

LAW ADMISSIONS CONSULTATIVE COMMITTEE¹

SUBMISSION TO TASKFORCE ON NATIONAL LEGAL PROFESSION REFORM

19 July 2010

Since its inception in the 1970s, LACC has tried to forge consensus amongst jurisdictions on numerous matters relating to admission to the legal profession.

It accordingly fully supports the significant initiatives relating to admissions proposed by the Taskforce set out in item 1 below.

However it has serious reservations about two issues of fundamental principle embodied in the Draft National Law and Draft National Rules. It foresees difficulties with the practical consequences of adopting those principles and has several suggestions about matters of detail set out in, or omitted from, the draft legislation.

Item 2 deals with the proposal to centralise admissions. Item 3 deals with the conditional admission of foreign lawyers. These are the two issues of fundamental principle that concern LACC. Suggestions about means of overcoming the difficulties that the present proposals create appear in items 2.6 and 3.5.

Items 4 - 6 deal with a number of ancillary matters.

1. SIGNIFICANT INITIATIVES

LACC supports the following significant initiatives:

(a) **National Admission** which will reinforce the principle that an Australian legal practitioner admitted in one jurisdiction is entitled to practise in all Australian jurisdictions.

(b) **National Admission Rules** which apply in all Australian jurisdictions.

These should be based on the Uniform Admission Rules 2008, adopted by LACC and each Admitting Authority and should supplant diverse State-based Admission Rules.

(c) **National prescription of academic and PLT requirements for admission.**

These should be based on the present Academic requirements (the "**Priestley 11**") and LACC's National Competency Standards for Entry-level Lawyers, or any replacement or revision of those requirements which might be appropriate in the light of discipline-specific outcome measures for law developed for the purposes of the new Tertiary Education Quality and Standards Agency.

(d) **National accreditation of courses and institutions.**

LACC encouraged the development of the 2008 CALD Standards for Australian Law Schools and is actively seeking means to allow periodic 5-year reviews, based on those standards, to meet the accreditation and re-accreditation requirements both of CALD and of Admitting Authorities.

¹ LACC's Charter is approved by the Council of Chief Justices which also appoints its Chairman. LACC is not, however, a committee of the Council, nor does it act on the Council's behalf.

LACC regards regular monitoring and periodic review of both academic and PLT institutions, and the law courses and PLT training which they respectively provide, as essential. It is imperative to introduce and maintain appropriate quality control both for Australian purposes and to maintain the international reputation of Australian legal qualifications.

- (e) **National registration of foreign lawyers practising foreign law.**
- (f) **National principles for assessing the qualifications of overseas applicants.**

LACC has developed, and all Admitting Authority have adopted, Uniform Principles and Guidelines for assessing these qualifications. Further, all Admitting Authorities have now adopted the proposals relating to experienced overseas practitioners, previously given to the Taskforce. As a result, the Uniform Principles were revised to incorporate those proposals and made public on 25 June 2010.

- (g) **National suitability criteria, principles and procedures for assessing the suitability of applicants**

In 2008, LACC requested the administrators of the various Admitting Authorities to undertake a project to identify differences in processes and procedures relating to assessing suitability, with a view to promoting national uniformity.

There are some significant differences between jurisdictions, particularly in the way in which disclosures by applicants are made and assessed. These differences should be carefully considered, and if possible, a consensus reached on uniform desirable processes, before any particular approach is mandated by national rules.

2. **CENTRALISED ADMISSIONS**

LACC opposes the proposal to centralise the handling of all applications relating to admission, the assessment of applicant's qualifications, and the assessment of an applicant's suitability. It supports the model earlier proposed in the Taskforce Paper for the Consultative Group of 16 September 2009. This proposed a National Legal Services Board, with a State and Territory interface, which would set standards informed by Advisory Committees, but would delegate administration of admission to Local Representatives.

The proposed Taskforce Discussion Paper on Admissions was not made public. There has consequently been no opportunity for the public or the profession to consider or comment on any reasons advanced in support of centralising admission functions.

Surprisingly, the Consultation Report of 14 May 2010 also fails to advance any reasons to support the proposal. At page 7, however, it notes:

The Taskforce seeks views on its proposal to centralise the assessment of applications for admissions, and the registration of foreign lawyers, with the National Legal Services Board. Are there operational issues that could emerge as a result of this?

In LACC's view, there are substantial problems of principle as well as operational difficulties with the proposal. The former undermine the credibility of the proposal and may jeopardise the vital mutual trust and respect between the Court and its officers. The latter will reduce efficiency, introduce delay, produce customer resentment and substantially increase the cost of handling applications both from Australian and from foreign applicants for admission. Interestingly, these costs do not seem to have been taken into account.

The proposals will also require Supreme Courts to exercise continuing supervisory functions which the Courts are not presently equipped or funded to perform and which may be better handled by Local Representatives through practising certificates.

2.1 National consistency as a reason for centralisation

LACC is aware of unsubstantiated allegations that existing admission standards and procedures lead to inconsistent treatment of applicants between jurisdictions.

This proposition is not true for local Australian applicants, as the academic requirements of the Priestley 11 and the National PLT Competencies for Entry-level Lawyers have been consistently applied in all jurisdictions since 2002. These applicants form the overwhelming majority of applications made in any year.

The proposition is also not true for foreign applicants. At first instance, the Uniform Principles for assessing the qualifications of overseas applicants have been uniformly applied by all jurisdictions, and are now consistently applied by the four jurisdictions which continue to carry out assessments on behalf of others.

There has been some disparity in the way a limited group of experienced UK practitioners has been treated. This has arisen from the fact that the New South Wales Legal Profession Admission Board has occasionally (some 12 instances in the last 18 months) exercised a dispensing power to admit such applicants, without them completing all the usual academic and PLT requirements. The Western Australian Legal Practice Board has also exercised a dispensing power in favour of a few experienced practitioners from common-law countries.

It is important to note, however, that in New South Wales this power has only been exercised on appeal. Apart from the limited dispensations in Western Australia, first instance assessments have been consistent in all jurisdictions since 2002.

The disparate treatment of experienced practitioners has now also been resolved: see item (1)(f) above.

Lack of consistency in assessing *qualifications* of applicants is thus not a tenable ground for centralising admissions.

