New England, I learned a good deal about the business of being a Vice-Chancellor and about the Australian university system. Though government had not accepted the full recommendations of the Australian Universities Commission for the 1967-9 triennium, there was scope for development: substantial building was completed and undertaken during my time there; new course proposals for natural resource studies were explored and developed. These were significant innovations, and came into effect not long after I left the University.

I was much involved in the University's lively programme of vacation study schools; I was active in the surrounding communities, which the University served well. I became aware for the first time of the values and merits of programmes of external studies to which the University was actively committed. The development of external studies was a major commitment of the University of New England; its internal growth owed much to its external studies development, and the success of the programme, which was undoubted, owed much to the drive and planning of its administrative director, Howard Sheath, who gave it a direction and commitment rare in any university. He was called on to advise on the beginnings of the Open University in the United Kingdom and on the development of external studies elsewhere in the world.

When I went to the University of Queensland early in 1970, I came to the other university in Australia which then had a substantial commitment to external studies. It was differently organised: it was, in the main, a separate department with teachers specifically appointed for external studies and with little involvement, if any, on the part of the main teaching body. In New England, appointments to the relevant disciplines involved an obligation both to external and internal studies. There are arguments for both systems; the Queensland situation was one in which internal students dominated in numbers, and in New England it was the reverse. The argument for the Queensland system was the need for teachers with a specialised commitment; that otherwise, external studies would be seen as unwelcome duty.

My own view, on the balance, is that the New England system worked better. It depended upon high quality administration by an administrator with those skills married to high academic values. There was a danger that within a separated External Studies Department, a sense of isolation or separation would develop as between two staff
bodies. Recent developments in external studies in Macauarie and in Deakin have been interesting. They have followed a New England rather than a Queensland model, as I understand them, and it is possible to establish such a pattern in a new university, but difficult to assign external studies responsibilities to a staff in an existing university when that staff has been recruited on a basis which excludes external studies responsibilities. It seems to me that the increasing concern of universities and other tertiary bodies with external studies is to be applauded. I have seen what is being done in Deakin University, and so far as I can judge, materials are being prepared and courses designed with enthusiasm by the very best talent within the University. If that is accompanied by first class administration, and with a fair infusion of resource, external studies are likely to develop well.

In 1974, with evidence of growing interest in external studies, and with the evidence of the achievement of the Open University in England, an enquiry was mounted in Australia, and a committee under the chairmanship of Professor Peter Karmel made a report which proposed a substantial development in external studies in Australia. That committee rejected the separate development of external studies through an Open University; it supported developments based on the existing framework of services and their expansion through other units, and coordinated through a newly established body. Those proposals would have involved, immediately, a substantial expansion of activities in the University of Queensland, and we worked hard at plans to make that real. They died, at least for the time being; with the budget freeze of 1975.

I found the new role of a trice-Chancellor very rewarding and challenging, vexing and frustrating, as I suppose most do, but overall one which I was pleased that I had undertaken. I saw encouraging developments and substantial growth in the University, and, I like to think, a growing recognition of its place in the Australian university community and correspondingly, a growing confidence within the University itself. Looking back, it seems that I was also able to maintain some academic work in papers, speeches and studies. During my New England years, the heart transplant surgery of Dr Christian Barnard posed new problems extending beyond medical issues into law and ethics. I was invited to participate in what was probably the earliest major Australian symposium on transplants, with a paper on the legal and ethical problems. There was difficulty in finding resource material from an Armidale base, but the response to my paper was encouraging and I developed my work. I participated in the work of a NHMRC committee which considered the matter, and years later as a member of the Australian Law Reform Commission, I was a member of the division which worked on and prepared a substantial report and draft legislation on Human Tissue Transplants which is one of the most comprehensive examinations of the issues. The
study of the law, confronted by biological developments and changing technology, is fascinating.

In 1969, I gave the Boyer Lectures for the Australian Broadcasting Commission. It had been suggested to me that I might speak on university problems, but I said that I wished to speak on issues associated with claims to protect privacy. The lectures, under the title of *The Private Man* and subsequently published, attracted some attention. I had begun with an interest in the problems of privacy in the particular context of the media, but as my work developed, I saw the implications of surveillance and the problems of protection of privacy associated with data banks and computer technology. Five comparatively short lectures touched the surface; yet the interest and attention they received was quite unexpected. What I then said is now commonplace, and has been the subject of many investigations and debates, but I think that what I then did made a useful contribution in increasing the awareness of issues, which I believe to be of substantial importance. The approach of the law to their resolution must take account of the different problems and contexts. I was a member of the Australian Law Reform Commission when it began its consideration of these problems; indeed, I believe that the decision to invite me to join the Commission was made on the basis of my earlier and general work on privacy.

