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The role of the commercial bar in the mid-21st century

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The bar of the late twentieth century would look very odd to a reader in 2018. Briefs delivered in folders were unheard of, trolleys were only for shopping and phones were an enormous contraption attached to a desk. The next ten years saw the emergence of the trolley, and a somewhat more remarkable invention called the facsimile machine. This was soon followed by email, smartphones and the availability and acceptance of the essentiality of online research. The manner in which a barrister conducted his or her practice changed significantly over the course of this time.

In another 50 years, it is doubtful the bar will bear much resemblance to its present appearance. Advocates tend to be the most adamant of all lawyers that their practices are insulated from the forces of technological and societal change. There are a few reasons to believe this is not the case. The first is simply that because some practitioners do not foresee dramatic change does not mean it will not happen. The technological revolutions that have swept other industries were probably unforeseeable to those on the brink of it.

In any event, the bar is not just comprised of people who will only be around for the foreseeable future. Of the 2409 barristers in New South Wales, 600 or around 25% are within five years of call and nearly 500, or around 20% are in their thirties or younger.[1] Assuming this generation works until their sixties, at least, is it really conceivable that in 30 years' time – say in 2050 – practice at the bar is going to involve wigs, wood-panelled Courtrooms, trolleys stacked to precarious heights, and arcane legal jargon?.[2] The existing Court system is, on one view, an antiquity, ever-evolving but not really radically different from its existence in the 19th century.[3]

While high-value and very complex work will likely continue in the conventional manner for some time, not all barristers are engaged all the time in this type of work. Outside this niche are foreseeable and imminent changes, catalysed by both economic and structural factors.

In terms of economics, while many in the profession have assumed that things would return to the business as usual of the early 2000s, the nature of the legal market is arguably different: it is a buyers' market.[4] The expectation that external firms and counsel will 'do more for less' is not waning, and there is little to no commercial appetite for old-school inefficiencies.[5]

While there has been a clear cyclical downturn in the legal market associated with economic conditions, a structural downturn associated with technology has also been at play. Much like many other white-collar industries, basic tasks have been replaced by computation, automation and soft artificial intelligence.[6] It is inconceivable that technology will transform every other profession but somehow the legal system and the Courts will carry on as normal.

The final contributing factor is the pernicious problem of access to justice. It is simply the case that too many people do not have adequate advice or representation. The problem is chronic and regularly dissected in the continuous stream of reports and inquiries into unmet legal need. The most recent iteration is the 'Justice Project' report, which was released in August by the Law Council of Australia.[7] Over the course of 1500 pages, it provides a review of the national state of access to justice, with some 59 recommendations. It adds to the large existing body of literature evidencing that a significant proportion of Australians simply do not enjoy equal justice.

In the author's opinion, there are therefore two catalysts for change: continued pressure from clients to contain costs and pressure on governments to make the civil justice system more accessible. One response might be that these two pressures have always existed. What has changed is the capacity of technology. It is not a panacea for all problems, but if experience from other professions is any guide, it would be unwise to dismiss it entirely.

It is in this context that this paper considers the role of the commercial bar in the fast approaching mid-21st century. This analysis is undertaken in full awareness of the folly of prediction; in retrospect correct predictions look predictable and incorrect ones are laughable. Or, as Niels Bohr said: 'prediction is very difficult, especially about the future'.[8] On the other hand, as Wayne Gretzky, the ice hockey player famously advised, you 'skate where the puck's going, not where it's been'.[9]

Building relationships and reputations

What does it mean for a barrister to be operating in a buyers' market? In a tightening legal market, relationships will be important. In addition, the bar will come to be relied on more to recommend solutions to problems rather than legal opinions on discrete issues.

This will firstly require barristers to have a greater commercial understanding of client's needs than before. This provides both challenges but also a real opportunity. In the disrupted legal world, counsel will have more direct interaction with the client, more direct contact with corporate counsel and more pressure to provide a holistic solution. Indeed, it is not unimaginable that in the case of commercial work, the traditional divide between barristers and solicitors will

be blurred, both as to the work they do and their relationship with clients.

It will also require a wider range of softer skills than was previously necessary.[10] A fine legal mind may not suffice to the extent it has in the past.[11] Barristers will need a greater familiarity with clients' business environments and a clear understanding of what it is like to work in the particular industry. This in turn requires the skill of empathy, and the capacity for listening.[12]

Clients have long been sceptical of detailed learned advices, they want counsel's views. No-one likes an eleven-page advice, five pages learnedly saying why a particular proposition is correct, five pages saying why it is not, with the eleventh page blank. However, the future will involve more than simply providing views on particular legal topics. Barristers will be expected to formulate views as to what is feasibly to be achieved by litigation or another form of dispute resolution, and in doing so, provide holistic solutions that meet the needs of the client.