All jurisdictions also apply the same principles to determine the *suitability* of applicants. Some variation exists in the arrangements and processes applied. As noted in item 1(f), these differences are presently being documented and analysed by the Administrators of Law Admitting Authorities. Some of the differences may be resolved directly as a result of that work. Others can probably be resolved by discussions between existing Admitting Authorities. In the event that differences remain which challenge the goal of national uniformity at the time when the new arrangements take effect, the Board will be able to resolve them through its policy-making and rule-making functions.

Again, in LACC's view, the differences that presently exist do not constitute adequate grounds for centralising all admission processes.

2.2 Officers of the Court

The primary feature which distinguishes law from other professions is that every practitioner, by virtue of that status, is necessarily an officer of the Court. While section 2.2.13 of the National Law purports to acknowledge that status, the proposed institutional arrangements overlook the fundamental importance of the relationship.

A practitioner's duty to the Court underlies all the ethical obligations of a lawyer and the mutual trust essential to the operation of both the criminal law and the civil law. It is essential that the Court be satisfied that each person admitted as an officer of the Court both has appropriate qualifications, and is a fit and proper person, to receive the Court's trust. Correlatively, a practitioner's acute perception of the personal relationship with the Court conditions all responses to both clients and society. Further, the relationship to the

Court is also the well-spring of much legal aid and *pro bono* work – including the present substantial voluntary contribution of practitioners in establishing policies for, supervising and administering all aspects of admissions.

The proposed role of the National Board in considering applications for admission, issuing certificates of compliance and determining conditions of admission will undermine the relationship between, and the respective responses of, both the Court and its officers. It appears to reduce the role of the Court to a mere cipher and fundamentally alters both the existing discretions of the Supreme Courts and the powers of the Admitting Authorities, which presently merely offer recommendations by way of advice to the Court.

The Court will no longer be either required or allowed to satisfy itself that its proposed officer is qualified and trustworthy; nor will an applicant be required to satisfy the Court of these matters. Instead, it is proposed that a remote, central body, the majority of whose members are to be appointed by SCAG and who need not, themselves, be either lawyers or officers of the Court, will determine which, and under what conditions, people will assume the privileges and obligations of an officer of the Court.

The proposal that the Court should admit a person, and only be able to attach conditions to that admission suggested in a certificate of the National Board, appears to be an unwarranted attempt to limit the inherent jurisdiction of the Supreme Court. The propriety of any such arrangement needs to be considered in the light of the High Court's recent decision in *Kirk v Industrial Relations Commission of New South Wales* [2010] HCA 1.

The National Law makes no provision for the Court to be informed of the details of an application or of any disclosures going to suitability. Nor does it provide for the transmission of papers relating to the application.

Further, there is a patent risk that, by attenuating the link between practitioners and the Court, both the Court's trust in the profession and the practitioner's perception of the significance of the obligations of an officer of the Court will diminish.

This risk could easily be avoided by adopting the model previously proposed by the Taskforce, of delegating the administration of admission, pursuant to the National Rules, to Local Representatives. The task of determining eligibility in accordance with those Rules should remain vested in the Supreme Courts, after considering recommendations about qualifications, suitability and conditions (attached, perhaps, to "certificates of compliance") made by Local Representatives. Such an arrangement would:

- (i) eliminate the present unfortunate implication that the National Law seeks to limit the inherent jurisdiction of the Supreme Courts to determine who will become an officer of the Court and on what conditions;
- (ii) allow existing effective administration of the admission process to continue without interruption, subject only to relatively minor standardisation of processes and procedures;
- (iii) allow the existing simple and expeditious arrangements for the transfer of papers and information about applicants from the Admitting Authority to the relevant Supreme Court to continue;
- (iv) retain the present significant voluntary contribution of knowledgeable and experienced practitioners in the various tasks associated with investigating and reporting to the Court upon the qualifications and suitability of applicants; and
- (v) retain the vital relationship of trust and mutual respect and obligation between the Court and each of its officers.

2.3 Processing Admission Applications

- (a) *The burden of numbers*

The following table provides some relevant, though incomplete statistics about admissions.

	NSW 2009 (admissions)	WA 1 Mar 09-28 Feb 10 (admissions)	VIC 2009 calendar year	QLD 2009 calendar year	SA Apr 09- Mar 10	ACT 2009	TAS 2009	NT
Admissions /Applications	1839 (747 to date in '10)	404 (excludes MRA)	1457	833	324 local	271	79	39
Disclosures	244 (116 to date in '10)	40 (est)	1384 (95%)	513		No stats kept	N/A	
Minor	197 (86 to date in '10)				39			3
Substantial /serious	47 (30 to date in '10)		59	134				2
Early Suitability applications	2 (1 to date in '10)	1 (since Mar 09)		8		(since Jul 06)		1
Re-admission applications	2 (3 so far in '10)	2		0				
Mutual Recognitions	38 (NZ)		33		61		6-10	6

From the table set out above, it can be seen that there are some 5,500 applications for admission each year. Each application must be carefully checked to ensure compliance with the relevant rules. While administrative staff can generally assess whether an applicant has complied with the requisite academic and practical legal training requirements, assessing the suitability of an applicant is another matter. This is particularly so where an applicant discloses – or fails to disclose – a matter which may affect the applicant's suitability for admission.

Admitting Authorities have found that these applications must be considered by very experienced people. Although administrative staff can make a preliminary determination whether a disclosure may, or may not, be significant, they cannot decide whether to recommend that an applicant is a fit and proper person, in light of a serious disclosure.

From the table, it appears that there are more than 2,000 disclosures in any year. At least 500 of these are likely to be serious. If the National Board is to consider each of these applications separately, in order to determine whether an applicant is suitable, and what (if any) conditions should be attached to the applicant's compliance certificate, it seems unlikely that the Board will have time to perform any of its other numerous functions under the National Law.

In LACC's view, as it will manifestly be impractical for all disclosures to be duly considered by the Board itself, it will be necessary to delegate the function of considering suitability to some other appropriately constituted body.

(b) *Representation of the Supreme Court*

For the reason set out in item 2.2, it is imperative that the relevant Supreme Court should have a significant input into determining the relevance of disclosures and whether an applicant is suitable to become an officer of the Court.

Devising a workable way to provide that input should dictate both the way in which the Board's power to issue compliance certificates is delegated, and the composition of that delegate.

