THE SYDNEY

# LAW SCHOOL



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# INTERNATIONAL STUDENTS AT SYDNEY LAW SCHOOL

Wei Li is a Chinese lawyer undertaking postgraduate studies at the University of Sydney Law School. Having completed his undergraduate degree at Fudan University in Shanghai, Wei Li went into banking. Wei Li's postgraduate studies are in corporate and banking law, which he considers a growth area in China.

"I chose to study at Sydney because I had access to a lot of information, as the Australian government is very good at informing us about your country. I also worked closely with Blake Dawson Waldron in Sydney, who are my company's lawyers," said Wei Li.

As China is a Civil Law country, the system of law differs greatly from Australia's Common Law system.

"I find the Common Law system more useful than the Chinese Civil system, as it not only covers what is the law, but also provides an explanation of how the law came about," said Wei Li.

The Sydney Law School has eight Chinese postgraduate students, plus others from Asia, Europe, North America and Aftrica.

"I will continue to work as an in bouse corporate and banking lawyer when I return to China, as this will allow me to learn more about international business, which is an area rapidly growing in importance in China," concluded Wei Li.



# An International Faculty

The Faculty of Law at Sydney University is remarkable for its international engagement, as this special issue of The Sydney Law School Reports illustrates.

The Faculty has made profound contributions to International Law and its engagement in Comparative Law is without equal in Australia. This international focus is crucial.

An international dimension is now essential to any good legal education. Commercial transactions often involve relations with Indonesian or Chinese suppliers, the application of US securities regulation, or trade with the European Union. Knowledge of these legal systems can be invaluable. Indeed, increasing numbers of our Australian graduates spend time in practice in New York or London.

But the effect of international relations on Australian law occurs in areas other than Commercial Law. International standards or precedents are increasingly influential in domains as diverse as Administrative, Environmental, or Criminal Law.

Comparisons are also a very good way of getting to know one's own system. Often, we end up taking many things for granted. Comparisons can reveal the choices inherent in our own forms of legal regulation. Understanding our own system better, we can work to reinforce its strengths and remedy its weaknesses.

The Law Faculty's international character is therefore fundamental to its primary mission of training the lawyers of the future. It is also a crucial dimension of the research conducted in the Faculty. This Faculty has, over the years, made many fundamental contributions to Australian law and indeed to legal development internationally. Those contributions continue.

Their range, both in terms of subject and geography, has been astounding to a relative newcomer like me. The examples you will find in this newsletter are just that: examples of a much more widespread involvement. I was surprised on joining the Faculty to find that not only were there many colleagues who had worked on the law of the Asian

Pacific region, but several who had published on French Criminal, Consumer, or Environmental Law, or who had extensive knowledge of the civil law in the German tradition. My colleagues have worked on the implementation of new taxation regimes in developing countries. They have studied how doctors actually deal, in practice, with issues of euthanasia. They have explored the implications of globalisation for the prevention of crime.

One further indication of our international character is our attractiveness to students from abroad. Many students come to Sydney either for full programs or as exchange or Study Abroad students. They come because of the very high quality we offer; because we teach Australian law in a strongly comparative manner, using the law of other jurisdictions to illuminate our own; because of our long standing and substantial engagement in Asia and the Pacific; and because of our equal knowledge of American and European law. In addition to our expertise in Australian law, we can serve, in some ways, as the interpreter of Asian law to Europe and America, and vice versa.

We also teach abroad. We offer complete postgraduate programs in Jena, Germany, and each January, we offer a program in Chinese Law for Australian and international students in Shanghai. We will begin a similar program in Vietnamese law in Hanoi this year. We also offer, in China, a postgraduate unit in Chinese and Australian Sustainable Development Law for both Australian and Chinese students.

These initiatives are important from many perspectives. They enrich the education of Australian students, they deepen and enliven our knowledge of Australian law and they also explore the rapidly expanding links that exist between Australian law and the various legal traditions of the world at large.

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Professor Webber

# STUDENTS AT SYDNEY LAW SCHOOL

Sandra Albrecht is a German student studying for a Master of International Law at Sydney University. While completing her undergraduate studies in Germany Sandra spent time in Sydney as an intern in a barrister's chambers. Thus when considering studying overseas Sydney was her first choice.

"I spoke to a number of large law firms and corporations in Germany and was advised to study in an English speaking country. Although I had the opportunity to study in London and Amsterdam, Sydney was my preferred option.

"Sydney Law School offers a broad range of International Law subjects, which gives the course considerable depth.

"I want to work in the area of business and company law, which with the globalisation of business, requires an understanding of international law. It is also important to have studied in another language and to have an understanding of other legal systems,"

said Sandra.

While in Sydney Sandra has been working as a paralegal with Clayton Utz.

"Overall it has been a good experience studying in Sydney. I have learnt a lot about the Australian legal system, met a lot of different people and experienced another culture," said Sandra.



# An international education

The Sydney University Law School's commitment to the teaching of international law dates back to 1890, when Professor Pitt Cobbett, a well recognised international lawyer, was appointed Challis Professor of Law. In 1921 the university created the Challis Chair of International Law and Jurisprudence, appointing Professor Archie Charteris to that position. Professor Charteris held the Chair until his death in 1940. During this time he founded the Australian Institute of International Affairs.

Professor Julius Stone was appointed to the Chair in 1942 and held it for 30 years, leaving at the mandatory retirement age of 65. His prodigious accomplishments were summarised in the last issue of The Law School Reports. At the time of Professor Stone's retirement in 1972 the decision was made to create two chairs, one in international law and the other in jurisprudence.