The bar may also see the emergence of more advanced online reputation systems. It is trite that a barrister's practice depends largely on reputation. Plenty of these systems of course already exist, such as Doyle's Guide, Chambers & Partners and the AFR guide. However, with due respect to their respective publishers, they are probably an early incarnation of what is possible, which might include clients sharing views on performance, outcomes and pricing.[13] These might be connected in with technology similar to the recently launched 'Barristers Select' website, which may again be an early incarnation of the future of briefing.

The impact of technology

These changes are inextricably linked to the broader impact of technology. It has obviously already infiltrated every aspect of litigious work. E-filing, ediscovery, real time transcription services, electronic Courtrooms, the use of video links for witnesses and the use of devices on the bench and at the bar table are now a matter of course. Nevertheless, the fundamental work styles and orientations of the bar have not yet undergone radical transformation.

The bar and the Courts are regularly subjected to pejorative descriptions like old-fashioned, elitist or anachronistic.[14] However, the bar is better placed to adapt than the general profession, by the very nature of its practice. It has flexibility, and the absence of a bureaucratic structure, which are essential prerequisites in a technological age.[15]

The structural changes wrought by technology on the solicitor's branch of the profession have been well documented, and include things like document automation, online legal guidance relying on systems rather than humans, open-sourcing of legal information and document analysis systems that are able to outperform humans in document review.[16]

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Emerging technology includes legal 'question answering' systems, a widely cited example being that based on IBM's Watson, which was built to compete on the quiz show *Jeopardy*. In 2011 it beat the two best ever human competitors. On the cusp of facing defeat, Jennings, the 74-time consecutive Jeopardy champion wrote on his video screen: 'I, for one, welcome our new computer overlords'.[17]

Powered by the Watson technology is 'Ross', which performs legal research in a manner approximating the experience of working with a human lawyer – i.e., it can respond to questions in natural language.[18] Importantly, and despite all the hype, its developers don't claim it can replace the human, just make them more efficient and more accurate. The common objection is that for all the talk about artificial intelligence replacing lawyers, the threat is yet to materialise. Amara's law, however, comes to mind: that we tend to overestimate the effect of technology in the short run and underestimate its effect in the long run.[19]

For the most part, however, the work of the oral advocate is not easily replaceable by technological innovation, and barristers will probably not be welcoming their 'i-Advocate' overlords anytime soon.[20] Work that is routine and repetitive is far more susceptible to the forces of automation and systemisation than that which is bespoke or unique. It is of some comfort that Professor Richard Susskind, who has been predicting the demise of lawyers for some time now,[21] states that 'it is not at all obvious how the efforts and expertise of the Courtroom lawyer might be standardized or computerized'.[22]

The fact is, however, that Courtroom lawyering will change when the Courtroom itself changes. This is already happening in areas such as case management. The traditional in-person arrangements are time and administration intensive. In an average week in the NSW Supreme Court, the relevant registrar will oversee 107 directions hearings in the Equity List, 39 in the Corporations List, 169 in the Common Law Lists, 26 in the Court of Appeal List, and 117 in the Court of Criminal Appeal and bails lists. For each of these hearings, physical attendance is ordinarily required of practitioners for each represented party, as well as self-represented litigants, creating a substantial inconvenience and cost for matters which are typically uncontroversial.

In 2018 the Court trialled an online Court system in the Corporations Registrar's List, which has proved quite successful. In the month of March, the Registrar recorded 104 directions in the online Court. The relevant parties were relieved of the need to appear physically in the registrar's Court for the determination of orders by consent or non-complex timetabling orders, or to obtain a referral to the Corporations List judge as the matter was ready for case management or hearing.

None of these 104 directions required the use of a physical Courtroom, needed to occur at a particular time, or required parties to spend significant time waiting for their matter to be called from the list. A substantial amount of time was likely saved without compromising the quality of the communication between the parties and the registrar, or the case management process. Further efficiencies will soon be created by transitioning most matters into the online Court system and expanding the types of orders that can be made.