(c) *Importance of personal contact*

According to New South Wales figures, 30-35% of all applications relating to admissions are defective and require amendment. That number would be much greater if most applicants no longer routinely file applications in person. The experience of all Admitting Authorities is that document checks performed by counter staff allow apparent deficiencies to be readily and rapidly remedied. Further, applicants who wish to discuss whether or not particular matters need to be disclosed, prefer not to do so by correspondence because of the nature and sensitivity of such matters.

The significance of personal contact is borne out by the fact that a disproportionate amount of administrative time is devoted to advising *overseas* applicants about the requirements of admission and seeking further requisite information by correspondence, where defective applications are received.

Under a centralised system, it would either be necessary to require all applications to be submitted by post or electronically, or to allow applicants from the "host" jurisdiction to obtain the unfair advantage of filing documents personally, thus obtaining the early advice and assistance of counter staff and allowing their applications to be processed more rapidly than other applications. Such an arrangement would be discriminatory in effect and will produce considerable customer resentment. Surprisingly, there is still fierce competition among each cohort of applicants to procure seniority of admission.

If the majority of applications cannot be made in person, LACC considers that the consequential administrative burden of following up deficient applications will substantially increase administrative costs, delay and customer dissatisfaction. These costs do not appear to have been taken into account in the benefit-cost analysis.

2.4 **Contribution of members of the legal profession**

As noted in item 2.2, Admitting Authorities presently rely heavily on the voluntary contributions of judges, legal practitioners and academics in:

- (a) developing and determining admissions policy in the light of proposals for a national profession and uniform admission processes;
- (b) determining whether applicants have obtained the necessary academic and PLT qualifications for admission;
- (c) assessing what additional study requirements are required for overseas applicants;
- (d) considering the suitability of applicants in the light of statutory suitability criteria and disclosures by applicants; and
- (e) considering applications for re-admission.

There may possibly be room to streamline some of the institutional arrangements, processes and procedures associated with some of these tasks in some jurisdictions, in

the interests of national uniformity. Nevertheless, a substantial contribution of professional time will continue to be necessary.

One example, already referred to in items 2.3(a) and (b), concerns considering how disclosure should affect an applicant's suitability. In LACC's opinion, experienced practitioners, as well as judges (see item 2.3(b)) must both be involved in this task if the fundamental values referred to in item 2.2 are to be assured.

If all disclosures have to be considered by some centralised committee to which the Board delegates its functions relating to issuing compliance certificates, again on the premise that there are at least 500 significant disclosures to be considered each year, a mechanism must exist for carefully considering approximately 10 applications each week, or 40 applications each month.

If all disclosures are to be considered by a centralised committee, LACC foresees that:

- (a) more than one panel will be necessary to keep abreast of the work-load;
- (b) there will be pressure from all jurisdictions to ensure that their practitioners are appropriately represented on the panel;
- (c) panel meetings will not be able to occur after office hours, which is now generally the case; and
- (d) panel members from other than the "host" jurisdiction will have to travel to and from that jurisdiction, as the nature and sensitivity of such meetings are not susceptible to telephone meetings or tele-conferencing. Members will consequently be required to sacrifice substantially longer periods of office time to assist in the task.

LACC anticipates that it will be difficult to attract appropriately qualified and experienced legal practitioners to continue to serve on such bodies, if admissions are centralised. As noted in item 2.2, the present contribution of practising lawyers derives from the obligations which practitioners feel towards the Court of which they are officers. Centralising admission processes in the way proposed will undermine that relationship and, in LACC's opinion, will discourage practitioners from continuing to contribute voluntarily to admission processes.

Further, it seems probable that panel members, or the firms from which they are drawn, will need to be appropriately remunerated for their services. The consequential substantial costs associated with this work do not appear to have been considered.

If it is necessary to maintain several panels to deal with disclosures, for example, it seems unlikely that there will be any greater consistency in outcomes than is achieved under present arrangements. Further:

- (a) the pool of experienced legal practitioners available to undertake the tasks relating to admissions is likely to decrease;
- (b) in order to be nationally representative the number of members on each panel may become unruly; and
- (c) the cost of having to remunerate members, reimburse them for travel expenses and convene regular meetings will add significantly to the costs of admission processes.

2.5 Court Liaison

In larger jurisdictions, the scheduling and organisation of numerous admission ceremonies is necessary, both to meet demand and to deal with limitations of Court space and time. The processing and determination of applications are closely managed and are subject to precise deadlines in each jurisdiction, in order to meet physical and temporal constraints.

Close local physical management of admission procedures and admission records will continue to be necessary. It is difficult to see how these matters, which require constant administrative attention throughout the year, can be handled without devolving a range of administrative responsibilities on Local Representatives in each jurisdiction.

If such functions must necessarily be devolved upon permanent Local Representatives, it is difficult to see why the range of prior tasks necessary for the tight management of admission processes should be centralised – particularly if the attendant administrative complexity and costs will increase in the ways anticipated.

Practical difficulties can also be foreseen arising from the geographic separation of documents relating to admission, the maintenance and handling of historical records relating to admissions; the exchange of information between the proposed centralised Board and Supreme Courts in each jurisdiction; and the practical handling of appeals objecting to the issuing or refusal of compliance certificates and of processes relating to their revocation. Some of these matters are further considered in items 4.6 – 4.9 below.

2.6 Suggestions

As no reasons have been advanced in favour of centralising admissions, and no convincing arguments appear to exist, the proposal should not proceed at this stage.

Further, there are convincing reasons to adopt, rather than abandon, the general model proposed for other elements of reform of implementing National Rules and national policies through Local Representatives. Substantial and consistent progress towards uniform national principles and practices has already been made in the area of admissions. Accordingly, the arguments for building upon existing capabilities, rather than supplanting them, appear compelling.