The Challis Chair of International Law was taken up by Professor David Johnson, formerly Professor of International Law at the London School of Economics. He held the Chair until his retirement in 1986, only recently passing away on the 12th September, 1999. Professor Johnson was succeeded by Professor James Crawford, later Dean of the Faculty, who held the Chair until 1992 when he was appointed to the prestigious Whewell Chair of International Law at Cambridge University.

The current incumbent of the Challis Chair of International Law is Professor Ivan Shearer, who was appointed in 1993. Professor Shearer joined the Faculty from the University of NSW, where he was Professor of Law and Dean of the Law Faculty from 1984 to 1990.

Professor Shearer interprets his role broadly, with the aim of straddling the entire field of international law as comprehensively as possible. Having said that, each holder of the Chair has had specific areas of interest. Professor Shearer's areas of interest are International Law of the Sea, International Criminal Law and International Humanitarian Law. In fact he has just spent two weeks in Hamburg as a Judge Ad Hoc on the International Tribunal for the Law of the Sea, sitting on only the second hearing under the Convention.

# THE UNDERGRADUATE PROGRAM

International Law was made a compulsory subject in the undergraduate program in 1990. The then Dean, Professor Crawford, with the support of the Faculty, felt that in an age of globalisation students could no longer regard international law as an elective subject.

The undergraduate curriculum covers both Public International Law and Private International Law. Although traditionally taught separately, the two have been brought together.

"In the past encounters with international law were rare, but in today's transnational world lawyers should be able to recognise the application of international law in their practice and respond to the needs of their clients from a global perspective," said Professor Shearer.

## THE POSTGRADUATE PROGRAMS

The Faculty has always had postgraduate research students in international law, as well as many coursework LLM students. But it has recently added three post graduate courses: the Master of International Law (MIL); Graduate Diploma in International Law (GradDiplL); and Graduate Diploma of International Business Law (GradDiplBusL).

These appeal to both local and international students alike and are offered to both law and non-law graduates. They are especially useful for non-law graduates wishing to work for the public service and for non-governmental organisations.

The programs have received very strong support.

"We have presented the programs at a number of overseas universities as well as at Law Fairs in Europe and Asia. We are now focusing our marketing in areas such as the USA and Scandinavia, where we feel there will be keen interest," said Associate Professor Donald Rothwell, Program Coordinator.

# **COMPARATIVE INSIGHTS**

It is not just through international law that students are exposed to global thinking. The Law School curriculum is designed to weave into many different courses comparative insights from other jurisdictions. One example is the inclusion of British and American perspectives in the corporate law program.

Much of Australian corporations law is founded on the British model, and our course therefore pays close attention to British precedents. But American Law too has been increasingly influential, both in Australia and worldwide.

The courses in Sydney therefore draw heavily on both traditions, introducing students both to the British foundations and later reforms, and to the dramatic American innovations, especially in the field of Securities Law.

These are not the only comparative insights in the program. On the contrary, an opening towards developments elsewhere is common throughout our courses.

# TEACHING ABROAD

The Law School is active in off shore teaching programs, specifically in the Asia Pacific region, but also in Europe.

In 1993 the Law school established the Centre for Asian and Pacific Law (CAPLUS). The aim of CAPLUS is to promote knowledge in and understanding of the law, legal systems, constitutions and legal cultures of the countries of Asia and the Pacific.

This is achieved through seminars, conferences and research and teaching on Asian and Pacific law. CAPLUS arranges exchange programs and specialist courses for students, lawyers and scholars from throughout the region, sometimes in collaboration with the Australian Centre for Environmental Law (ACEL) and the Institute of Criminology in the Faculty of Law.

Recently, short courses have been held for seventy Vietnamese judges and procurators, and twenty-five Indonesian judges. There have been many visitors from China, Japan, Thailand, Korea, Burma and Singapore.

For Australian students, CAPLUS has developed two overseas schools. The Winter School in Shanghai is organised in conjunction with the East China University of Politics and Law; the Winter School in Hanoi with the Vietnamese Institute of International Relations. Both teach the law of the country to Australian and other students, in a way that also introduces students to the culture.

At the postgraduate level, ACEL has taught Sustainable Development Law in Beijing and Wuhan, bringing together Chinese and Australian students. This builds upon the close research links now existing between Wuhan and Sydney in the environmental field.

The work of CAPLUS is just one example of the commitment of the Sydney University Law Faculty to the teaching of law on an international scale. Another example from the other side of the world is the work of the Faculty at the Friedrich-Schiller University in Jena, Germany.

In 1997 Professor Alice Tay put a proposal to the then Dean of Law at Friedrich-Schiller University, Monika Schlachter, that the two schools develop a program to allow German students to study a Sydney LLM in their own country.

That program is now up and running, with the LLM available to students studying in Jena. The masters program is exactly the same as that run in Sydney (although unit choice in more restricted) and is taught by Sydney University staff using Friedrich Schiller University facilities. The first students are about to graduate, with two travelling to Sydney in October to participate in the ceremony here.

Research is an important component of the work of any Law School. At Sydney our staff are doing important and exciting work in many areas. Often this work has an international character, adding to the international reputation of the Faculty.

The work of Wojciech Sadurski in the area of philosophy of law is a good example of the value of comparative insight on issues such as freedom of speech. The work of Mark Findlay on the globalisation of crime is helping policy makers to rethink their approach to crime prevention by looking beyond our shores.

According to Professor Sadurski, research into the philosophy of law is, by its very nature, an international undertaking.

Professor Sadurski's recent work *Freedom of Speech and its Limits* - published in the Netherlands - is relevant to any legal system.

The work includes a vast number of examples from the USA,

Canada, Australia and Europe.

Research in this area transcends borders, exploring the foundational concepts that influence a wide array of jurisdictions.

Recently, his interest in constitutional theory has led him to work on the role of constitutional courts in Eastern and Central Europe.