This will impact on junior barristers' work. There is no doubt that barristers will be less likely to be briefed to do matters such as consent adjournments and the like, particularly when working with solicitors previously disadvantaged by physical proximity,

such as country or suburban solicitors. On the other hand, it will not necessarily eliminate counsel's involvement in more complex online matters, particularly if the barrister concerned actually has the best appreciation of the case and the client's needs.

Beyond case-management, however, lie proposals for proceedings conducted entirely online. It is instructive to consider some of the reforms undertaken in the United Kingdom as a guide to potential future directions in this country.

In September 2016 the Lord Chancellor, Lord Chief Justice, and Senior President of Tribunals released a 'joint vision statement' announcing a £1 billion transformation of the justice system[23] to make it 'digital by default'.[24] The announcement came in the wake of Lord Justice Briggs' report in 2016 on the structure of the Civil Courts,[25] which found, in his words, that while 'the Civil Courts of England and Wales are among the most highly regarded in the world', their 'single, most pervasive and indeed shocking weakness' is that they 'fail to provide reasonable access to justice for the ordinary individuals or small businesses with small or moderate value claims.'[26] This is certainly a problem which exists in Courts of this country.

To address this 'missing middle', it recommended a three-tiered online Court, initially for claims up to £25, 000. It would involve an automated 'triage' stage including advice to help claimants articulate their cases, exchanges between claimants and defendant and the preparation of the claim form and particulars of claim. The second stage would be an ADR stage, involving telephone, online or face-to-face mediation or early neutral evaluation, and finally, for those cases still not settled, a determination stage which could comprise a conventional hearing, or a telephone or video hearing. It could also be legal determination without a hearing. The essential concept was a new, more investigative Court, designed for navigation without lawyers.[27]

In a very real sense it represents a departure from the adversarial litigation system which has always been a feature of the common law. Briggs' proposal also incorporated aspects of the Canadian Civil Resolution Tribunal,[28] which was launched in 2016 as that country's first entirely online tribunal. The CRT resolves small claims disputes and is a graduated process of fully integrated ADR going from negotiation, to facilitation, to an online determinative process.[29]

The resulting reform plan, which is ongoing at the time of writing, involves over 50 separate projects. The crime program is developing a common platform for securely sharing information on a single system and summary 'nonimprisonable' offences will be taken out of the Courtroom and heard on the basis of a file. In serious cases plea indications will be done online and judges and magistrates will be able to conduct remand hearings remotely. In the civil, family and tribunal program, the plan is to unite all the administrative and judicial procedural steps on one digital platform with a single access portal, with automated triage and more frequent use of ADR.

It may be that there are disadvantages that arise from moving away from traditional oral hearings in a physical place, but these have to be weighed against the realities of the current civil justice system, not an idealised version of it.

There will be less use of physical buildings, with sales generating income required for investment elsewhere, as video hearings reduce Courtroom needs. A digital tool will automate aspects of scheduling and listing and Courts and tribunal 'service centres' will be created as centralised locations for contact and case administration.[30] Funding was allocated to these reforms on the expectation that the Courts would make long-term spending reductions, from fewer physical hearings and fewer physical buildings to maintain. Court staff numbers are also to be reduced from 16, 500 to around 10, 000.[31]

Returning however to this country, the question arises as to what a 'digital by default' reform agenda look like for the commercial bar? On the one hand it might be said that this won't affect barristers' practices at their core all that much. The real justice gap that these reforms aim to plug relate to low value civil claims, for which it is plainly very difficult if not impossible for individuals and small businesses to presently obtain advice or representation. If it be the case, however, that resolution in an online Court keeps costs down without sacrificing proper consideration of the relevant facts and law, why wouldn't corporate clients push for the resolution of their matters without the expense of a traditional hearing?

Physical appearances in Court might start to become a rarity, with perhaps more virtual appearances. This will require new and different types of advocacy skills to those traditionally held. The other major opportunity of technology is the ability to move to a much more iterative process, where appellant, respondent and judge can iterate and comment on the progress of a case as it develops rather than waiting until everyone is in one room to discover that some critical procedural step or piece of evidence is missing. This will impose a greater burden on the judge and shift the system more generally towards an inquisitorial rather than adversarial style.[32]

In terms of appellate advocacy, unlike the US Supreme Court, it is unlikely at least in the near future, that stringent time limits will be imposed in appeals, such as ten minutes for oral argument. However, there will be far greater emphasis on written material and an increasing expectation that counsel confine themselves to propositions based on that material with the bulk of the oral argument involving dealing with questions arising out of the Court's reading of that material.