Accordingly, in LACC's view:

- (a) because of:
 - (i) the practical difficulties of processing applications centrally, without adding to costs, delay and customer dissatisfaction;
 - (ii) the need to involve representatives of the relevant Supreme Court in determining an applicant's suitability (item 2.3(b));
 - (iii) the importance of personal contact with applicants (item 2.3(c));
 - (iv) the need to retain the services of senior experienced legal practitioners in making recommendations about suitability (item 2.4); and
 - (v) the need for continued liaison with the Supreme Court to arrange and conduct admission ceremonies (item 2.5),

the Board's function in relation to considering applications and issuing certificates of compliance should be delegated to Local Representatives.
- (b) the Local Representative should, in each case, include at least one Supreme Court judge, nominated by the relevant Chief Justice;
- (c) rules should provide that, if there is a difference between the judicial member or members and the majority of the Local Representative, about the suitability of an applicant, the application must be referred to the Supreme Court for determination. In the interests of avoiding unnecessary applications to the Supreme Court, however, it be preferable to provide that the matter be referred directly to the Chief Justice to resolve;
- (d) other members of the Local Representative should comprise experienced practitioners or former practitioners from the relevant jurisdiction;

- (e) in areas and jurisdictions where there are opportunities to streamline existing institutional and committee arrangements, or where significant differences in practices exist, intensive discussions and negotiations should be conducted in order to develop consistent arrangements and practices among the proposed Local Representatives, before the scheme comes into effect;
- (f) in the event that significant differences persist which challenge the goal of national uniformity when the scheme comes into effect, the Board should deal them through its policy-making or rule-making powers;
- (g) the resulting arrangements should be monitored by an Advisory Committee charged with promoting and maintaining the uniform and consistent application of national policies and rules; and
- (h) at the end of five years, arrangements for delegating the functions to Local Representatives should be reviewed in the light the monitoring conducted by the Advisory Committee and, if necessary, modified.

3. **CONDITIONAL ADMISSION OF FOREIGN LAWYERS**

Four broad classes of foreign lawyers must be considered.

- (a) Foreign practitioners who seek permanent admission to practise Australian law in Australia;
- (b) Foreign law graduates, who have completed the academic requirements for admission, may also have completed relevant PLT requirements in their home jurisdiction, but have not actually been admitted to legal practice;
- (c) Special circumstance applicants for whom existing admission rules do not presently provide. These applicants wish to be able to practise Australian law in Australia for a limited purpose and for a limited time.
- (d) Foreign practitioners who seek to practise foreign law in Australia. This group is presently dealt with by a process of registration, and through conditions attached to a practising certificate by the relevant body granting such a certificate.

Admitting Authorities have historically dealt only with classes (a) and (b). Items 3.1 and 3.2 relate to these classes of applicant. Item 3.3 relates to (c) and item 3.4 to (d). Item 3.5 sets out certain suggestions for implementing the proposals in the preceding items.

3.1 **Directions about qualifications**

The fundamental premise which has guided past policy is that, to be admitted in Australia, a foreign practitioner must have, or *obtain prior to admission*, substantially equivalent academic or PLT qualifications to those required of an Australian applicant.

Much effort has been devoted to establishing *Uniform Principles for Assessing the Qualifications of Overseas Applicants for Admission (Uniform Principles)* which ensure that the qualifications of potential applicants for admission are consistently assessed in all jurisdictions. The uniform national practice is that such people must:

- (a) apply for a direction about the adequacy of their qualifications;
- (b) acquire any necessary additional academic or PLT qualifications determined by the Admitting Authority;

then, and only then,

- (c) apply for a "compliance certificate" or its present equivalent, as part of an application to be admitted to the legal profession.

Rule 7 of the Uniform Admission Rules 2008 presently provides for this practice. The draft National Law and National Rules, however, presently make no provisions for steps (a) and (b). In LACC's view this is a significant omission that needs to be remedied.

3.2 Conditions about supervision and future study

The proposed relationship between sections 2.2.3 of the National Law, setting out the pre-requisites for compliance certificates, and section 2.2.5, relating to the conditional admission of foreign lawyers to practise Australian law, is unclear. As presently drafted, the provisions are open to the interpretation that:

- (a) a foreign practitioner or graduate may initially apply for a compliance certificate; and
- (b) if that applicant meets relevant suitability criteria, a certificate may be granted, even if the applicant has not met the pre-requisite academic and PLT qualifications required of local applicants by section 2.2.3(1) and 2.2.4(4)(a) of the National Law. Any deficiencies in a foreign applicant's qualifications can apparently be dealt with by conditions imposed by the Court on the applicant's *admission*, either or both relating to supervised legal practice or requiring additional academic or PLT training, or both.

Many present applicants for directions are directed to undertake several, if not all, of the Priestley 11 subjects and all requirements specified in the National PLT Competency Standards. Many of those applicants do not subsequently immigrate to Australia, complete the requisite additional training, or apply for admission.

It is inappropriate that such people should apparently be eligible to receive a certificate of compliance and to be admitted to the profession on the condition that they *subsequently* complete all the Priestley 11 subjects. Such a result seems perverse; is not calculated to protect Australian consumers of legal services; and discriminates unfairly against local applicants.

As previously noted in item 1(f) above, all Admitting Authorities have recently adopted the proposals previously provided to the Taskforce about admitting experienced practitioners from certain common-law jurisdictions. In the case of this limited group of applicants, Admitting Authorities have agreed to consider dispensing with some of the additional academic and PLT requirements, which would normally apply to less-experienced practitioners from the relevant foreign jurisdiction.

That proposal envisaged that, in the limited case of certain such experienced practitioners, it might be appropriate to:

- (a) allow them to complete some additional subjects – such as, say, Federal & State Constitutional Law or Ethics and Professional Responsibility – *after* they are admitted; and
- (b) to impose the obligation to undertake those additional studies either through an undertaking given to the Court upon admission, or by a Court-imposed condition.

In LACC's opinion, the power to impose conditions relating to supervised legal practice and undertaking additional academic and PLT studies set out in section 2.2.5(1) of the National Law should apply to foreign practitioners who have been exempted from some or all of the usual pre-requisites, pursuant to the power in section 2.2.3(2). Apart from the special circumstance applicants considered in item 3.3 below, other foreign applicants should be required to meet the relevant academic and PLT pre-requisites *before they are eligible to be granted a compliance certificate*. Section 2.2.5(1) should thus be limited to experienced foreign legal practitioners who have been exempted from the operation of section 2.2.3(1) under the power referred to in section 2.2.3(2), and special circumstance practitioners referred to in item 3.3 below.

Further, as noted in item 2.2, sections 2.2.5(2) and (3) propose that the Supreme Court should have no discretion in determining the conditions to be attached to a foreign applicant's admission. This purports to place a serious limitation on the inherent jurisdiction of the Supreme Court. It also creates the unfortunate result that, if the Court disagrees with a proposed condition, its only option is to refuse to admit an applicant.

In LACC's view, the fundamental principle referred to in item 2.2 requires these provisions to be recast to make it clear that the power to *recommend* set out in section 2.2.5(1) is just that, and does not seek to supplant the Court's discretion whether or not to accept a recommendation.