While I am speaking of these matters, let me move ahead in time. In 1974, when I was Vice Chancellor of the University of Queensland, I was invited to give the Tagore Law Lectures in the University of Calcutta in 1975. This is a century old series given by scholars from many parts of the world, and I was much honoured by the invitation. It was suggested that I might wish to speak on Australian constitutional developments, but I chose to speak on themes illustrated by my interest in privacy. I wanted to take as my general title Holmes's aphorism, "My right to swing my arm ends at the point at which your nose begins". While that title was seen by my hosts as a little obscure, not to say frivolous, it illustrated my concerns. They are with competing claims in society and in the law: the claim on the one hand for a free press - using the word press widely to cover the media and expression; the claim on the other hand to protect and safeguard substantial interests: reputation, privacy, the fair trial against prejudicial publicity, and public standards of decency.

These are not exhaustive of course, but in the Tagore Lectures, and in the book which followed them, which bears the title of Individual Liberty and the Law I explored these issues. With one of them, the issue of the fair trial and prejudicial publicity, I continue to be involved, particularly in the context of the protracted Thalidomide litigation in the
English courts, and now in the European Court of Human Rights. The reform of the law of defamation is also a matter referred to the Australian Law Reform Commission, and I took part, as a member, in the early stages of the discussion.

In the latter part of 1969, I was asked whether I should be interested in appointment to the Vice-Chancellorship of the University of Queensland. I said that I was interested. While I knew comparatively little of the University, I had made occasional visits and had delivered the Macrossan Lectures. I welcomed the opportunity of serving as a Vice-Chancellor in a large urban university with a wide range of professional faculties. I was invited to accept the appointment and did so. If I gave hurt to some in leaving the University of New England after only three years, I have to say that I did not seek to go but was asked, and that in the three years of my work there, I laboured hard and, so far as the word is appropriate to a Vice-Chancellor's task, happily in the service and interests of the University.

The challenges in the new task were formidable. I suppose that it was not without significance that one of the last substantial speeches that I made as Vice-Chancellor of the University of New England was on the subject of Student Unrest to the Medico-Legal Society of New South Wales in 1969. There had been traces of it in New England, but they were trifling; outside in the United States, Europe and elsewhere, the universities were ablaze. The Californian beginnings dated back to the first half of the sixties; Columbia and Paris erupted in 1968, and in Australia a number of universities had experienced troubles.

When I came to the University of Queensland, it was a University with widely publicised student troubles. It was a University which had experienced rapid, some might say over-rapid growth. There had been problems, disorders and disturbances in the late sixties; indeed, when I talked with the appointing committee, this occupied a prominent place in the discussions. My coming was heralded by press and media enquiries, in which the main questions were about student troubles. I think I should say, however, that I came without a full awareness of the situation, not that that would have affected my decision. The period of intensity, if I can so put it, was 1970-1, the period associated with the Vietnam war. At the end of 1970, after a difficult year, I gave the Robert Garran Oration in Canberra with the title of Some Thoughts on the Australian Universities, and it is not surprising that I dwelt on the experiences and issues of that year. Reading it afresh, many years after the events and long after the pressures had abated, I would say that despite the immediacy of the problem at that time, I still support what I said then, and repeat my judgements and endorse my principles. That
was a time when the Vietnam war loomed large, and it was followed by issues which arose out of the visit of the Springboks, the South African Rugby players, to Australia and specifically to Queensland. There were critical points; one involving the imposition of pressures upon a speaker, preventing or seeking to prevent him from leaving the campus, and that appeared to me to pose a central problem bearing upon the values which a university enshrines: the right of a speaker to come without let or hindrance and to express his views on the university site. The denial of freedom of expression is the denial of the university.

There were issues relating to university discipline, and I attempted to set out principles as clearly as I could. During the much publicized "strike" in the University of Queensland in mid 1971 during the Springbok visit, I decided to speak to the whole University, and on one memorable day I spoke to a vast concourse of thousands. I stated at some length the values for which I stood, and I spoke of the wrong as I saw it, and it remains a memorable day in my life. The times were bitter for me, as for colleagues elsewhere in Australia and the world, and I think that we were changed people as a result. At least I speak for myself when I say that the values of civility and trust had been deeply cherished by me, and it was hard to see them disappear. The times have chanced since then, but I would suppose that, and for a complex of reasons which I do not have time to develop now, and which it may be difficult to explain altogether, it was not as it was before the deluge.

As to this, I recall Ralf Dahrendorf's words in his Reith Lectures when he said that students have something of a seismic quality which measures the state of a society, it may be with an exaggeration. Samuel Huntington once said, describing his university, Harvard, in the early sixties, before the storm, that there was a shared consensus on what was important and what was not important, on what the standards of achievement were and how one ranked individuals in terms of those standards. Intellectual distinction and scholarly achievement was what counted, and with this general consensus in values, there was also a general acceptance of the system for measuring achievement of those values on the part of both students and faculty. That, he said, had gone with the recovered turmoil of the latter sixties; it has not altogether, though it is better now.