That probably throws up two challenges: first, and fundamentally, it must be recognised that written advocacy will be as vital and indeed in some cases more important than the oral presentation. Second, even greater flexibility than now will be required in oral advocacy. A hearing which is designed to elucidate particular problems judges see in submissions will not be very comfortable for the 'plodding barrister', i.e., a barrister who confines him or herself to carefully reading some prepared script without any appreciation of where that script might have flaws.

In considering the response of the bar to these changes, it is important to keep in mind the drawbacks of the present system, which too often excludes litigants with credible claims. It may be that there are disadvantages that arise from moving away from traditional oral hearings in a physical place, but these have to be weighed against the realities of the current civil justice system, not an idealised version of it.[33]

In that context it is also important to keep in mind what clients actually want. In 2010, Ebay commissioned a study to evaluate its online dispute resolutions systems, which handle 60 million disputes per year. It randomly assigned several hundred thousand users to two groups and compared their buying and selling behaviour for three months before and after their experience with the dispute resolution system. The hypothesis was that those who 'won' the dispute would engage in greater activity while those who 'lost' would engage in less. This did occur, but more significantly, it found that the only buyers who decreased their activity post-dispute were those for whom the process took a long time: more than six weeks. Buyers preferred to lose their case quickly than have the resolution process go on for an extended period of time.[34] It serves as a reminder of the importance of evaluating what is vital about the civil justice system from the perspective of the public, whose interests it exists to serve.

Alternative Dispute Resolution

If reforms like the United Kingdom ones are adopted, there will be greater emphasis on mandatory ADR as part of an iterative online Court process. The UK reforms take the linking of ADR with judicial adjudication one step further than Court-annexation or Court-referral has done in the past. It instead blurs the boundaries between the two processes, merging them into one convenient online package. The Master of the Rolls, Sir Terrence Etherton has stated there is a 'fundamental' difference in the new online process, as while the old approach 'encourages' ADR processes the online Court 'embeds them into the pre-trial process for the first time, and requires the Court actively to facilitate them'.[35] Lord Justice Briggs described it as 'designed to take the A out of ADR'.[36]

It must be recognised that whether future reforms adopt the model advocated by Lord Justice Briggs, the Canadian model, or some alternative, there will be pressure to reduce costs in respect of smaller claims by eliminating or minimising the role of lawyers in the dispute resolution process. That means it is increasingly important in this area and other areas of ADR for barristers to show that they can really add value to the process. If these processes make non-lawyer dispute resolution a real alternative to resolving disputes with or through lawyers, then it will be up to lawyers, including barristers, to show that the expense of retaining them either for the whole or part of matters, is worth the cost. It goes without saying that it will not be worthwhile where the costs exceed the amount of the claim, particularly where these new models make no provision for costs orders in favour of the successful parties.

Traditional ADR will also continue to be affected by 'ODR', or online dispute resolution, with tools such as AI-based diagnostic programs that can make forecasts about likely outcomes or suggest optimised settlement options based on party preferences.[37] Evidently this will require the bar to be familiar with emerging technology, have the capacity to know its limits, and to handle the disputes that will inevitably arise out of its use. There will be opportunities here for practitioners to use these systems to the advantage of their clients by developing the skills and methods necessary to participate as an advocate, perhaps in e-mediation or e-negotiations.

Traditional ADR will also continue to be affected by 'ODR', or online dispute resolution, with tools such as AI-based diagnostic programs that can make forecasts about likely outcomes or suggest optimised settlement options based on party preferences.

It is also helpful to remember that online ADR is not simply the offline versions moved online.[38] A process using technology may be different in nature to its original form. That this is true is evident in the simple fact that many of the 'values' of ADR touted as significant in the 1970s and 1980s like face-to face resolution, individualised processes and confidentiality of data are not present in their online counterparts, which are conducted remotely, use standardised systems and collect data.[39]

In the short term the pressure of 'more-for-less' will mean ADR and ODR continue to grow in importance. It will be important for the bar to develop the skills necessary to recommend solutions appropriate to the particular dispute and client, whether that be traditional mediation, arbitration or ODR.