Finally, in LACC's view, it would be preferable to impose the relevant additional requirements not as *conditions of admission*, but as *conditions on practising certificates*, to be issued to the applicants. The Victorian Supreme Court's reserve power to attach conditions to a practising certificate is acknowledged by section 2.4.3(4)(b) of the *Legal Profession Act 2004* (Vic), although a comparable power does not exist in all other jurisdictions.

In LACC's view, subject to the existence of such a reserve power, the function of imposing conditions on a practising certificate should be conferred on the Local Representative (Admissions), provided that:

- (i) that body is comprised in the way foreshadowed in items 2.6(b) and (d); and
- (ii) there is an obligation to refer certain applications in one of the ways suggested in item 2.6(c).

A direction could perhaps be given:

- (a) to the Local Representative (Practising Certificates) to include a designated condition on any practising certificate granted to the applicant; and
- (b) to the applicant, to comply with a designated condition within a specified time, or such longer time as the Court may allow.

The Local Representative responsible for issuing practising certificates will be in a better position than the Court to supervise compliance with relevant conditions and to propose to the Court any appropriate amendments to, or the removal of, a Court-directed condition.

3.3 **Special circumstance practice**

LACC has previously given the Taskforce a proposal to accommodate "special circumstance" applicants, who seek to practise Australian law in Australia for limited purposes, for a limited time. That proposal has been endorsed by all Admitting Authorities. It suggested that the practising rights of such persons would need to be limited by conditions:

- (a) limiting the person's period of practice;
- (b) requiring the person to engage in supervised legal practice;
- (c) limiting the person's area of practice; or
- (d) otherwise restricting the person practising entitlements.

Each of the conditions recommended in the LACC proposal could be accommodated by the words in section 2.2.5(1)(a) and (b) of the National Law.

There was some debate in LACC whether such applicants should be admitted to the legal profession or dealt with by registration, accompanied by a conditional practising certificate, in a similar way to foreign practitioners who practise foreign law in Australia. It was agreed

that any restrictive conditions should be attached to a practising certificate. In view of the important principle considered in item 2.2, however, it seems preferable that all persons who seek to practise Australian law in Australia, and particularly those who wish to appear before a Court, should be determined to be suitable to be an officer of the Court and admitted to the legal profession.

Note that, under the LACC proposal previously given to the Taskforce, an application to undertake special circumstance practice would have to be supported by an Australian legal practitioner with whom the applicant must subsequently be associated at all times when practising in Australia. That Australian legal practitioner would also have to execute all relevant Court documents relating to the matter constituting the special circumstance.

3.4 Registration of foreign lawyers to practise foreign law

LACC notes the proposed provisions of Part 3.4 of the National Law. While they generally appear appropriate, given the definition of "legal practice" in section 1.2.1, it would be prudent to ensure that the phrase as used in section 3.4.5(c) is clearly and expressly limited to legal practice of foreign law, conducted in Australia: see item 5.1 below.

3.5 Suggestions

LACC suggests that section 2.2.5 of the National Law be recast to ensure that:

- (a) foreign applicants for admission to practise Australian law in Australia be generally required to comply with the pre-requisites specified in section 2.2.3(1);
- (b) all foreign applicants must apply for directions as to the adequacy of their academic and PLT qualifications;
- (c) except as provided in (d), an applicant must complete all additional directed academic and PLT requirements before applying for a certificate of compliance;
- (d) conditions of the type referred to in section 2.2.5(1) to be fulfilled after admission should be allowed either:
 - (i) where the dispensing power in section 2.2.3(2) has been exercised in relation to an experienced practitioner from a common-law country; or
 - (ii) where the applicant seeks to practise Australian law for a limited purpose and time;
- (e) the provisions of sections 2.2.5(2) and (3), which presently seek to supplant the Court's jurisdiction, should be amended to ensure that any recommendations made by the Board to the Court only have an advisory effect;
- (f) if such conditions are recommended by the Local Representative, the Court should impose them, not as conditions upon the applicant's *admission* but as directions as to compulsory conditions to be attached to the applicant's *practising certificate* by the relevant Local Representative;
- (g) section 3.4.10 should be amended expressly to mention the conditions set out in section 2.2.5 as examples of the discretionary conditions, in place of the present section 3.4.10(3);
- (h) the arrangements referred to in item 2.6(b) and (c) relating to judicial members of the Local Representatives and to the Supreme Court also apply to foreign applicants.

4. OTHER MATTERS

4.1 Accreditation and review of institution and courses

(a) *Issues*

The Uniform Admission Rules 2008 provide for the initial accreditation and review of both academic and PLT institutions *and* the courses which they respectively provide. They further acknowledge the need to develop and to maintain appropriate criteria, separate from those deployed for tertiary accreditation by bodies such as the proposed Tertiary Education Quality and Standards Agency. As noted in item 1(d), the 2008 CALD Standards for Australian Law Schools provide a template for assessing academic institutions which LACC is presently seeking means to deploy when accrediting and reviewing academic institutions.

(i) At present, rules 3.2.2 and 3.3.2 of the National Rules provide for the *initial* accreditation of academic *courses* (not institutions) and PLT *providers* (not courses). In LACC's opinion, it is necessary to provide:

- for the initial accreditation of both *institutions* and *courses* at both the academic and PLT levels; and
- a power to attach conditions to the accreditation of either a course of an institution (see Uniform Admission Rules 2008, rule 4(3)).

(ii) It is equally as important to provide for the continuous monitoring and periodic review of accredited institutions and courses; for attaching conditions to re-accreditation; and for withdrawing accreditation of either a course or an institution; see Uniform Admission Rules 2008, rules 4(5) and (6).

There are now more than 30 academic and 17 PLT institutions accredited for admission purposes in Australia. The prevailing standard is to ensure that institutions and courses are properly reviewed once in every five years. This will require approximately 10 reviews to be conducted each year, in addition to any initial accreditation processes.

(iii) Experience also indicates that the cost of reviews is substantial and that it is prudent to expressly provide that the relevant institution must contribute to the cost of any review. Some jurisdictions already include cost recovery provisions in their Admission Rules.

(iv) It is also necessary to establish and to keep current appropriate criteria and standards for accreditation and re-accreditation. As noted above, LACC is working with CALD to try to develop ways of allowing reviews conducted by CALD pursuant to the Standards for Australian Law Schools also to serve the purposes of Admitting Authorities. It is important to acknowledge that this may not prove possible, in which case the National Board will be required to develop and apply appropriate criteria.

