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Abstract
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Cover Page Footnote
Thanks to my esteemed colleague, John Wade, for his comments upon an earlier draft of this review. All responsibility is mine.

BOOK REVIEW

FRONTIERS OF LEGAL SCHOLARSHIP
TWENTY FIVE YEARS OF WARWICK LAW SCHOOL

Geoffrey P Wilson (ed)

Reviewed by
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Law schools founded to be different tend to be interesting places apt to attract interesting people. My own experience suggests this is the case with the law schools at Bond University and the University of New South Wales[1] and this book establishes it to be the case at Warwick University.

Bond Law School was established in 1989 with a strong emphasis on integrating legal skills into the curriculum -- because skills were seen as central to the education of professionals and because substantive law is better understood with the realism imparted by skills training.[2] Bond is often regarded as having introduced what has been called the 'third wave' in Australian legal education: skills training.[3] Bond used the traditional pedagogical methods -- lecture and

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* Thanks to my esteemed colleague, John Wade, for his comments upon an earlier draft of this review. All responsibility is mine.

1 I expect this observation applies equally to other Australian law schools founded to be different, such as those at Griffith and Newcastle universities. I have not extended my observation to these and perhaps other schools only because I have no direct personal experience upon which to base it.

2 See Lauchland, K, 'The Integration of Skills Training into the Substantive Law Program: The Bond Method', a paper presented at the 14th LawAsia Biennial Conference, 1995. Bond has integrated the teaching of the skills of advocacy/oral presentation, dispute resolution, information technology, interviewing, research and reasoning, and writing/drafting,into the compulsory subjects in the LL.B. as recommended by the MacCrate Report in the US: *Legal Education and Professional Development - An Educational Continuum* (Report of the Task Force on Law Schools and the Profession: Narrowing the Gap) Amercian Bar Association (July 1992). For a consideration of the financial mountain to be climbed for skills training to fulfill its potential, see Costonis JJ, 'The MacCrate Report: Of Loaves, Fishes and the Future of American Legal Education' (1993) 43 J Legal Educ 157.

3 See Weisbrot's comments on the "third wave" of legal scholarship in Australia in the foreward to Hunter J & Cronin K, *Evidence, Advocacy and Ethical Practice: A Criminal Trial Commentary*, Butterworths (1995) at x.

tutorial; but with a strong commitment to small class sizes and excellence in teaching.[4]

The University of New South Wales Law School was founded in 1971. UNSW introduced what has been described as the 'second wave' in Australian legal education -- a critical, contextual approach to the law.[5] However, as Michael Chesterman points out in this volume, 'UNSW's reaction against traditional law teaching ... focused more clearly on pedagogy than on content'.[6] UNSW was also founded with a strong commitment to individual tuition and excellence in teaching. Traditional lectures and tutorials were replaced with four hours of seminars each week in which pre-assigned reading materials were discussed and analysed. More radically, a culture was engendered in which students actually read at least some of the material *prior to attending class*.

Warwick was founded before its two Antipodean cousins, in 1967, with a brief to move beyond black letter law and teach the law in context -- to place the law in its sociological, economic and historical context and focus upon its societal impact. This volume reflects upon Warwick's role in legal education, surveys the broader scene of legal scholarship particularly in Britain, and includes a number of contributions upon specialist topics.

I see this book as a work in two parts. The first part, chapters one to four, seven & eight, and fifteen, comprises seven chapters on general topics. The second part, chapters five to six and nine to fourteen, comprises eight chapters which amount to a *festschrift* in honour of Warwick Law School, as distinguished former Warwick teachers write on their diverse fields of interest. The chapters in the first part will be of great interest to most teachers; those in the second will primarily be of interest to those who work in the particular fields.

Chapter One is by Ross Cranston and is entitled 'A Wayward, Vagrant Spirit: Law in Context Finds Its Rich and Kindly Earth'. It is my favorite chapter.

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4 At the time of writing the average size of tutorials in Bond Law School is marginally over ten students. I am not here asserting that Bond has attained excellence in teaching, simply that a commitment to it has characterised the place. From its inception, students have evaluated all classes and teachers and the results of these teaching evaluations have been treated as public documents and held in the library. In addition, the law school staff have always been aware that in a private university, in a fundamental sense, they are teaching for their jobs -- declining student numbers translate into a smaller faculty. In a national graduate survey published in June 1997, Bond's 1995 graduates ranked it higher than any other law school's graduates ranked their schools (as each body of students only attended one school there are real problems with the comparability of these rankings between schools): *The 1996 Course Experience Questionnaire* -- A Report Prepared for the Graduate Careers Council of Australia by Trevor Johnson, Graduate Careers Council of Australia (1997).

