

THE UNIVERSITY OF WESTERN AUSTRALIA LAW REVIEW: THE FIRST SEVENTY YEARS

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I FOUNDATION

The two oldest Australian university law journals are the *UWA Law Review* and the *Queensland University Law Review*, both founded in 1948. In his foreword to the first issue of the *UWA Law Review* the Hon. Sir John Dwyer, Chief Justice of Western Australia, noting the coming of age of the School of Law in the University of Western Australia, which had been established in 1927 and explained that “now in the enthusiasm of early maturity it has planned the publication of an Annual Law Review of a type and on a scale not hitherto attempted in any Australian University.” The Chief Justice in his foreword identified the desirable objectives of the Law Review. He wrote:

It is too much to-day to expect statutory recognition, prompt and adequate, by legislatures almost exclusively preoccupied with economic questions. It is necessary to have a considerable body of informed opinion to show the needs and point the way; and the creation of such a body depends in turn on an explanation and understanding of our institutions, an exposition of the underlying principles of our laws and customs, an examination of their moral sources, a comparison with other legal systems, a criticism_ of applications and interpretations that may appear to be dubious. There is no better mode of achieving such ends than a Review devoted to such purposes, and this first number is a satisfactory step in the right direction.

The example set in 1948 by the Universities of Western Australia and Queensland in establishing their law reviews was followed by the University of Sydney in 1953, when it established the *Sydney Law Review* and in 1957 with the establishment of the *Melbourne University Law Review*; the *University of Tasmania Law Review* in 1958; the *Adelaide Law Review* in 1960 and the Australian National University’s *Federal Law Review* in 1964. By 2002 a total of 42 Australian university law journals could be identified.¹ With new law schools established at Curtin and Edith Cowan Universities, in Western Australia, the number of university law journals is climbing towards the 100 or more predicted by John Gava.²

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1 Michael Kirby, ‘Welcome to Law Reviews’ (2002) 26 *Melbourne University Law Review* 1.

2 John Gava, ‘Commentary’ (1999) 73 *Australian Law Journal* 597.

II FOUNDING FATHER FRANK BEASLEY

The founding father of the *UWA Law Review* was the first Dean of the UWA Law School, Professor Frank Reginald Beasley (1897-1976).³ Born in England, Frank Beasley had been sent to join relations in Western Australia in 1914 for reasons of health. In May 1915 he enlisted in the Australian Imperial Force and served with the 11th Battalion at Gallipoli, where he was wounded and then he returned to serve with the battalion on the Western Front, participating in the bloody actions at Fromelles, Pozieres, Flers (Somme), Bullecourt and Ypres. On his demobilization, in October 1920, Frank Beasley enrolled in law at the University of Sydney, graduating with first-class honours and practising at the New South Wales Bar.

In 1927 Frank Beasley was appointed foundation Professor of Law and Dean of the University of Western Australia Law School. In 1939, he was appointed acting vice-chancellor of the University. Professor Beasley's introduction of administrative reforms generated friction with some senior members of the Senate and led him to resign on 25 July 1940. Frank Beasley was then called up for full-time duty with the Militia in October 1941 and he was seconded on 27 July 1942 as deputy assistant adjutant-general at 4th Divisional headquarters, Western Australia. However, the lack of opportunity for active service prompted his return in 1943 to the University, where tuition in law had been suspended. From the revival in 1944 of the Law Faculty's activities until he retired from the university in 1963, Professor Beasley played a leadership role in the Law Faculty where he established the *UWA Law Review* in 1948. Professor Beasley established an Editorial Committee to run the *UWA Law Review* and he was a member of this Committee from 1948–1956 and 1959-70. In 1963 Professor Beasley moved to Melbourne where he became a consultant on the establishment of Monash University's law school, where he held office as a special lecturer and library adviser until late 1970. Professor Beasley was awarded honorary doctorates of laws from the universities of Melbourne (1956) and Western Australia (1974) and he died on 3 June 1976. The University of Western Australia's law library bears his name and his bust stands at its entrance.