Comparable criteria and processes capable of satisfying the requirements of Admitting Authorities in relation to PLT institutions and courses have yet to be developed.

(v) Although some provision is made in the cost-benefit analysis for the accreditation of institutions, on the present legislative proposals this could only relate to occasional future initial accreditations under either rule 3.2.2 and 3.3.2 of the National Rules. It presumably makes no allowance for the costs of the 10 annual reviews envisaged in item (ii) above, or the development and maintenance of criteria and standards referred to in item (iv).

- (b) *Suggestions*
 - (i) The National Rules need to be revised to provide for each of the matters mentioned in items (a)(ii) to (iv).
 - (ii) The benefit-cost analysis needs to be revised to take account of the substantial recurrent costs involved in such tasks.

4.2 Reviewing academic requirements and PLT competencies

- (a) *Issues*

The National Law section 2.2.3 and rules 3.2.2(2) and 3.3.2 of the National Rules purport to adopt the present Priestley 11 and National PLT Competencies as the relevant pre-requisite academic and PLT qualifications.

LACC considers that the Priestley 11 may require amendment in the light of both the recent LACC Statement on Statutory Interpretation and the imminent development of discipline-specific outcome measures relating to law for the purposes of the Tertiary Education Quality Standards Agency. This was foreshadowed in LACC's discussion paper *Rethinking Academic Requirements for Admission*, previously forwarded to the Taskforce. LACC is also committed to considering a review of the National PLT Competencies in 2011.

Under the proposed new arrangement the National Board, presumably through its relevant Advisory Committee, will need to monitor the continuing relevance of both academic and PLT standards and periodically commission the necessary work to verify or revise the existing standards.

- (b) *Suggestions*

- (i) Thought should be given to providing in the National Rules for the periodic review of both the academic and PLT requirements for admission.
- (ii) Even if such a provision is not made in the National Rules, they should make provision for the automatic updating of the proposed Schedules 1 and 3 if the National Board adopts recommendations from its relevant Advisory Committee that either Schedule requires amendment. It should not be necessary to make a formal amendment to the National Rules in order to make such changes. (Comparable provisions appear in rules 2.01(a)(ii) and 3.01(1)(b)(ii) of the Legal Profession (Admission) Rules 2008 (Vic).)
- (iii) Appropriate budgetary allowance will need to be made for the periodic engagement of consultants to assist in such reviews and for the attendant additional costs of the relevant Advisory Committee. These matters do not seem presently to be considered in the benefit-cost analysis.

4.3 Reviewing requirements for foreign applicants

- (a) *Issues*

LACC and Admitting Authorities have devoted a great deal of time to developing the Uniform Principles and relevant guidelines for their application. They are constantly reviewed and revised in the light of ongoing investigations, often carried out on behalf of the New South Wales Legal Profession Admission Board's Legal Qualifications Committee and the Victorian Council of Legal Education's Overseas Admissions Committee.

For the reasons foreshadowed in item 2.4, if the admission process is centralised, it seems highly likely that this work will in future need to be appropriately remunerated.

The present Rules take no account of the existence of the Uniform Principles. Nor does the benefit-cost analysis appear to make provision for the substantial costs that will be required to ensure that those Uniform Principles remain both current and appropriate.

(b) *Suggestions*

- (i) Thought should be given to recognising the existence of the Uniform Principles, or a comparable compendium of usual practices, in the National Rules, as they are an important tool for informing potential applicants about their likely additional pre-requisite requirements for admission.
- (ii) If, as suggested in items 2.6 and 3.5, prevailing arrangements relating to overseas admissions are to be carried forward as far as possible, maintaining consistent practices would be assisted if the Uniform Principles, as amended from time to time, are formally recognised by the National Rules.
- (iii) Adequate allowance for the cost of keeping the requirements for overseas applicants under review, and updating the Uniform Principles, should be made in the benefit-cost study and the budgetary projections.

4.4 English Language Competence

(a) *Issues*

At present, section 2.2.3 of the National Law does not refer to competence in English as a prerequisite for admission. Further, section 2.2.3(2) allows dispensation from the usual academic requirements – which indirectly test English competence – on the basis of "sufficient legal skills or sufficient relevant experience", neither of which relates to language competence.

Presently, the only requirement relating to English language competence appears to be in rule 3.4.2(b) of the National Rules, which requires certain applicants to demonstrate proficiency in English "if it is appropriate to do so". There is no indication as to who is to determine whether or not "it is appropriate" in any particular case, nor any power to require an applicant to demonstrate the requisite proficiency by taking a prescribed test, at the applicant's cost.

Further, it is necessary periodically to review the circumstances under which foreign applicants will be required to undertake the English language test; the appropriateness of the prescribed test; and the required levels of performance in that test.

(b) *Suggestions*

- (i) Thought should be given to amending section 2.2.3 of the National Law to provide that English language competence is a prerequisite for admission.
- (ii) Rule 3.4.2(b) should be revised to make it clear that:
 - the discretion to require an applicant to demonstrate English language competence rests with the Board's Local Representative;
 - the Board's Local Representative may require an applicant to take a prescribed test for that purpose; and
 - the cost of the relevant test is to be met by the applicant.

- (iii) Adequate allowance should be made for the cost of keeping the English language test requirements under review in both the benefit-cost analysis and in budgetary projections.

4.5 **Trans-Tasman Admissions**

(a) *Issue*

Neither the National Law nor the National Rules presently appear to make provision for the special arrangements which exist for New Zealand practitioners who seek admission in Australia.

(b) *Suggestion*

The National Law and the National Rules should be reviewed to ensure that prevailing arrangements relating to admission of New Zealand practitioners continue to operate.

4.6 **Legal Profession Register and Supreme Court rolls**

(a) *Issues*

The respective roles of the Register to be maintained by the Board and the separate roll of Australian lawyers with conditional admission, to be maintained by each Supreme Court, seem to create significantly greater notification obligations and concomitant increases in costs.

Similarly, requirements about the Board advising each Supreme Court of the issue of a compliance certificate and any proposed conditions; the Supreme Court or its delegate advising the Board of an applicant's admission; respective notifications of the issuance of a practising certificate; notifications about the change in status of an Australian registered foreign lawyer; notifications about the expiry of a temporary admission of a foreign lawyer; notifications where a condition is attached either to admission or a practising certificate, all create opportunities for error or inconsistency and potentially increase costs.