5 Weisbrot D in the foreward to Hunter & Cronin, above n 3 at ix.

6 Wilson G, *Frontiers of Legal Scholarship -- Twenty five Years of Warwick Law School*, John Wiley & Sons (1995) at 26-27.

In it, Professor Cranston uses vignettes and themes from *The Fortunes of Richard Mahony*[7] by Henry Handel Richardson to introduce and illustrate a range of topics as diverse as the history of English legal education, law in context, the law and economics movement,[8] the role of legal theory, and, most significantly in my view, the need for empirical research in law. In Cranston's words,

> The imbalance in legal research remains. Too many legal academics rework the same conventional materials in the same dreary way. ... Meanwhile, so many aspects of the law's operation remain a mystery. So many of those affected by it are in no position to challenge its confiscating hand. Law schools are in default of their responsibility if they do not foster enquiries into the actual workings of the legal process and promote reforms of these.[9]

Given the centrality of empirical research to the law in context movement and these ringing words of Cranston's, it is ironic that this book contains no empirical research at all about Warwick Law School: nothing about student destinations or satisfaction levels, nothing about evaluations of teaching, nothing about output of publications, nothing about destinations of departing staff, nothing beyond anecdote.

Cranston proceeds, without Richardson's assistance, to put forward a sceptical view of courts as agents for social change, to consider the nature of modern lawyering, and to reflect upon how the law in context movement has influenced, almost imperceptibly and certainly subtly,[10] the teaching of law in many law schools.

Chapter Two is by Michael Chesterman, long time faculty member and former Dean of UNSW. Entitled 'Legal Explorations in Different Lands' it is an enlightening comparison of the Warwick and UNSW "rebellions" against orthodoxy and gives an interesting perspective upon the history of legal education in Australia generally and New South Wales in particular.

Chapter Three is most aptly titled 'An Autobiographical Fragment'. By Patrick Atiyah, it chronicles his life as a scholar for his four years at Warwick, during the latter three of which he was rather obsessed with writing *The Rise and Fall of Freedom of Contract*. The chapter is a particularly valuable insight into the creative process and research methods of a distinguished scholar and is refreshing for its disarming honesty.

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7 The trilogy comprises *Australia Felix* (1917), *The Way Home* (1925) and *Ultima Thule* (1929).

8 Cranston's is perhaps the best, succinct critique of the law and economics movement I have read.

9 Cranston, Chap One in Wilson, see above n 6 at 9.

10 Almost certainly, too subtly!

Chapter Four is most inaptly titled 'A Nobel Prize for Law?'. By William Twining, it deals only cursorily with its professed topic and, in reality, is one of Twining's reviews of the state of play of legal scholarship. As always on that score, he does not disappoint; although, as he acknowledges, the chapter covers ground already well tilled by him, particularly in *Blackstone's Tower: The English Law School*.[11] Perhaps because it is of book length, I found *Blackstone's Tower* to be a more satisfying treatment of many of the themes addressed here, but this is a most useful summary.

Chapter Seven considers developments in socio-legal scholarship and the curriculum. It is by Martin Partington and considers in some depth a topic of which the importance has all ready been established in this book by Cranston.

Chapter Eight is on clinical legal education at Warwick and the skills movement. It is by Avrom Sherr and is a most insightful treatment of the legal clinic as an educational tool. Professor Sherr reflects upon how clinical legal education, that product of the U.S. in the 1970s, has invariably been accompanied by a commitment to social justice and providing legal services to the poor and powerless. In the 1990s, skills training has overtaken the clinical movement as the generally preferred method of teaching students how to be a lawyer, rather than just think like one, and of adding realism to the study of law. Professor Sherr poses questions particularly important for law schools like Bond, with its commitment to skills: "Can legal skills be taught, sanitised of the ideology and devoid of the emotion? Why should not there be a set of legal skills for doing commercial work? Is it right that the clinical teachers clandestinely operated their own political agenda?".[12] Indeed, his conclusion could be addressed directly to Bond:

> In many law schools skills teaching is a functionally embedded part of a formal process taught by skills educators, but extracted out of the world of legal need of the underprivileged. ... [A] new wave of young teachers ... are analytically strong but often politically absent. ... Skills and skills teaching have progressed immeasurably and the new clinician is a perfect technician, mirroring the development of the legal profession itself. ...
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> Whilst clinical legal educators should be proud of the universal success of the skills movement there was, and still is, much more to clinic, much more to legal education and much more to the practice of law than just skills. ... Studying legal skills outside of their natural context needs today the same form of health warning which

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[11] Twining W, *Blackstone's Tower: The English Law School,* London: Steven & Sons / Sweet & Maxwell, (1994).

[12] Sherr A, Chap Eight in Wilson, see above n 6 at 108.

