

## IN\_PRINT

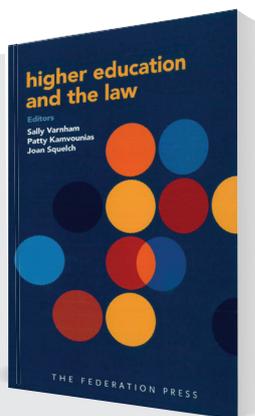
### Higher Education and the Law

Sally Varnham, Patty Kamvounias and Joan Squelch (eds), *Higher Education and the Law*, 2015, The Federation Press, pb \$99

Higher education institutions are far more than credentiallers; they wield considerable power and are important to the economy and the intellectual life of society.

This book, the first dedicated to the law relating to higher education in Australia, is therefore an important work.

The book, comprising 20 chapters, is structured in two main parts. The first, “the law of higher education”, deals with topics such as university governance. The second, “the law and higher education”, examines many of the myriad general laws impacting on higher education institutions such as consumer law, copyright law, and the



principles of natural justice in disciplinary hearings.

The authors bring a varied experience. In addition to a number of academics, the contributors include legal practitioners, an in-house counsel, an author writing of a student experience and a higher education adjudicator.

A constant theme is the hybrid nature of the university. For example, in

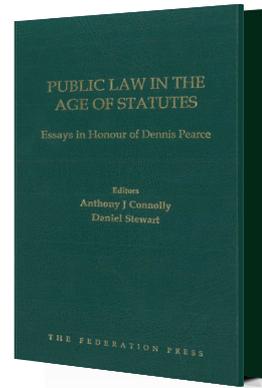
the disciplinary area university tribunals combine features of domestic and statutory tribunals. In the employment area, the relationship between universities and their employees differs in significant respects from other corporations and their employees.

The aim of the book is to “highlight and provide guidance on the law and current legal issues in areas which are considered to be the most salient”. The

book succeeds in its aims. The chapters are concise, well researched and well referenced. Issues discussed include: what is the legal relationship between a university and its students? What factors need to be taken into account in ensuring fairness in disciplinary hearings? Why are complaints to public sector ombudsmen increasing? What potential legal challenges do universities face arising from their special measures for entry? Who owns the copyright to teaching material?

The main limitation of the work is its brevity. The average chapter is 12 pages. Some issues, such as university by-laws and student plagiarism receive only passing attention. The work focuses on universities, not on other higher education institutions. But the wide-ranging and informative nature of this book makes it essential reading for all those who work in universities or who advise them.

**Dr Jeffrey Barnes**, senior lecturer, La Trobe University



## Public Law in the Age of Statutes, Essays in honour of Dennis Pearce

Anthony Connolly and Daniel Stewart (eds), *Public Law in the Age of Statutes, Essays in Honour of Dennis Pearce*, 2015, Federation Press, hb \$125

Most lawyers today spend far more time dealing with statutes than with case law. Despite this, a comparatively small amount of time in university teaching and research is devoted to statutes. Dennis Pearce was one of the first academic lawyers to make a substantial contribution to address this imbalance, with his books on statutory interpretation and delegated legislation. Now a book has been published to recognise his contribution, with a range of articles about statute law.

The book is a short one, but rich in content. The contributors are distinguished academics and practitioners who are well qualified to comment on statute law. The book starts with an essay by Justice Stephen Gageler exploring the extent to which the courts maintain an exclusive power to interpret statutory language, and to what extent this power can rest in the hands of an administrative decision maker. Cheryl Saunders examines the ways in which the Commonwealth Constitution can affect statutory interpretation. Margaret Allars analyses case law dealing with statutory attempts to limit judicial review of administrative action, and other instances where there may be tension between the executive and the judiciary. Co-author Daniel Stewart presents an original perspective on the familiar issue of incorporation by reference in legislation, focusing on the incorporation of industry standards developed by private bodies. AJ Brown contributes a critical essay on royal

commissions in Australia (with a particular focus on the topical issue of the selection of royal commissioners). Justice Susan Kenny describes the history and operation of the Administrative Review Council and evaluates its contribution to Australian public law. Linda Pearson describes the development of Australian administrative tribunals, including the recent amalgamation of Commonwealth tribunals. John McMillan draws on his experience as Ombudsman and Australian Information Commissioner to show how these institutions can cause substantial changes in government behaviour (and can be just as effective as more formal mechanisms of administrative review).

This book would be of interest to anyone involved with statutes or public law in general. It is a useful reference book regarding several significant issues. I also found it enjoyable to read.

**Daniel Lovric**, Commonwealth Office of Parliamentary Counsel