III THE FIRST TEN YEARS 1948-1958

In its first decade, the *UWA Law Review* was produced by a small Editorial Committee chaired by Professor Beasley. It modelled itself on the *Harvard* and *Yale Law Reviews* and the leading English law journals. The first issue of the *UWA Law Review* contained articles by Sir George Paton on implied conditions in hire; Geoffrey Sawer on the judicial power of the Commonwealth; and by W.G. Friedmann on comparative law and legal education. Addressing the Chief Justice's injunction in the first issue to point the way to the improvement of the law, an article by John Hale and John Evenden Virtue addressed issues of law

³ See Fred Alexander, 'Beasley, Frank Reginald (1897-1976)' in *Australian Dictionary of Biography* (Melbourne University Press, vol 13, 1993).

reform in Western Australia. Both authors were to become judges of the Supreme Court of Western Australia. Proposals for law reform have been a feature of the 70 year history of the *UWA Law Review*. This perspective was particularly important prior to the establishment of the Law Reform Commission of Western Australia in 1968.

In the first ten years the *UWA Law Review* published articles by distinguished overseas legal scholars, including Professors Erwin Griswold, Norval Morris, Gunther Treitel, Stanley de Smith and Lord Wright of Durley and leading national legal scholars including Julius Stone, Enid Campbell and Sam Stoljar.

Joining Professor Beasley on the inaugural Editorial Committee of the *UWA Law Review* was Ross Waite Parsons and Enid M. Russell. Ross Parsons was appointed as a Senior Lecturer at the University of Western Australia in 1948, where he remained until 1957, when he was appointed to the University of Sydney. For the entirety of his service at the University of Western Australia, Ross Parsons was a member of the Editorial Committee of the *UWA Law Review*. Ross Parsons subsequently held a professorship in tax and corporate law at Sydney University for 29 years, where he contributed to the establishment and operation of the coursework LL.M. programme which became the model for postgraduate legal education in Australia.

Enid M. Russell, was the female graduate of UWA Law School in 1930. In 1931 she was the first Western Australian woman admitted to legal practice in Western Australia. During the Second World War she joined the South African Women's Army Service. Between 1946 and 1951 Enid Russell was a part-time lecturer at the UWA Law School. Enid Russell served on the Editorial Committee of the *UWA Law Review* from 1948-1949. In 1980 she wrote the highly regarded: *A History of the Law in Western Australia and its Development from 1829 to 1979*.

From 1951-54 Professor Beasley and Ross Parsons were joined on the Editorial Committee by Peter Brett and L.J. Downer. Peter Brett had been appointed senior lecturer in law at the University of Western Australia in 1951 and moved to a senior lectureship at the University of Melbourne in 1955, where he became the first Hearn Professor of Law in 1963 and professor of jurisprudence in 1964. Leslie John Downer, a legal historian, was appointed a senior lecturer in law at the University of Western Australia in 1951, moving to the University of Melbourne in 1956.

In 1956 Professor Beasley and Ross Parsons were joined on the Editorial Committee by E.J. Edwards who was to remain on the Committee until 1982. Eric Edwards was born in Burma in 1915 and obtained a BA (1934) and LLB (1939) at the University of Rangoon. During the Second World War he fought with the British Army in the Burmese and Indian theatres, rising to the rank of Lieutenant Colonel. Repatriated to Australia in 1947, Eric Edwards met Professor Frank Beasley, who encouraged him to enrol at the University of Western Australia.

He graduated in 1949 with First Class honours in law. In 1955 Professor Beasley invited Eric Edwards to take up a senior lectureship. In 1972 Eric Edwards was appointed Professor of Law. He was Dean of the Law School 1964, 1971-1975, 1976-1978 and a Foundation Member of the Law Reform Committee of Western Australia, where he served from 1968-1974.

In 1957 I.W.P. McCall joined the Editorial Committee and was to remain, with some short interruptions until 1976. Ian McCall was Dean of the Law School 1975-1976 and from 1976-1996 served as a Judge of the Family Court of Western Australia. From 1989-1996 he was Chief Judge, Family Court of Western Australia and Chairman of the Metropolitan Health Service Board: 1997-2001.

In 1957 and 1958 the Editorial Committee was joined by John Leslie Toohey, who was to become a Justice of the High Court of Australia. John Toohey graduated from the UWA Law School in 1950. He was a Senior Lecturer in Law at the University of Western Australia from 1957 to 1958, as well as a Visiting Lecturer from 1953 to 1965. After appointments as a Federal Judge in 1987 he was appointed to the High Court of Australia, retiring from the bench in February 1998. After his retirement, John Toohey served as a judge in the judicial system of Kiribati and as a justice of the Supreme Court of Fiji, at the same time he was a Visiting Professor in Law at the University of Western Australia. In September 2000 he was appointed to be one of the three independent members of the Bloody Sunday Inquiry into the events of 30 January 1972 in Derry, Northern Ireland.