One particular example of anticipated difficulties arises from the combined operation of the Board's power to revoke a compliance certificate in section 2.2.4(5) of the National Law and the provision in section 2.2.4(6) that such revocation (on the grounds that information provided to the Board was false, misleading or incomplete) does not affect that person's admission, if the person is already admitted.

In such circumstances, it seems highly likely that the Court will wish to promptly revoke the person's admission. However, there is no provision requiring the Board either to notify the Court of its action, or to inform it of the grounds for its action, or to transmit the relevant documents to the Court. Manifestly, the obligation promptly to inform the Court and to provide all information necessary for the Court to take appropriate action, should be set out in the National Law: see item 4.8(b).

(b) *Suggestions*

- (i) Each instance where there will need be a flow of information between an Advisory Committee, the Board, a Local Representative and the Supreme Court needs to be identified and made explicit.
- (ii) The administrative cost of providing that information and the consequences of any failure to do so, should also be clearly identified.
- (iii) The costs associated with providing information under the proposal to centralise all administrative functions and the relative costs of the

arrangements suggested by LACC in item 2.6 need to be carefully compared.

- (iv) Appropriate legislative obligations on the Board or its Local Representatives promptly to provide all information necessary for the Court to exercise its relevant functions should be set out.

4.7 Applications for Readmission

(a) *Issue*

Where a person's name has previously been removed from the relevant roll for disciplinary reasons, any subsequent application for readmission presently attracts special procedures. These include a requirement to seek the views of relevant professional bodies. No provision presently seems to be made for this class of applications.

(b) *Suggestion*

Either the National Law or the National Rules needs to provide for the procedures to be followed when someone applies for readmission.

4.8 Appeals

(a) *Issues*

Section 2.2.9 of the National Law confers a right on an applicant to appeal to the Supreme Court if the Board refuses to issue, or revokes, a compliance certificate.

On the other hand, it fails to impose an obligation on the Board to notify the Supreme Court if it proposes to, or does revoke a compliance certificate. Without such notice, the Supreme Court will be unable to take any consequential action, such as striking the person's name from the roll.

The National Law also fails to provide an applicant with a right to appeal to the Supreme Court against conditions which a Local Representative attaches either to a certificate of compliance or to a practising certificate. It seems essential to provide these safeguards against the possibility of an improper or inappropriate use of a power which might seriously affect a person's ability to practise law.

Prevailing arrangements customarily provide for the designation and public funding of a contradictor in comparable appeals. Often the relevant Law Society or Bar Association acts as contradictor and is funded for the purpose.

The present legislation makes no provision for the appointment or funding of a contradictor. Nor does it place any obligation on the Board to provide the Court with adequate information to inform either the Court or the contradictor about the matter under appeal.

(b) *Suggestions*

- (i) The National Law should be revised to provide a right of appeal to the Supreme Court against the decision of a Local Representative to attach a condition to a certificate of compliance or to a practising certificate.
- (ii) The National Law should further require the Local Representative to advise the Supreme Court that it is about to revoke, or immediately after it has revoked, a certificate of compliance.
- (iii) It should further impose an obligation on the Local Representative promptly to provide the court with all relevant information in its possession when an appeal is lodged under section 2.2.9.

- (iv) Appropriate provision should be made in either the National Law or the National Rules for the appointment and funding of a contradictor in such proceedings.

4.9 Early Suitability Applications

(a) *Issue*

In most jurisdictions legislation presently provides for an applicant with a relevant matter which may affect that person's suitability for admission to disclose the matter and seek a direction as to whether, in due course, it may adversely affect an assessment of the applicant's suitability for admission before, say, embarking on or continuing with a course of academic or PLT studies to satisfy the relevant requirements for admission. Special procedures generally exist for informing the relevant Law Society or Bar Association and seeking their opinion.

The present National Law and National Rules make no provision for dealing with these sorts of applications.

(b) *Suggestion*

The National Law or the National Rules need to make appropriate provision for dealing with such applications.

5. DRAFTING MATTERS

The following particular suggestions are made on matters of drafting.

5.1 Foreign lawyers

The expression "foreign law" is not defined for the purposes of sections 3.4.3(1) and 3.4.4(1) of the National Law. The phrase is defined by implication in section 3.4.12(2).

It might be more appropriate to define the expression in terms similar to section 3.4.12(2) and to provide in the latter subsection that a foreign lawyer may only practise foreign law in Australia: see item 3.4 above.

For similar reasons, in the interests of clarity in section 3.4.5(3)(c), the phrase "practise foreign law" should be substituted for the phrase "engage in legal practice".

Section 3.4.12(2)(b) refers to knowledge of the foreign law of a country being "essential". It is necessary to specify who will determine whether such knowledge is essential.

5.2 Anomalies relating to Courts

- (a) Although section 2.2.2(3) of the National Law acknowledges the inherent power of the Court to refuse admissions, there is no comparable acknowledgement of its inherent power to attach or dispense with conditions. This omission creates the problems set out in item 2.2 above and gives rise to LACC's suggestions in item 2.6.
- (b) Although section 2.2.5(4) of the National Law allows the Court to order that a person's name be removed from the roll for breach of a condition, there is no power to revoke or vary a condition should that be appropriate.
- (c) Section 2.2.11(2) is an unusual and undesirable provision relating to costs. Costs are much better left to the unfettered discretion of the Court.
- (d) Section 2.2.13 of the proposed Law provides that an Australian lawyer is an officer of the Supreme Court of the jurisdiction in which he or she is admitted. The implication is that he or she is an officer of that Court and of none other, and that the obligations arising from that relationship may apply only in that Court.

If admission arrangements are to be truly national, the section should provide that an Australian lawyer is an officer of any court in a State or Territory of Australia in which the person practises.

- (e) It is necessary to foreclose any argument about the propriety of a Court relying on recommendations in a certificate of compliance when reaching a decision about admission. It would be prudent for the National Law to provide that, in determining whether or not to admit an applicant, a Supreme Court may rely on a recommendation made in a compliance certificate: compare *Legal Profession Act 2004* (Vic) section 2.3.5.