# RESEARCHING THE WORLD

From September of this year, Professor Sadurski will be on temporary

leave from the Faculty, occupying a research Chair in the European University Institute in Florence.

Another member of the Faculty, Associate Professor Mark Findlay, also undertakes research with an international

character, but in a very different field. Professor Findlay's area is criminal law. In his newly released book, *The Globalisation of Crime*, Professor Findlay argues that globalisation has created new, favourable and creative contexts for crime, which cross national boundaries.

Professor Findlay sees crime as one of a range of problems that comes from modernisation and development, thus making criminal law and the policing of crime part of global politics. He explores the consequences of this shift in focus for crime policy.

Associate Professor Findlay's work has attracted international interest. He has recently given two series of lectures on his work in Italy.

These are only two examples of what is a remarkably international research output, spanning subjects from comparative immigration law through comparative product liability to criminal procedure in France and Australia.

# AN INTERNATIONAL STUDENT EXPERIENCE

A truly international education benefits from students experiencing different cultures and legal systems. This is the premise behind a number of initiatives supported by the Law Faculty.

Probably the most popular initiative is our student exchange program. We have student exchange agreements with many of the world's fine Universities - Cornell, Texas and Duke in the USA; Queen's in Canada; Paris - Sorbonne; National University of Singapore; Humboldt in Germany; Utrecht in the Netherlands; Leuven in Belgium; plus there are a number of programs at the University level. Each term approximately fifteen students proceed in each direction.

Another example of this philosophy is a new program created in collaboration with a first-tier US Law School, the University of North Carolina (Chapel Hill). Together with Sydney students, a number of first and second year law students from across the USA attend lectures on areas of comparative law, visit our courts and socialise with prominent members of the Judiciary and the Faculty.

The program was developed by ex-pat Australian and Professor of Law at the University of North Carolina, Brian Bromberger. The program counts towards the students' degree and takes place during the northern summer.

This year, one of the units was on civil procedure, and the US students spent an eye-opening day at the NSW Supreme Court, organised by Mr. Justice Einstein. The students visited various hearings and were amazed to see the activist role the judge plays in an Australian court. This was followed by an afternoon tea in the judges' dining room where they mingled with the judges, asking questions and gaining valuable experience and knowledge.

Not only does the Law School foster exchange programs such as this, Sydney students also engage in competitions with a strong international dimension. One is the Jessup International Law Moot Court Competition.

Founded in 1959 by a group of international law students from Harvard University, Columbia University and the University of Virginia, the competition is named after Judge Philip C. Jessup of the International Court of Justice.

The Jessup Moot is an advocacy competition in which issues of international law are argued as if before the International Court of Justice in The Hague.

Since its inception the Jessup Moot has become the world's largest and most prestigious moot court competition. Today approximately 1,500 students from more than 300 law schools from almost 50 countries participate.

Australian law schools first became involved in 1977 with the Universities of NSW, Melbourne, Sydney, Adelaide, Monash and ANU competing for the right to represent Australia - the University of Adelaide ultimately winning that honour.

The number of Australian law schools competing has grown to fifteen. Of these only two can compete in the international round in Washington.

Sydney University Law School teams have performed extremely well over the last ten years, having won the right to represent Australia five times during the 1990s. In 1996, Sydney was the outright winner and in 1998 Sydney team member Houda Younan won the award for the best speaker in the international round in Washington.

In 1999, the Sydney team received valuable sponsorship from the NSW Bar Association, the Law Society, Mallesons, Clayton Utz, Norton Smith, Allens, the Federal Attorney General, Phillips Fox, Freehills and several individuals to defray the costs of travelling to the USA.



(L-R, BACK ROW) JARED COWIE, PROFESSOR IVAN SHEARER PROFESSOR JEREMY WEBBER (FRONT ROW) JENNY SINGLE SIMON FITZPATRICK AND MICHAEL IZZO



HOUDA YOUNAN

Banco Court for the 1999 Sydney it difficult to reduce in any respect. University Jessup Moot team. At the reception Houda Younan, a member of that Jessup, foremost, is a tale of camaraderie. My most the 1998 Sydney team and winner of immediate recollection of Jessup is not that of any spethe best speaker award at the interna- cific round of the competition. It is of collaboration with tional round, related her experiences in my fellow team members. It is of those nights we spent 1998 competition and gave some helpful tips to the departing 1999 team. of the time we resolved to employ the age-old method Her speech is reproduced here in full.

Jessup International Law Moot Competition from the perspective of a former participant. I have to say that I find it a devilish task to acquit. I am very proud of the achievements of my team in the Jessup International Law Moot Competition. However, the experience means so

On 17 March 1999 a reception was much more to me, and to them, than recognition. Jessup hosted by Chief Justice Spigelman in the cannot be reduced to a title or a label. In fact, I find

"Nevertheless, for ease of consumption, I would say working tirelessly to master our respective subjects. It is of the dart board to scientifically gauge the cogency of "I have been asked to explain the significance of the our arguments. I also speak of camaraderie vis-a-vis teams from other states, and indeed, other countries. The atmosphere was not one of divisive rivalry, but rather one of common endeavour. The global nature of the competition is one of its most endearing qualities.

"Jessup is about the process of acquiring expertise,

# INTERNATIONAL VISITORS (THE PARSONS SCHEME)

The Faculty has many fine international visitors. They come in many capacities, but the chief vehicle for attracting visitors is the Parsons Scheme.

In 1983 a scheme to sponsor visitors of high academic standing was introduced. The scheme aims to integrate visitors into the research and teaching of the faculty for the benefit of staff, students and the visitors. In 1986 the scheme was officially named 'The Parsons Scheme', after the eminent tax law specialist and long standing member of Faculty, Professor Ross Parsons, on his retirement.