In 1958 the Editorial Committee was joined by E.K. Braybrooke, who was to serve in this role until 1970. Kingston Braybrooke was born in New Zealand in 1915, where he obtained his first legal qualification and then in 1949 he studied at Columbia University before returning to New Zealand. Kingston Braybrooke was appointed to the University of Western Australia in 1958 as a Reader and then Professor of Jurisprudence. He was appointed Foundation Professor of Legal Studies at La Trobe University in 1972, and held that position until his retirement in 1981. Volume 19 of the *UWA Law Review* was dedicated to the memory of Kingston Braybrooke. Valerie Kerruish highlighted Professor Braybrooke's insights into the social context of the law and his pioneering of cross-disciplinary scholarship.⁴

IV EXPERIMENTATION 1959-1986

In the 20 years after the foundation of the *UWA Law Review* a number of models of editorship were tried. From 1965 until 1969 the membership of the Editorial Committee was widened to include persons from outside the UWA Law School. Professor Zelman Cowen, then Vice Chancellor of New England University was a member, together with Joseph Starke, Editor of the *Australian Law Journal* and Sir Francis Burt, then a Justice of the Supreme Court of Western Australia.

⁴ Valerie Kerruish, 'Preface. In Memory of Ernest Kingston Braybrooke' (1989) 19 *University of Western Australia Law Review* 198-99.

Members of the UWA Law Faculty who joined the enlarged Editorial Committee were future Deans, L.L. Proksch, Leslie Payne and Richard Harding, as well as future Editors Douglas Brown and Neville Crago.

From 1969 to 1977 the Editorial Committee comprised all members of the Law Faculty chaired by an Editor. Each Editor was appointed for a two-year term: Louis Proksch (1969-70), Douglas Brown (1971-72 and 1973-4) and Neville Crago (1975-76). Between 1978 and 1986, Bill Ford was Editor, with a small Editorial Board comprising Anthony Dickey, Richard Harding and Louis Proksch. They were joined by Neville Owen in 1985.

During this period the *UWA Law Review* had responded to the proliferation of Australian university law journals by increasing its focus on Western Australian legal issues. At the same time the various editorial models sought to address the administrative burden of producing the journal.⁵

V STUDENT EDITORIAL BOARD 1987-2018

In 1987 the idea of inviting law students to participate in the production of the *UWA Law Review* was proposed by David Fine, a North American law teacher who had joined the Law School from Canada, where he had served on the Editorial Board of the *McGill Law Journal*. David Fine was Staff Editor in 1987 and again in 1988, when he was joined by Valerie Keruish, who was sole Staff Editor in 1989. Law students, selected on academic merit, were initially involved in the checking of footnotes and page proofs, but later were involved in the selection of articles and book reviews. The Editor in 1990 was Toni Lucev, a graduate who had been a member of the Student Editorial Board.

The involvement of law students in the production of the *UWA Law Review* met with resistance from some academic members of the Law Faculty. In part, some of this resistance was based upon the burgeoning criticism in the USA of student-run university law journals for their lack of academic rigour.⁶ This particular problem was sought to be avoided by the collaboration of student editors with an academic staff editor and the routine use of blind peer reviews for contributions.⁷ Among the original objectives of the student-run journals in the USA were to improve the research skills of the student editors and to help them in their subsequent careers by providing an opportunity to undertake legal research to a professional

5 See George Syrota, 'The University of Western Australia Law Review: Past, Present and Future', (2004) 32 *University of Western Australia Law Review* 114, 118.

6 Eg R Posner, 'The Future of the Student-Edited Law Review' (1995) 47 *Stanford Law Review* 1131, 1134.

7 See Tania Voon and Andrew D Mitchell, 'Professors, Footnotes and the Internet: A Critical Examination of Australian Law Reviews' (1998) 9 *Legal Education Review* 1 for a comparison between the US and Australian editorial practices.

standard.⁸ This was recognised by the Law Faculty at the University of Western Australia and the model which was adopted in 1991 was the participation of students in the context of an academic subject for which they would be assessed. In that year, George Syrota was appointed the Staff Editor, a position which he would hold until 2011. The members of the Student Editorial Board tended to be honours students who relished the opportunity to be exposed to high level legal research. Probably the most distinguished student alumnus of recent years is James Edelman (2007) appointed as a justice of the High Court in 2017.