Regulatory Practice

Finally, it is important to consider the changing substantive nature of commercial practice. It is likely to involve an increasing amount of regulatory proceedings, given the views expressed in the Final Report of the Banking Royal Commission.[40] In his chapter on regulation and regulators, Commissioner Hayne notes that traditionally ASIC's starting point has been: how can this be resolved by agreement? His view is that this 'cannot be the starting point for a conduct regulator' and rather, the regulator should first ask whether it can make a case for breach and if it can, 'why it would not be in the public interest to bring proceedings to penalise the breach'.[41]

In the Final Report, the Commissioner noted that ASIC had submitted a response to these views, which had previously been expressed in the earlier Interim Report. The response stated that ASIC would do three things.[42] First, accelerate its enforcement activities and its capacity to pursue actions for serious misconduct through greater use of external expertise and resources. Second, move more quickly to, and accordingly, conduct more, civil and criminal Court actions against larger financial institutions. Third, it accepts that the proper starting point is for it to ask the question 'why not litigate', and turn its mind to whether enforcement tools should be deployed in response to each and every contravention of the law.[43]

This has consequences for commercial practice. First, ASIC's evinced intention to pursue Court action more often will obviously generate more work, both on behalf of regulators and for corporations. Secondly, it may be that the nature of regulatory practice alters in some ways. In the Report, commenting on whether the law should be changed, Commissioner Hayne noted that 'basic norms of behaviour' must inform the conduct of financial services entities, being: 'obey the law; do not mislead or deceive; act fairly; provide services that are fit for purpose; deliver services with reasonable care and skill; and when acting for another, act in the best interests of that other'.[44] In his earlier Interim Report, he had commented that 'these ideas are very simple' and in his view their simplicity pointed 'firmly towards a need to simplify the existing law rather than add some new layer of regulation'.[45]

It seems to be his view that the more complicated the laws, the more they are seen as 'a series of hurdles to be jumped or compliance boxes to be ticked',[46] and that in doing so it becomes easier to in fact develop cultures that are unfavourable to compliance.[47] What may therefore emerge is a move towards open-ended unifying principles in this area of regulation, such as unconscionability and unfairness.

This raises the question of the proper balance between rules-based and principles-based regulation, and between certainty and flexibility. On the one hand, prescriptive rules provide greater clarity, rendering it easier for a regulated entity to determine what rules it must comply with. Julia Black, a key proponent of principles based regulation, conversely states that they are prone to gaps and rigidity, and therefore, 'creative compliance'.[48]

Principles-based regulation is demanding when it comes to the judicial task of interpreting quite general or 'rubbery' standards. The risk is that the question of whether certain conduct is unconscionable or unfair becomes an idiosyncratic determination of justice in a particular case: unconscionability or unfairness in the eye of the beholder.[49] On the other hand, as Lord Wilberforce recognised in *Photo Productions Ltd v Securicor Ltd*, consumer protection legislation can reduce the amount of bad law emerging from hard cases in which judges strain contractual language to avoid harsh consequences.[50]

A major drawback of principles based regulation has generally been the perceived absence of precision, certainty and predictability. The possibilities of technology may start to ameliorate these pitfalls. The ability of technology using Big Data to detect patterns and correlations has proven more capable than predictions of lawyers engaged in traditional legal research.[51] Professor Daniel Katz, in the United States context, has developed an algorithm which was able to correctly predict results in 70.2% of the 28,000 decisions US Supreme Court decisions, as compared to 66% human expert accuracy.[52] Much of legal work traditionally has involved only qualitative predictive methods.[53] It is probably one of the 'remaining outposts of the corporate world' whose operations are 'dictated mainly by human experience'.[54]

Prediction is a core component of the guidance that lawyers offer – think of questions as simple as 'do I have a case', 'what is our likely exposure and 'how much is this going to cost'.[55] but until recently has involved very little quantitative evaluation. The scope of a lawyer's ability to answer these questions is currently limited by lived experience and their capacity to research past events. Quantitative legal prediction can draw from trends of thousands to millions of prior events, which combined *with* human reasoning will offer more accurate predictions than either operating alone.[56] Of course, incorporating these tools into legal practice assumes that there are lawyers out there who can actually do mathematics. It might be the greatest challenge yet.

It seems increasingly likely that either what have traditionally been soft law principles will be translated into hard legal obligations under a principles-based approach, or that existing soft law obligations, which still serve important regulatory functions, will expand in scope.

Relatedly, another emerging trend will be the need for commercial practitioners to have a greater understanding of the methods and principles of public law. This paper does not propose to delve into the normative debates on the public/private divide. However, it goes without saying that one of the increasing opportunities for commercial lawyers will be to advise their clients on the navigation of complex regulatory requirements and in appropriate cases the means by which they can be challenged. There remains a suggested dichotomy between what is generally described as the commercial bar and the administrative, or public law, bar. To the extent the dichotomy exists, it is not the interests of commercial lawyers to abandon the field, nor is it in the interests of their clients. The experience gained in the commercial arena will provide commercial lawyers with an understanding of the challenges to corporations arising from regulation and how best to deal with them.