Visitors selected for the scheme are given some financial assistance, plus administrative support and contacts. Faculty members sponsor the visitors encouraging interaction.

While at the Faculty visitors often give staff seminars, assist with the continuing legal education program and may also act as a guest lecturer. On a less tangible level, visitors benefit the Faculty through the exchange of ideas.

The quality of Parsons' visitors is very high. Some recent visitors include David Lyons, Professor of Philosophy of Law, Boston University; Professor Robert Misner, a specialist in criminal law from Willamette; Professor Susan Boyd, a family lawyer from University of British Columbia, and Professor Jack Beatson, a specialist in contract and public law from Cambridge University.

Professor Claire Young was a visiting professor to Sydney University from February to May 1999, having taken up the Dunhill Madden Butler Visiting Chair of Women and Law.

Professor Young is a professor of tax law at the University of British Columbia in Vancouver Canada. She has a special interest in the application of feminist legal theory to tax law and policy. A prolific writer, she is the author of numerous articles and co-author of two books on tax. Professor Young is also involved in major research projects in Canada, including a major study on the impact on women of delivering social programs through the tax system.

While visiting the University of Sydney, Professor Young undertook numerous speaking engagements, and delivered the Dunhill Madden Butler lecture, entitled "A Taxing Time for Women: Feminism Confronts Tax Policy." She also spoke to less formal groups within the faculty, among students at other universities, and at the offices of Dunhill Madden Butler in Sydney, Melbourne and Canberra.

"Feminist legal theory has an application in all areas of the law, not just those traditionally associated with women, such as family law. Women's issues are being considered in more mainstream areas such as tax, commercial law and superannuation law.

"Feminist legal theory is becoming more accepted and is now seen as a valuable theoretical tool that allows us to work through the impact of law on women," said Professor Young.

Internationally there are only three Chairs focusing on women and the law, Sydney, British Columbia and Cornell.

"The fact that the University of Sydney Law Faculty has established this Chair speaks for Sydney's and the firm's commitment to this important element of law and policy, as does the large number of staff at the Faculty undertaking feminist and progressive work," commented Professor Young.

which has professional ramifications beyond the confines of the competition. A process from the coach of our adversaries: 'Dear God, it's Sydney!' I have to admit I found facilitated, of course, by the expert tutelage of Associate Professor Rothwell, and the incomparable expertise of Professor Shearer. It was to the chagrin of our competitors that we were wont to quote our very teachers as authority for the propositions we were positing. It was, nevertheless, a much coveted privilege to do so.

"Jessup is about persuasion and justification, which, in the context of any mode of communication - not just advocacy - is an invaluable tool to possess. I recall fondly the time that Beau Buffier, my learned co-agent, courageously attempted to convince the bench that, yes indeed there were 'common garden-variety war crimes'. I believe he gave genocide as an example.

"It is indicative of the indelibility of the experience that I can only think of it in terms of superlatives: namely, the most intense, the most challenging, and the most worthwhile experience I have had hitherto.

"I should mention that the University of Sydney had quite an outstanding reputation in both the regional and international rounds of the competition. I recall walking into our first moot in Canberra, only to be greeted by a blood-curdling cry

"I recall, with particular fondness, the second round of the competition in Washington. We were the respondent against the smooth and alluring Puerto Rican team. I remember that moot well, because after what was, I consider, our best performance, the senior agent for the applicant approached me, congratulated me heartily and the told me that she had never known fear quite like that we induced in her during the preceding two hours. Machiavelli wrote that it is better to be feared than loved. Fortunately, the University of Sydney is both of these things.

"I have heard it said often, by way of mitigation or qualification, that Sydney University has a tradition of success in the Jessup competition; as though it were some kind of birthright, something to which you were invariably born. That, of course, misstates the point and, above all, detracts from your achievement. It is not tradition that secures success, but your success which perpetuates the tradition.

"This year's Jessup team is a testament to success, and thereafter, to tradition. I congratulate them upon that, and hope that, with cup in hand or not, they return with as much thunder as the Americans will permit them to steal."

# FORMER DEAN NEW PRESIDENT OF LAW REFORM COMMISSION

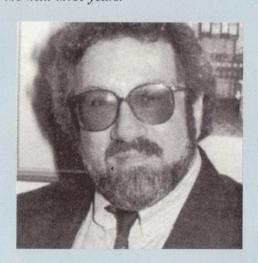
On 7 June 1999 Professor David Weisbrot, a former Dean of the Sydney Law School and later Pro Vice Chancellor of the College in which the Law School is located, took up the position of President of the Australian Law Reform Commission.

Those of you who know David will know that he will be an energetic, imaginative and canny President of the Commission. He was largely responsible for the introduction of small group teaching in the Faculty. He has a good sense of institutions and how they can be made to perform at their best.

David has extensive experience in Pacific Island law having served as a Commissioner of the Fiji Law Reform Commission and a consultant to the Papua New Guinea Law Reform Commission. From 1978-1979 he was Dean of the Faculty of Law at the University of Papua New Guinea.

He is the first academic to be appointed President of the ALRC. He remains on leave from the University and intends to return at the end of his term.

With his extensive knowledge and experience, and with a particular expertise in the area of law reform, Professor Weisbrot is exceptionally well qualified to lead the Commission during the next three years.



# INTERNATIONAL LAW REFORM

# **Professor Richard Vann**

Sydney University has developed, over the years, a considerable reputation in the area of international law reform.

One example is the work of Professor Richard Vann. Professor Vann specialises in international and corporate taxation. He is a member of the Global Faculty of New York University and travels to teach in the US every second year. He sits on a number of eminent groups, including the Comparative Tax Law group at Harvard Law School, the OECD Tax Treaties Group and the International Tax Group.