In 2011, Michael Blakeney was appointed Staff Editor. He had held this position at the University of New South Wales in the 1980s. In 2012 he was joined as Staff Editor by Aviva Freilich. Under their joint supervision students were expected to contribute articles, book reviews and reviews of legislation for publication, in addition to evaluating the various contributions submitted for publication.

VI ONLINE PUBLICATION

From the 1990s subscriptions to the *UWA Law Review* had declined. This was attributed to competition from other university law reviews and from the large commercial publishing houses which were producing specialist law journals aimed at particular areas of legal practice.⁹ A more powerful influence was the shift of many subscribing libraries to electronic resources. A related development was the increasing popularity of online journals. Indeed, Bernard Hibbitts, in his 1996 article “Last Writes? Re-assessing the Law Review in the Age of Cyberspace”¹⁰, has precipitated a body of scholarship questioning whether online self-publication is the death knell of the university law review.¹¹ This pessimistic prediction, might have some relevance for the USA, but is of much lesser significance in Australia where the status of the law review has a bearing on the repute of the articles which they carry.

In any event, in 2015 the *UWA Law Review* moved to an online format. This overcame the imbalance between subscription revenues and printing costs and at the same time made the *Law Review* available free of charge to a global readership.

8 See E Warren, ‘Message of Greeting to the UCLA Law Review’ (1953) 1 *University of California at Los Angeles Law Review* 1; M Swygert and J Bruce, ‘The Historical Origins, Founding, and Early Development of Student-Edited Law Reviews’ (1985) 36 *Hastings Law Journal* 739; R Rotunda, Law Reviews - The Extreme Centrist Position (1986) 62 *Indiana Law Journal* 1.

9 See Syrota, above n 5, 123.

10 The most recent version of this paper is available at <<http://law.pitt.edu/archive/hibbitts/archive/last.htm>>.

11 See D Rier, ‘The Future of Legal Scholarship and Scholarly Communication: Publication in the Age of Cyberspace’ (1996) 30 *Akron Law Review* 183; B Hibbitts, ‘Goodbye to All That?: The Provenance and Prospects of the Law Review’ (1997) 28 *Law Librarian* 134.

VII THE RATINGS GAME

On 15 November 2006, Minister for Education, Science and Training, Julie Bishop, announced the Research Quality Initiative (RQI) which was designed to assess the quality of research produced by Australian universities. This was inspired by similar research initiatives such as the Research Assessment Exercise (RAE) in the United Kingdom and was also to be a basis for funding provided to universities. As part of the RQI it was proposed to rank law journals.¹² On 21 December 2007 the Rudd government announced the abandonment of the RQI and its replacement by the Excellence in Research for Australia (ERA) to be administered by the Australian Research Council (ARC). This scheme required the ranking of law journals across four bands: A* (top 5%), A (next 15%), B (next 30%), C (next 50%). In June 2008, the ARC released its preliminary rankings of law journals which were later confirmed to be based on Washington and Lee Journal Rankings. The rankings were criticised on a number of grounds. First, the Washington and Lee rankings were developed for US journals and there were only two non-US law journals in the top 198. Secondly, the rankings were based upon citations in US law journals. Reliance on citation of research as a proxy for quality has not been generally accepted in the humanities as reliable.¹³ The then Chair of the Council of Australian Law Deans (CALD), UWA Professor Bill Ford, initiated an extensive consultation process to develop a ranking more appropriate for Australia. A CALD Steering Committee of Law Journal Ranking was then appointed, which sought the views of experts in Australia, as well as the Canada, Ireland, New Zealand, Singapore, United Kingdom and USA. Interestingly the two peak UK bodies, the Society of Legal Scholars (UK) and UK equivalent to CALD and the Committee of the Heads of University Law Schools, “declined to participate on the basis that journal ranking is a flawed measure of research quality.”¹⁴

In February 2010, the ARC published its ERA 2010 list which ranked the *University of Western Australia Law Review* as a B journal, awarding the A* ranking to the *Federal Law Review*, *Griffith Law Review*, *University of New South Wales Law Journal* and *Melbourne University Law Review*. An A rating was awarded to the *Monash University Law Review*. The rest of the Australian law school journals were awarded a B or lower. The ERA 2010 list was immediately

12 For a detailed description of the rankings saga see Kathy Bowrey, ‘Audit Culture: Why Law Journals Are Ranked and What Impact this has on the Discipline of Law Today’ (2013) 23 *Legal Education Review* 291

13 See for example, British Academy, *Peer Review: The Challenges for the Humanities and Social Sciences: A British Academy Report* (British Academy, 2007); Paul Genoni and Gaby Haddow, ‘ERA and the Ranking of Australian Humanities Journals’ (2009) 46 *Australian Humanities Review* 7, referred to in CALD, ‘Specialist Law Journal Ranking’ available at <<http://www.cald.asn.au/assets/lists/Resources/Specialist%20Law%20Journal%20Ranking%20and%20General%20Law%20Journal%20Ranking%20Lists%20-%20Prof%20Kathy%20Bowrey%20ResearchQuality%20Report%20to%20CALD.pdf>>.