5.3 Compliance certificates

- (a) There is presently no obligation on the Board to determine an application for a compliance certificate within any particular time. While it may not be appropriate to impose a temporal obligation, it would be prudent to nominate a time at which an application is deemed to have been refused, if it has not earlier been granted or refused. Section 36(6) of the *Legal Profession Act 2004* (NSW) nominates a period of six months. A similar provision might usefully be added to section 2.2.9 of the National Law.
- (b) It might further be useful to add a provision which allows the Local Representative to decide to grant or refuse a certificate of compliance after the designated period has expired.

6. DESIGNATION OF FUNCTIONS

The Consultation Report does not set out any suggestions about how the relevant functions relating to admission are to be distributed between the Board, its relevant Advisory Committees and its Local Representatives. In LACC's view, it is impossible to respond adequately to the Taskforce's request to identify potential operational difficulties unless and until the proposed division of functions is set out.

In LACC's view the following division of functions would be appropriate and would create the least operational difficulties.

6.1 Admission Advisory Committee functions

- (a) Commissioning or undertaking work to monitor and periodically review the academic requirements for admission as an Australian lawyer and making consequential recommendations to the Board.
- (b) Commissioning or undertaking work to monitor and periodically review the PLT requirements for admission as an Australian lawyer and making consequential recommendations to the Board.
- (c) Commissioning or undertaking work to prepare or review guidelines for Local Representatives about common considerations which a Local Representative takes into account when deciding to dispense with usual academic and PLT requirements pursuant to section 2.2.3(2) of the National Law and making consequential recommendations to the Board.
- (d) Commissioning or undertaking work to identify appropriate criteria for accrediting and reviewing both academic and PLT institutions and courses and recommending them to the Board.
- (e) Commissioning or undertaking initial and periodic reviews of academic institutions and courses and making consequential recommendations to the Board, including any conditions to be attached to accreditation or re-accreditation.

- (f) Commissioning or undertaking initial and periodic reviews of PLT institutions and courses and making consequential recommendations to the Board, including any conditions to be attached to accreditation or re-accreditation.
- (g) Commissioning or undertaking work to monitor and adjust the usual additional academic and PLT qualifications to be required of foreign applicants to practise Australian law in Australia (the Uniform Principles) and making consequential recommendations to the Board.
- (h) Commissioning or undertaking work to examine applications by the deans of foreign law schools or PLT institutions to have subjects recognised as satisfying the Priestley 11 or national PLT requirements, and making consequential recommendations to the Board.
- (i) Commissioning or undertaking work to monitor the appropriateness of English language testing requirements for foreign applicants seeking admission in Australia and making consequential recommendations to the Board.
- (j) Commissioning or undertaking work to propose and keep under review, the requirements to be satisfied by applicants for registration to practise foreign law in Australia and making consequential recommendations to the Board. (This function might more appropriately be undertaken by the relevant Advisory Committee dealing with practising certificates instead of the Admissions Advisory Committee.)
- (k) Commissioning or undertaking work to propose and keep under review, the requirements to be satisfied by foreign applicants to be registered to conduct special circumstance practice of Australian law for a limited purpose and time (see item 3.3 above) and making consequential recommendations to the Board. (This function might more appropriately be undertaken by the relevant Advisory Committee dealing with practising certificates than by the Admissions Advisory Committee.)
- (l) Commissioning or undertaking work to review the foreign countries deemed to have an effective system of legal practice regulation for the purpose of section 3.4.5(3)(b) of the National Law and making appropriate recommendations to the Board.
- (m) Commissioning or undertaking work to review the processes and procedures applied in assessing suitability of applicants for admission and making consequential recommendations to the Board.
- (n) Commissioning or undertaking work to review the operation of arrangements whereby the admission function is delegated to Local Representatives and making any relevant recommendations to the Board: see item 2.6(g) above.

6.2 National Board functions

Considering recommendations made pursuant to item 6.1 and deciding whether or not to act on them.

6.3 Local Representatives (Admissions) functions

- (a) Receiving and processing applications for admission or re-admission by local applicants; determining whether they have met the academic and PLT requirements from time to time determined by the Board after considering recommendations referred to in item 6.1(a) and (b); receiving and processing applications from local applicants for early assessment of their suitability for admission.
- (b) Receiving and processing applications for directions about qualifications from foreign lawyers who wish to practise Australian law in Australia as an Australian

legal practitioner; determining such additional academic or PLT qualifications to be obtained in accordance with principles established by the Board after considering recommendations referred to in item 6.1(g); determining whether or not an English test is required in accordance with principles established by the Board after considering recommendations referred to in item 6.1(i); determining whether an applicant is eligible to receive a dispensation pursuant to section 2.2.3(2) of the National Law, in light of any common considerations determined by the Board after considering recommendations referred to in item 6.1(c).

- (c) Determining whether applicants for a compliance certificate have met the relevant academic and PLT requirements and the suitability criteria specified under the National Law, after considering any relevant disclosures.
- (d) Preparing compliance certificates in appropriate cases, which reveal the nature of any relevant disclosures about suitability and, in the cases of experienced practitioners exempted from some or all of the usual academic or PLT requirements and special circumstance practitioners, recommending conditions to be attached to the applicant's practising certificate; see items 3.2 and 3.5(f) above.
- (e) Arranging admission ceremonies in the relevant Supreme Court.

6.4 Local Representatives (Practising Certificates) functions

- (a) Determining applications for registration to practise foreign law in Australia and any necessary conditions to be attached to such registration, in accordance with requirements established by the Board after considering any recommendation made under item 6.1(j).
- (b) Imposing conditions on practising certificates where those conditions are proposed in compliance certificates or ordered by the Supreme court when an applicant is admitted, as envisaged in item 6.3(d).
- (c) Monitoring compliance with any conditions attached to a practising certificate and taking any appropriate action to ensure compliance.

7. PROPOSED RULES

- (a) *Issue*

LACC understands that the National Law and National Rules presently released for comment are not, and do not purport to be, exhaustive. It notes, however, that there are numerous significant matters of detail routinely dealt with in existing Admission Rules which are not canvassed either in principle or detail in the present materials.

In LACC's view, many of these matters will need to be resolved and incorporated in Rules before any national scheme could commence to operate. Substantial operational issues can be foreseen if Rules dealing with these matters are not made before the scheme commences.

- (b) *Suggestions*

- (i) The Taskforce needs to identify areas in which it is proposed to make further Rules, as soon as possible.
- (ii) Draft Rules for these areas should be prepared and released as soon as possible.
- (iii) Adequate time should be allowed for more detailed Rules to be carefully considered by existing Admitting Authorities and others, and suggestions made for their improvement.