At the Congress of the Universities of the Commonwealth at Edinburgh in 1973, the theme of which was Commonwealth Universities and Society, I was invited to give a paper at the Plenary Session on Contemporary Culture and the Universities. In that paper I tried to say what had happened in the turmoil of the sixties, the effects of which
had, in practical terms, caught up with me in the early seventies. I shall not repeat what I said there beyond referring to Lionel Trilling's deeply disturbing, yet powerfully persuasive statement that there is in contemporary culture a complex tendency to impugn and devalue the very concept of mind. This sits with a technology which, in its way, points to the extraordinary capacity of mind to achieve. In the early sixties the Robbins Committee, looking at higher education in the United Kingdom, spoke of a role of the universities as the transmission of a common culture and common standards of civilization. Yet the Grimond Committee on the University of Birmingham in 1972 proposed a substantial reframing, saying that these words expressed a doubtful philosophy at a time when all over the world social notions were in a state of rapid and explosive change.

At the same time as the Grimond Committee was saying this, an important Canadian report on higher education was saying that violence, disorder and tumult were much abated: there was a movement away from Marxism to computer science, from guerilla warfare to accountancy, a movement back to 'career concerns'. That was so in Queensland and the Australian universities; it has been accentuated in the years since then. I suppose that the extraordinary thing, in the Queensland situation, was the suddenness of the change. There was a week early in 1973 in which it could be said "now you see it; now you don't". Indeed, in the years that followed, I was heard to say on more than one occasion that I was disturbed by the absence of any student activity outside the classroom.

It was not that matters touching on university governance ceased to be of concern. There were issues touching staff conditions, particularly in relation to junior staff. There were various issues bearing on university governance, including restructuring of governing bodies and major academic boards. There were issues touching the organization of the academic year and systems of examining and grading. The Harvard debate on the "core curriculum" will, I expect, spread to the Australian universities in due course, and it will be good to have the issues thrashed out.

The difficulties of the first years did not affect the great body of the University; for most students the 'troubles' were quite peripheral. There was a substantial building programme in days when it was acutely necessary to provide for the needs of an overcrowded, bursting university. Among the achievements of those years were buildings which were distinguished architecture. My proudest achievement was the University Great Hall, the Mayne Hall, which is a magnificent building, achieved with little money, in fulfillment of a long standing public promise, which is a major
contribution to the cultural life of the Queensland community. We built fine museums for anthropology and much more recently for the visual arts. Then there was the provision of other things - musical groups in particular - to enhance the cultural life of the University. These activities, I account as among the most important of my time.

One of the central problems in a very large diverse university is that of maintaining human scale and communication. In the early days of student troubles, that was vitally important and profoundly difficult. There was little capacity, except in the rare case of a speech delivered to the University, to communicate at heated meetings with their repeated chanting. At the same time, it was of critical importance to get the record straight, to state principle and reason as clearly as possible. Over the years I struggled with this problem, not always successfully, because it is formidably difficult, both in times of intense and heated activity and of seeming apathy. Fair and candid communication is essential in university life and in the community of a democratic society beyond it.

In the later years, the problems changed in character. I remember Clark Kerr writing some time ago about the American universities. "After largesse from the horn of plenty had been poured on it after World War IT, (the University) entered the new depression. After the labour market had for so long eagerly sought its graduates, it began about 1968 to declare them in oversupply. (After a period of fast growth in enrolments), higher education. now faces much slower growth . . . . and then at least a decade of enrolment decline in the 1980's. Seldom has so great an American institution passed so quickly from its golden age to its age of decline."

What was true of the American university came to be true of Australian universities in 1975, with the budget decisions which called for a moratorium, which dashed the hopes of the University of Queensland for a building programme which was the most brilliant in its history and promised much for the University. That slow down continued up to the point at which I left the University; it still continues. There are economic difficulties facing the nation, there are questions of priorities, there are substantial questions, in the context of Clerk Kerr's statement, touching education and particularly higher education. The Williams Committee enquiring into education and training has to consider, in the words of the Prime Minister, "the view that the education system, and particularly the pattern of post-secondary education, is not matching satisfactorily the employment needs of many young people with the demands of the labour force".
That was the point at which I left the University. At the time my appointment was announced, I was Chairman of the Australian Vice-Chancellor's Committee. I had held that office for scarcely half a year, and from the moment my appointment was announced, it was important that I should resign that office, to give it over to hands not in any way tied. And so I did within a few days. For the last months of 1977, I was on leave from the University of Queensland, though formally its Vice-Chancellor.

The University was generous in its farewells. Perhaps the most moving was a special concert by the A.B.C. Queensland Orchestra in the Mayne Hall. I have never gone into that Hall without a catching of the breath and a sense of gratitude that I participated in the achievement of something so beautiful, and those who arranged that concert knew that and recognised it by an act sensitive beyond imagination.

So it is that I have gone from a life in universities. I shall always preserve a deep interest in them; when I left I was the longest serving Vice-Chancellor in the country, though not by much. While I do not pine for Vice-Chancellorial responsibilities, I still preserve many university associations, and I attend and have been very happy to be received on university occasions such as this. My life in universities, and particularly as a Vice-Chancellor, has taught me many things and has yielded up experience which is very valuable to me in my present office. And the final thing to be said is that while the recurring word in what I have said is "I", the real is that the work has been done with the advice and encouragement of associates with whom I have lived with respect and often with admiration and affection.

I thank you for the honour you have done me in inviting me to give the Murdoch Lecture, and I wish the University well.