14 Bowrey, above n 12, 305.

criticised for ignoring CALD's input and for largely reiterating the Washington and Lee list.¹⁵ In May 2011 in a Ministerial Statement, Kim Carr announced the abandonment of journal rankings, noting the "harmful outcomes and ... poor understanding of the actual role of rankings".¹⁶ Minister Carr noted as one harmful outcome of the ratings "was the setting of targets for publication in A and A* journals by institutional research managers."¹⁷ Paradoxically, notwithstanding the abandonment of these ratings, most Australian universities, including the University of Western Australia, continue to oblige law academics to publish a proportion or most of their articles in formerly ranked A and A* journals to meet their employment benchmarks and penalises those who publish excessively in B journals or below. CALD reports that the publication of the ARC list has changed submission patterns, with editors reporting that journals with higher ratings have received a much greater number of submissions, whereas those with lower ratings "have indicated concern that the good quality submissions that had been regularly received dried up."¹⁸ We now have a Kafkaesque situation where the *UWA Law Review* suffers from a B rating which cannot be changed, because the rating system no longer exists and there is no mechanism for any improvement in ratings.

VIII THE FUTURE OF THE UNIVERSITY LAW JOURNAL

The ERA ratings debacle has focussed considerable attention on the role and relevance of university law reviews. More than 20 years before the University of Western Australia was first published, Professor Fred Rodell, Dean of the Yale Law School, wrote his celebrated "Farewell to Law Reviews".¹⁹ He lamented the poor style and trivial substance of law review articles, writing that

... it is not surprising that the law reviews are as bad as they are. The leading articles, and the book reviews too, are for the most part written by professors and would-be professors of law whose chief interest is in getting something published so they can wave it in the faces of their deans when they ask for a raise, because the accepted way of getting ahead in law teaching is to break constantly into print in a dignified way... Moreover, the only consumers of law reviews outside the academic circle are the law offices, which never actually read them but stick them away on a shelf for future reference.²⁰

Although, Rodell's article was a rhetorical Parthian shot from one who was leaving academe,²¹ his views have been echoed in a number of critiques of university law

15 Ibid 307.

16 Jill Rowbotham, 'End of an ERA: Journal Rankings Dropped', *The Australian*, 30 May 2011. Quoted *ibid*.

17 Ibid.

18 CALD, above n 13, 64.

19 F Rodell, 'Farewell to Law Reviews' (1936) 23 *Virginia Law Review* 35.

20 Ibid 43.

21 Although he reiterated his views in F Rodell, 'Goodbye to Law Reviews—Revisited' (1962) 48 *Virginia Law Review* 279.

reviews. The thrust of this literature is summarised by Judge Richard Posner's article "Against the Law Reviews: Welcome to a World Where Inexperienced Editors Make Articles About the Wrong Topics Worse".²² This literature focuses upon the special situation of American journals where often unsupervised law students make the publishing decisions.²³ Rodell's comments on the turgid footnote-heavy style of American law journal articles have also been endorsed.²⁴ More relevant to the issue of the function of the university law review are the comments of US Supreme Court Chief Justice John Roberts and Justices Stephen Breyer and Antonin Scalia that the law review is of decreasing relevance to their judicial activities.²⁵

Writing on the centenary of the *Virginia Law Review*, Harry Edwards, Chief Judge Emeritus, United States Court of Appeals for the D.C. Circuit; Professor of Law, New York University, School of Law revisited Rodell.²⁶ While agreeing with some of Rodell's comments on style, he disagreed with the touchstone that law review articles had to be of practical utility to judges. Harry Edwards instanced the "intensely theoretical or philosophical" scholarship of: Professors Lon Fuller, Jeremy Waldron, Herbert (H.L.A.) Hart, Karl Llewellyn, George Christie, Thomas C. Grey, Edward H. Levi, John Gardner, Frederick Schauer, Jerome Frank, and Ronald Dworkin whose works, while rarely being of interest to "practising lawyers, legislators, judges, and regulators" had made contribution to "jurisprudence, legal reasoning, law and morality, legal realism, pragmatism, and legal philosophy".²⁷ However, even applying a utilitarian justification it could not be denied that this theoretical scholarship has had "important ripple effects ... on judicial decision making, legislation and modes of practitioner analysis".²⁸