During the 1990's Professor Vann has twice been seconded to international organisations seeking his assistance in developing tax legislation and training for, among others, post communist societies. From March 1990 to February 1991 he worked with the IMF drafting tax laws for developing countries. Together with Sydney University Law School colleagues Lee Burns, who spent two and a half years at the IMF, and Peter Harris who is currently with the IMF for a year, he was involved in drafting tax legislation for 30 countries.

At the OECD from September 1992 to January 1995, Professor Vann ran a substantial technical assistance program for the countries of the former Eastern bloc. This included the establishment of five training centres, which ran courses on tax policy, drafting legislation and tax treaties. The OECD is now using this program as a model for similar projects in Asia and Latin America.

Besides the work of individual faculty members such as Professor Vann, the research centres in the Faculty also are engaged in extensive technical assistance work.

## CAPLUS

In 1997 the Centre for Asian and Pacific Law (CAPLUS) entered an agreement with the Australian Agency for International Development to improve the research skills of the Research Centre for Human Rights, Ho Chi Minh National Academy of Political Science. Over the past two years CAPLUS has compiled a library of some 450 texts at the Academy; organised a study tour of Australia for eleven members of the Academy, and held a seminar in Ho Chi Minh City on the philosophy and

protection of human rights.

Other successful programs have included a United Nations Development Programme sponsored course on Commercial Legal Frameworks held for seven members of the Ministry of Justice; a legal aid study tour sponsored by the Swedish International Development Agency and a course in Public International Law for Vietnamese jurists sponsored by the Australian Indochina Legal Cooperation Programme.

More recently CAPLUS has been working with the United Nations Development Programme in their 'Strengthening the Judicial Capacity of Vietnam' project. The project involves bringing senior members of the Supreme People's Court of Vietnam to Sydney for three one-month long intensive training courses. The courses are supplemented by visits to relevant institutions, meetings with senior judicial officers and legal practitioners, and workshops on legal research.

# Sir Maurice Byers, CBE, QC

Sir Maurice Byers died this past January. A group led by Mr. John Sackar QC and other members of Sir Maurice's chambers has begun an effort to create a postgraduate scholarship in constitutional law in his memory. The group has raised \$13,000. The target is \$100,000, to produce an annual scholarship of \$5,000.

Professor Ivan Shearer knew Sir Maurice well. He penned the following tribute:

After more than 50 years practice at the Bar Sir Maurice Byers retired at the age of 80 and died in 1999 aged 82. He was Solicitor-General of Australia from 1973 to 1983. Among the many other public positions he held were Chairman of the Australian Constitutional Commission, 1985-88, and Chairman of the NSW Police Board, 1983-88. Above all he was a subtle and persuasive advocate whose mark on the law - especially the public law - of Australia will be enduring. It has often been remarked that he was "the greatest Australian lawyer never to have been appointed to the High Court."

As Solicitor-General, and before that time, Byers had a remarkable record of successes before the High Court in constitutional cases. For a long time the Court was presided over by Chief Justice Sir Garfield Barwick. Barwick revealed in his memoirs that he never liked to leave the hearing of an appeal without having made up his mind. For this reason his interrogation of counsel could be robust and abrasive. Byer's method of dealing with Barwick often took the form of a deep chuckle, as though at some wit in Barwick not plain to others, whilst carefully and swiftly crafting in his mind a suitable riposte. Most of the other members of the Court were receptive to his succinct style of advocacy, which in constitutional cases sometimes bordered on the poetic or even mystical. As his fellow great advocate and friend, T E F Hughes QC, recalled in his recent tribute: "In the field of appellate advocacy in the High Court, in which activity he acquired the pre-eminence of a benign collossus, he invented a code which those on the bench, as accustomed listeners, always, or near-

ly always, understood, whereas sometimes his hapless opponents were left with the task of rising to answer an argument which they thought had only just begun."

In person Byers was unfailingly kind and considerate. He was a generous host, who did not omit academic lawyers from his wide circle of friends. His Pickwickian figure presiding at such functions, laced with irreverent fun, will always bring warm memories to those who were fortunate enough to be his friends. Donations are tax deductible. Cheques should be made out to the University of Sydney, noting the purpose, and sent to Professor Jeremy Webber at the Faculty of Law. All donations will be held in trust by the Sydney Law School Foundation.

# The Australian Institute of International Affairs

The NSW branch of the Australian Institute of International Affairs (AllA) was formed in 1924 as the first branch of the British Institute of International Affairs (as it was then known) outside Great Britain. It was the product of the drive and enthusiasm of one man, Professor Archibald Charteris, Challis Professor of International Law and Jurisprudence at the University of Sydney.

The Sydney Law School's links with the AllA continue today with the current President, John Melhuish a graduate of the class of 1950. John heads up an Institute that today boasts some 330 members, an extensive library and an enviable array of high calibre speakers.

The Institute is an independent and non-political organisation with the aim of stimulating interest in, and understanding of, international affairs and foreign policy both among its members and the general public. Mr. Tim Fischer, former Deputy Prime Minister paid tribute to the AllA on 21 June, when he commented that the AllA's influence on foreign policy has been greater than is often realised.

Support for the AllA is extensive, giving them the ability to attract speakers of high standing in the international and business community. The Sydney Law School Dean, Professor Jeremy Webber, spoke at the Institute on the evening of Tuesday 3 August. Professor Webber chose to focus on his Canadian background, speaking on the topic "Secession under the Rule of Law: Reflections from the Canadian Case".

# JOHN MELHUISH, PRESIDENT, AIIA, CLASS OF 1950

John has had an extensive career in international affairs, both in Australia and overseas. He joined the Australian Foreign Service in 1953. His first overseas posting was to the Australian High Commission, Colombo. In 1960 he was appointed Australian representative to Korea, followed by a stint at the Australian Embassy in Washington.