Soft Law

The other area that will become increasingly important to commercial practice is for barristers to have a firm grasp of the relevant corporate soft law, and the ability to advise on what it means for corporate practice. This is particularly so in relation to corporations and particularly directors' duties.

For example, in the Royal Commission Interim Report, the Commissioner had made mention of the Banking Code of Conduct. He commented that 'significant instances of conduct identified and criticised' were not compliant with the banking industry code of practice as it stood at the relevant time. However, given that a contravention of the Banking Code, although a breach of contract, is not a breach of the law, it is enforceable only at the behest of aggrieved customers, at a point at which they will generally not have the means or the will to 'take on the battle'.[57] In the Final Report, Commissioner Hayne recommended that industry codes of conduct such as the Banking Code include 'enforceable code provisions', which are provisions in respect of which a contravention will constitute a breach of the law,.[58]

Another significant source of soft law is the ASX Corporate Governance Principles and Recommendations, which state, e.g., that listed entities should act 'ethically and responsibly'.[59] In May 2018, the Council released the consultation draft for the fourth edition of the principles and recommendations, which it described as 'anticipating and responding to' some of the recent governance issues.[60] The key change was a substantial redraft of Principle 3 to address corporate culture and the inclusion of this concept of a 'social licence to operate' by requiring a listed entity to act 'in a socially responsible manner'. It stated that preserving this social licence required that the board 'must have regard to the views and interests of a broader range of stakeholders than just the entity's security holders', including employees, customers, suppliers, regulators and the local community.

The submissions in response on the whole were to the effect that the proposed change was undesirable. The Business Law Section of the Law Council, e.g., has said that the concept of the social licence to operate was 'too vague and uncertain to serve as the touchstone for an important piece of regulatory policy'.[61] It was also decried as inconsistent with the fundamental principle that directors owe their duties to the company

and not to any other persons.[62]

The final version of the fourth edition was released in February 2019, with a response indicating where changes had been made from the consultation draft. It noted the strong objections to the inclusion of a reference to a listed entity acting 'in a socially responsible manner',[63] and this phrase was removed from the final version.[64] However, it is telling that changes of this nature were even proposed in the first place. It seems increasingly likely that either what have traditionally been soft law principles will be translated into hard legal obligations under a principles-based approach, or that existing soft law obligations, which still serve important regulatory functions, will expand in scope.

Either way, there will be opportunities for commercial advocates. There will always be disputes as to whether actions of corporations are complying with their hard legal obligations. In addition, there will be increasing opportunities to cast an independent view over a corporation's activities to see whether it is complying with soft tlaw obligations.

Conclusion

In among all the change, there are two certainties. The first is challenging, the second comforting. First, the bar will have to be ready to adapt to a changed technological and commercial environment for their practices to thrive. Second, just as you can't have law without lawyers, so you can't have commercial law without commercial lawyers.

I express my thanks to Ms Naomi Wootton for her assistance in the preparation of this address.

ENDNOTES

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12 Ibid 76-77.
13 Ibid 47.
14 Ibid 12.
15 See TF Bathurst, 'iAdvocate v Rumpole: Who will survive? An analysis of advocates ongoing relevance in the age of technology' (2015) 40 *Australian Bar Review* 185, 192.
16 See generally Susskind above n 2, 43-55
17 Quoted in Katz above n 6, 926.
18 See IBM, 'Ross and Watson tackle the law' <https://www.ibm.com/blogs/watson/2016/01/ross-and-watson-tackle-the-law/>.
19 Coined by Roy Amara, former head of the Institute for the Future at Stanford University.
20 See Bathurst, above n 15.
21 See Susskind, above n 2; Susskind above n 4.
22 Susskind, above n 2, 65.
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25 Michael Briggs, 'Civil Courts Structure: Interim Report' (December 2015) <https://www.judiciary.uk/wp-content/uploads/2016/01/CCSR-interim-report-dec-15-final-31.pdf> and Michael Briggs, 'Civil Courts Structure Review: Final Report' (January 2016) <https://www.judiciary.uk/wp-content/uploads/2016/07/civil-Courts-structure-review-final-report-jul-16-final-1.pdf>.
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33 Susskind, above n 2, 120, who cites Voltaire in this regard: 'the best is the enemy of the proportionate'.
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