Rodell's 1936 article was reprinted in the 1999 volume of the *Australian Law Journal*²⁹ with a commentary by Adelaide University law academic, John Gava, who asserted that Rodell's strictures were particularly relevant to contemporary Australia.³⁰ Michael Kirby, who was identified as the person who publishes the

22 Richard A Posner, 'Against the Law Reviews: Welcome to a World Where Inexperienced Editors Make Articles About the Wrong Topics Worse' (2004) Nov-Dec *Legal Affairs* 57, available at <http://www.legalaffairs.org/issues/November-December-2004/review_posner_novdec04.msp>. Compare Natalie C Cotton, 'Comment, The Competence of Students as Editors of Law Reviews: A Response to Judge Posner' (2006) 154 *U. Pa. L. Rev.* 951 (seeking to rebut Judge Posner's claims regarding the limitations of student law review editors).

23 See, for example, James Lindgren, 'Student Editing: Using Education to Move Beyond Struggle' (1994) 70 *Chicago Kent Law Review* 95.

24 Scott M Martin, 'The Law Review Citadel: Rodell Revisited' (1986) 71 *Iowa Law Review* 1093.

25 Their criticisms are gathered together in Harry T Edwards, 'Another Look at Professor Rodell's "Goodbye to Law Reviews"' (2014) 100 *Virginia Law Review* 1483, 1488-9.

26 Ibid.

27 Ibid 1493.

28 Ibid 1494.

29 (1999) 73 *Australian Law Journal* 593

30 Gava, above n 2.

most frequently in Australian law journals,³¹ agreed that the quality of writing should be improved and made ten suggestions, including that the proliferating Australian law journals should differentiate market niches and that the touchstone for articles should be whether they “add something new to legal knowledge or understanding”.³² Michael Kirby insisted that the law review had an important role in providing a critique of judicial decisions and in analysing contemporary legal problems and that they “can have a value that transcends even the work of the High Court of Australia. They must criticise, cajole and analyse the law. They must question received wisdom and current orthodoxy.”³³

Michael Kirby’s assumption that law reviews could assist judges to do their work better was questioned in a rejoinder by John Gava who pointed out that the greatest Australian jurist, Sir Owen Dixon, had managed to achieve his status without much resort to law reviews.³⁴ In any event Gava questioned the role for law reviews in the judicial process in a common law system where judges should be bound by case authority and an adherence to strict legalism.³⁵ Gava wrote that “My concern is that, even if Justice Kirby is right and the law reviews are a handy resource for judges, this may come at too great a cost to legal academics and law schools” because they would be diverted from the “proper path” of legal scholarship, which is “the search for truth”.³⁶

Writing in the foreword to the 50th anniversary issue of the Melbourne University Law Review, The Hon Justice K. M. Hayne of the High Court of Australia and a former editor of that law review, wrote that

... the critical test for any law review is, and always will be, whether the material that it publishes meets the requirements of good scholarship. If it does not, it should not be published. If it does not, the law review that publishes the material fails its readers and all of those who stand behind it — its founders, its past and present editors.³⁷

It is hoped that this 70th anniversary issue of the *UWA Law Review* meets the critical test formulated by Mr Justice Hayne, as well as the objectives for the law review set out at its foundation by Sir John Dwyer.

31 Russell Smyth, ‘Who Publishes in Australia’s Top Law Journals?’ (2002) 35 *University of New South Wales Law Journal* 201.

32 Michael Kirby, ‘Welcome to Law Reviews’ (2002) 26 *Melbourne University Law Review* 1.

33 Ibid 11.

34 John Gava, ‘Law Reviews: Good For Judges, Bad For Law Schools?’ (2002) 26 *Melbourne University Law Review* 560, 563.

35 See Sir Owen Dixon, ‘Concerning Judicial Method’ in Judge Woinarski (ed), *Jesting Pilate and Other Papers and Addresses* (Law Book Co, 1965) 152.

36 Gava, above n 2, 569.

37 The Hon Justice K. M. Hayne, ‘Foreword to the 50th Anniversary Edition of the Melbourne University Law Review’ (2007) 31 *Melbourne University Law Review* 1, 2.