In 1967 John was appointed Consul General, Bombay, a post he held until 1970 when he moved to New Zealand as Deputy Chief of Mission. John then retuned home to hold senior Foreign Affairs positions in Australia, before returning overseas as High Commissioner to the Solomon Islands.

In 1980 John came back to Australia to take up the post of Chief of Protocol at the Department of Foreign Affairs in Canberra. His final overseas posting was as Consul General, San Francisco, a position he held from 1983-86.

As a representative of Australia, John has worked with people from right across the globe, from VIPs and politicians to officials, business executives and academics. His background is one that eminently suits his current role as President of AlIA and his knowledge and passion for international affairs is an asset to the Institute.

# STAFF PROFILE

ASSOCIATE PROFESSOR GREG McCARRY

In March, long-time Faculty member Greg McCarry left to join the magistracy.

As a member of the Class of '62, Greg was in illustrious company with High Court justices Murray Gleeson and Michael Kirby as contemporaries.

On graduation Greg began his career in government, acting as a Crown Solicitor and also serving on the Public Service Board. During this period he also lectured part time in the Faculty.

He was appointed to the full time teaching staff in 1976 and spent the next 23 years teaching employment and industrial law as well as constitutional law.

Greg is the author and co-author of many books and articles, including co-authorship of the standard text Law of Employment.

While building his teaching and research career, Greg also spent ten years as a consultant to the Employment and Industrial Law section of Freehill Hollingdale and Page. Even with such a full working life, Greg found time for his legendary jogging routine.

Since his appointment as a magistrate with the Local Court on 22 March 1999, Greg has presided over matters throughout the Sydney metropolitan area, bringing to his task the humanity and insight long appreciated by his colleagues and students.

From the Faculty and all those students that have benefited from his knowledge, we wish Greg the very best.

# **Transformations**

On 29 April the Law School celebrated the opening of two extensively refurbished rooms on Level 13, to be known as the Minter Ellison Conference and Meeting Rooms.

The Law School now has an exceptional facility for interaction between the Faculty and the community. The design is modern, functional and versatile.

Many members and friends of the University attended the ceremony including Chancellor Dame Leonie Kramer, Acting Vice Chancellor Judith Kinnear and Mr. Philip Clark, Managing Partner of Minter Ellison, who with Dame Leonie, unveiled the plaque dedicating the room.

This project used funds donated by Minter Ellison as a result of the Law School's last building campaign. If, as now seems likely, the plan to build on campus is revived, the firm's sponsorship will be credited towards new sponsorship in that campaign.

In his remarks, Philip Clark emphasised the firm's support for the Faculty:

"Our firm is only as good as the people we can recruit, thus the future of our firm is tied to the graduates from the law school."

Previously, on 25 March, the Faculty had celebrated the opening of another room on Level 13, the Postgraduate Research Work Room.

This room was opened by Deputy Vice Chancellor Ken Eltis. Its construction had been paid for out of the university's capital budget. It will be a terrific facility, supporting the Faculty's strategic goal of postgraduate research.

Both projects were designed by architects Lahz Nimmo, and are highly attractive and functional.



THE CHANCELLOR, DAME LEONIE KRAMER & MR PHILIP CLARK OF MINTER ELLISON, DECLARE THE MINTER ELLISON ROOMS OPEN



(L-r) Dimity Kingsford-Smith, Mary Crock, Patricia Apps, The Deputy Vice Chancellor (Academic & International) & Professor Judith Kinnear

# JULIUS STONE INSTITUTE OF JURISPRUDENCE UPDATE

On the weekend of August 13 and 14, the Julius Stone Institute of Jurisprudence was launched with an exceptional conference - on the Philosophical Foundations of Constitutional Reform - and a gala dinner in the University's Holme Building. The conference and dinner were both very special occasions. There will be a full report in the next issue of the Law School Reports.

This is simply a brief note to remind people that the fundraising campaign for the Institute is continuing. The campaign has gone very well indeed. \$700,000 has now been pledged, which will provide an inflation-protected income of \$35,000 annually for the Institute. Very significant commitments have been made by the Education Heritage Foundation (\$250,000), the James Wolfensohn family foundation (through the University of Sydney USA Foundation) (\$100,000), Mr. Zeke Solomon (\$50,000), Professor Jonathan and Margaret Stone (\$20,000), Mr. David Baffsky (\$15,000) and, most recently, a very generous pledge by the Honourable Dennis Mahoney (\$200,000). We are especially pleased that the first donation was from Julius Stone's widow, Ms Reca Stone, who will be giving \$5000 annually. Many have given amounts of \$1000 or more. A full list of donors will be published in the next Law School Reports.

We are deeply moved by this generosity. It will permit us both to honour Stone as he would have wished and to contribute mightily to rigorous and challenging legal theory in Australia. New or supplementary donations should be made out to the "University of Sydney", indicating the purpose, and sent to Professor Jeremy Webber of the Faculty of Law. They are fully tax deductible. Large donations can be spread over a number of years. If you wish information on specific elements of the campaign or naming opportunities, please contact Professor Webber at 9351 0260.



(L-R) Professor Ben Boer, Associate Professor, Lye Lin Heng,
Deputy Director, Asia Pacific Centre for Environmental Law at the
National University of Singapore, Ms Rosemary Lyster,
Associate Professor Luo Ji, Research Institute for Environmental Law,
Faculty of Law, Wuhan University, The Hon. Justice Michael Kirby,
Professor Wang Xi, Vice Director Research Institute for
Environmental Law, wuhan University, China



THE HON. JUSTICE MICHAEL KIRBY
WITH MISS ZENA SACHS

# ALUMNI PROFILE

FRANK GALLAGHER

This is our second Alumni Profile, this time focusing on the Honourable Mr. Frank Gallagher of the class of 1933. As a member of the Coal Industry Tribunal, the NSW Industrial Commission and the Australian Arbitration Commission, Justice F. H. Gallagher made his mark on Australian industrial law in many ways.