> Warwick Law School gave to the study of substantive law outside its context 25 years ago.[13]

The final chapter of what I have characterised as part one of the book is the final chapter of the volume. Chapter Fifteen, 'Enriching the Study of Law', is by Warwick Law School's founding Professor and Chairman, Geoffrey Wilson, and presumably owes its place in the volume partly to a sense of modesty missing in some of the earlier contributions. It is an interesting overview of the development of English legal scholarship and its relation to European developments as well as Warwick's role in the English scene.[14]

The chapters I have called Part Two of this volume, are as diverse as any *festschrift* for a full law faculty might be. They commence with John Dewar on policy issues in family law and then feature David Farrier on criminal law, Francis Snyder on European Union law, Steve Anderman on international competition policy, Sir Stephen Sedley on the moral economy of judicial review, Martin Loughlin on public law scholarship, Sol Picciotto on international law, and Yash Gai on human rights in Asia. I could, and nearly did, place the chapters by Loughlin and Picciotto in part one as they are of more general interest. Indeed, Professor Loughlin's chapter on public law scholarship is a particularly stimulating and somewhat iconclastic treatment of an important topic. The breadth of the other offerings exceeds my grasp, but there appears much of value here for the specialist.

But it is at the broader level of interest that this volume succeeds best. Part one, as I have termed it, is worthwhile reading for any teacher of law. The varied offerings are thought provoking and insightful, as one would expect from as distinguished a coterie of authors. The early faculty of Warwick have gone on to make contributions in a range of law schools around the world. This prompted me to wonder where the early faculty of Bond's law school will be on its twenty-fifth anniversary, in sixteen years time. Already one Bond faculty member has left to head a law society, two to head other relatively new law schools and a further two to direct innovative programs in established schools.[15] I await the unfolding of our ultimate destinations and contributions with great interest.

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[13] Id at 119. By describing the world of the legal need of the underprivileged as the 'natural context' of skills training, Sherr betrays his personal position. However, given the social backgrounds of many law students, the career destinations of many law graduates, and the influences upon them of these origins and jobs, Sherr's position has much to recommend it.

[14] In particular, Wilson considers briefly the fascinating topic of the absence of the visual from universities in general and legal teaching and scholarship in particular: Wilson, see above n 6 at 244.

[15] The foundation Dean, Tony Tarr, left Bond to be Chief Executive Officer of the Queensland Law Society. Jim Jackson left to be foundation Dean and Head of the law school at Southern Cross University and Paul Fairall to be the second Dean and Head of school at James Cook University. Vicki Beyer left to direct Temple University's law program in Japan and Les McCrimmon to be Director of Clinical Programs at the University of Sydney. One could speculate that risk-taking high achievers are head-hunted to staff new educational ventures and that these people tend, more frequently than most, to move on because of limited

In conclusion, my eye was drawn to two aspects of the contributors to this volume. The first is their relatively strong Australian connection: chapters one and two are by Australians, one admittedly a firm expatriate;[16] and chapters five and six are by Englishmen who now teach in Australia.[17]

The second aspect of the contributors to this volume to attract my attention is their high profile. Each of the contributors is a professor except for Sir Stephen Sedley, a judge. Sir Stephen's inclusion in the list of contributors is particularly interesting as he spent only one year at Warwick, as a Visiting Fellow, in 1981. One expects Warwick had many visitors during its first twenty-five years; but perhaps few who are judges.

Notable by their absence are those who provide the backbone of most law schools -- those teachers whose energies are absorbed by their teaching and for whom scholarship, and thus promotion, is a somewhat haphazard affair.[18] I would have liked to hear from teachers who have spent the bulk of their career at Warwick without attaining a chair. Their contributions may have given more prominence to teaching at Warwick and would have painted a fuller picture of the school. Absent also are female faculty members -- has Warwick had no female teachers who could have contributed their perspective to this volume? It is an exclusively male document and, I suspect, much the poorer for it. Finally, I would have valued hearing from former students.[19] The views of alumni would have added much to this book and its depiction of Warwick law school. After twenty five years many alumni would have had interesting careers. Their views on how their legal education shaped and influenced those careers and their reflections upon their education in light of what was to follow would have been fascinating reading.

The exclusion of the views of non-professorial teachers, female teachers and former students is quite odd given Warwick's role in the law in context movement. However, perhaps these omissions reveal much about legal academe in context?

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promotion opportunities, or because they are head-hunted again, or because of clashes with bureaucracy as the ventures become institutionalised.

16 Professors Ross Cranston and Michael Chesterman, respectively.

17 Professors John Dewar and David Farrier, respectively.

18 This is not to suggest that successful scholars care less about their teaching than those who write less. However, I expect the perspective of one who defines themself primarily as a scholar differs from one who defines themself primarily as a teacher; and each is of value.

19 Thanks to John Wade, for this idea.