Frank Gallagher entered the Law School in 1928. Some 71 years later he still has a vivid recollection of his lecturer Sir John Peden as an excellent lawyer and interesting speaker - and someone who would not tolerate interruptions.

Frank spent his early years after graduation

with the Solicitor for Railways, working on industrial matters and workers compensation. After 16 years with the railways, he was called to help bring peace to the then troubled coal industry. He was appointed to the Coal Industry Tribunal in 1947.

In one famous decision, Justice Gallagher

deliberated on an application

for long service leave for miners. At the time long service leave was a benefit almost exclusively conferred on public servants. Before the award was made the then Prime Minister, Ben Chifley, made representations to Justice Gallagher that he wanted all employees to have long service leave within 20 years - that was in 1949. During the hearing the Miners' Federation took strike action that saw the army brought in to extract coal. After the strike the award was granted, but was subject to the deletion of one week as a sanction for the strike action. Within 12 months most Australians had long service leave.

In 1955 Frank was appointed as judge of the NSW Industrial Commission, and in 1957 was made Deputy President of the Australian Arbitration Commission.

While at the Australian Arbitration Commission, Justice Gallagher was assigned to the maritime industry, an area that greatly interested him. His work often involved settling disputes on ships to ensure they sailed on time or travelling with crews to inspect work practices while at sea.

In 1967 Justice Gallagher was called upon by the Fiji government to constitute an Industrial Tribunal to determine a wage claim by employees at Nadi Airport.

We asked Frank what he saw as his greatest accomplishment. He highlighted his role in settling the dispute in the coal industry at a time of considerable turmoil. Frank also wished to place on record that since his retirement in 1975, Deputy President David Duncan has carried on the work of the tribunal with particular success. When asked what was the most enjoyable aspect of his career, Frank identified his work with the maritime industry. He liked the sea and got along well with the crews, which is evidenced by his life membership of the Maritime Cooks Association of Australia.

# CHIEF JUSTICE MURRAY GLEESON RECEIVED HONORARY DOCTORATE OF LAWS

On May 7, the University of Sydney conferred the degree of Doctor of Laws (Honoris Causa) on Chief Justice Murray Gleeson of the High Court.

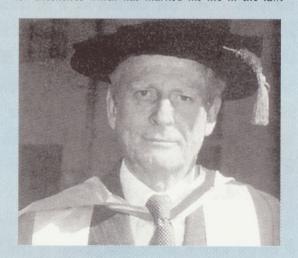
Murray Gleeson graduated with a First Class Honours degree in Law from the University of Sydney in 1962. He was called to the Bar of the NSW Supreme Court in 1963, beginning a very successful career which culminated in his appointment as Queens Counsel in 1974.

His judicial career began in 1988 when he took office as the Chief Justice of NSW, a position he was to hold for ten years. He served as Lieutenant Governor of NSW from 1989 to 1998, and was awarded the Companion of the Order of Australia in 1992 for services to the law and the Crown.

Justice Gleeson's appointment as Chief Justice of Australia in 1998 was greeted with bipartisan approval, an indication of the high regard in which he is held throughout the judiciary and the legal profession.

Chief Justice Gleeson's association with Sydney University since his graduation has been close and constructive. He served as tutor at St Paul's College between 1963 and 1965, and was a part-time lecturer in Company Law from 1965 to 1974. More recently, as Chief Justice of NSW, Murray Gleeson chaired the Faculty's Institute of Criminology.

Chief Justice Gleeson gave the occasional address at the ceremony, emphasising that the practice of law carries an obligation of service and a commitment to a high standard of behaviour. His speech demonstrated the high regard in which he holds the legal profession, conveying a passion for excellence which has marked his life in the law.



# PRIZE GIVING CEREMONY

ON THE 6TH OF MAY 1999 THE SYDNEY LAW SCHOOL RECOGNISED THE EXCELLENCE OF ITS STUDENTS AT ITS ANNUAL PRIZE GIVING CEREM ONY. AS ALWAYS THE CALIBRE OF STUDENTS WAS EXCEPTIONAL, ASSURING ALL THAT THE FUTURE OF THE PROFESSION IS IN GOOD HANDS.

STONE'S SON, CHALLIS PROFESSOR OF ANA



THE 1999 DISTINGUISHED UNDERGRADUATE SCHOLARS



THOMAS RIEMER WAS AWARDED SEVEN PRIZES, INCLUDING THE UNIVERSITY MEDAL IN LAW, THE IVAN ROBERTS SCHOLARSHIP & THE RG HENDERSON MEMORIAL PRIZE.



WINNER OF THE JULIUS STONE PRIZE, KATHARINE JEFFREYS, IS PICTURED HERE WITH PROFESSOR tomy Jonathan Stone and Julius Stone's research ASSISTANT OF FORTY YEARS, ZENA SACHS.



PRIZE WINNERS AND DONORS PICTURED ON STAGE WITH SYDNEY LAW SCHOOL Dean Ieremy Webber and Dame Leonie Kramer.

Thomas Riemer presented a very eloquent and witty speech which gives some insights into how students such as Thomas spend their time at the Law School and what they see as the positives of the education experience. For these reasons we you will find it amusing and insightful.

our which the Faculty has done me by inviting me to speak this afternoon.

I have for several weeks been racking my brain for inspiration, and for content, for this address. Early in the piece, I got it into my head that the only permissible method for commencing such a speech is with some humorous anecdote or tale -- a clear example of clutching desperately at straws. As it happens, the Law School library does hold a rather droll volume of lawyer jokes produced by the Federation Press several years ago. and so on. I came across this book not in the course of a meticulous and systematic program of research connected with today's festivities, but on a rather successful episode of procrastination during a study vacation last year. This admission will merely serve to confirm what several of my colleagues have long suspected - that I have an unhealthy, nay, perverse, familiarity with what might be described as the library's legal trivia collection. In a similar vein, I am forced to admit that, making good use of some study time at Fisher Library, I read the whole of Kitty Kelly's scurrilous and undoubtedly defamatory - but highly entertaining - biography of Nancy Reagan. In my defence, all I can say is that if nothing else my university career has proved, beyond question, that the social hub of the Law School is not the Union cafeteria on Level 5, but is in fact the library, and the area surrounding the photocopiers in particular. I think that the only practical advice

At the May 6 Prize Giving Ceremony, University Medalist I can offer those who are yet to complete the undergraduate course of study is that one can never spend too much time, or money, on photocopying.

The truth of the matter is that I do not have any profound insights to offer you about the nature of law nor of the workings of the legal system, and I certainly have no bold proposals for reform. Looking back on six years of undergraduate study, I feel thought it appropriate to publish the speech in full. We trust - If I may use a rather tacky and worn analogy - rather like the Titanic must have felt when struck by the iceberg: possessing an uneasy familiarity with what lies on the sur-May I begin by acknowledging, and expressing my appreciation, for the excessive hon- face, but having a vary nasty suspicion that the substance of matters lies below in the gloom. I seem to recall vaguely that in first and second year I looked forward to the time somewhere at the end of an apparently endless degree when I would have it all 'worked out' and it would all 'make sense'. I think that I was expecting the same kind of enlightenment that Keanu Reeves appears to experience in The Matrix when he finally discovers that he is 'the one' - and I apologise to those who are yet to partake of that particular cinematic feast. Speaking only for myself, I think the reality of the situation The jokes are of a familiar variety: 'What is the difference between a lawyer and a shark?', is that the passage of time has merely made me more and more aware of how much there is yet to learn and to digest, and how the last six years has represented only the scratching of the surface. That is a humbling realisation to come to, and a disconcerting one. But it has its uses, because the absolute mastery of their chosen fields displayed by those who have taught me over the course of this degree is rendered even more worthy of admiration, though the achievement appears unapproachable.

> With this rather long-winded introduction behind us, I would like firstly to offer some reflections on studying at this Law School (and certain associated matters), and secondly to pay tribute to certain persons.

One of the first pieces of reading given in Legal Institutions in 1993 concerned the dreaded Pearce Report into legal education in this country, a report which was highly critical of the course offered at this Law School. The report claimed that graduates

of the school took the view that the course did not provide a good framework for professional development. Over the course of my degree I have often come across those who criticise this institution for focusing too heavily on technical and theoretical issues and for failing to guide students in the practicalities of the provision of legal services. It is no doubt true to say that a lawyer who possesses an unparalleled knowledge of the nature and operation of the principles of foreseeability in the law of negligence but who is unable to draft a statement of claim is not much use to someone who has just been run over by a bus. And I cheerfully admit that if I were arrested and thrown into jail on leaving this building I would not have the first idea what to do. I would probably employ techniques drawn variously from The Bill and NYPD Blue, ask for a cup of tea and 'plead the fifth'. While there is certainly something to be said for practical legal training, it seems to me that there is little to be gained from teaching the practicalities associated with the legal profession without first providing instruction in fundamental legal principles. And I can therefore say that I am glad to have attended a law school which still continues to give a solid grounding in subjects which are generally (if not universally) regarded as foundational - such as torts, contracts, property, criminal law, evidence and so on. I am glad to have attended a law school Law (with focus on debt and equity financing) and Migration Law (which concentrates on those in situations of desperation). I forebear to mention Cricket and the Law. And I think we are extremely fortunate to have studied at an institution which continues to emphasise the importance of jurisprudence in a program of legal studies. One of the more depressing aspects of the last six years had been the occasional encounter with practitioners often of several years standing vehemently expressing their view that the study of jurisprudence is a waste of time, largely because (apparently) it is of no assistance in practice and is irrelevant to the provision of satisfactory legal services to You're all champs.

one's clients. I am, of course, in no position to lecture practitioners on the manner in which they should conduct their relations with their clients, although I do think that the idea of the law as just another service industry, where the satisfaction of customers' desires is paramount, can be taken too far. Suffice it to say that in my view the study of jurisprudence provides one with context to support and enrich the close and detailed examination of statute and case law which forms the necessary staple of law courses; it shifts the focus away from the minutiae to the broad patterns and movements, and thereby illuminates both. It is, I think greatly to the credit of the Faculty that the undergraduate degree starts and finishes not with a mass of rules and principles, but with an examination of the philosophical foundations of those rules and principles.

It is customary on these occasions to offer some vote of thanks, but as they say at the Oscars, there are too many people to name individually. I would like first to offer my personal thanks to my parents who, like many others, have made considerable sacrifices over the twenty years from kindergarten to this point. I would also like to pay tribute to the academic staff of the Faculty. It is not its architecture which continues to earn this Law School its excellent reputation - in terms of seventies brutalism, the College of Law building at St. Leonards is much more impressive, with which caters to different interests by offering courses as disparate as Advanced Corporate numerous huge chunks of concrete hanging at deeply inappropriate angles. Rather, the Faculty's reputation is due to its academic staff who have, in my experience, been uniformly outstanding, and I thank you for your scholarship, encouragement and patience, even under the most trying of circumstances. I will never forget Eric Ghosh bravely continuing to lead a Legal Institutions group in a Carslaw tutor room which gave every impression of being demolished about us. Finally, I would like to pay special tribute to the friends and colleagues who have accompanied me over the last six years, either in whole or in part, and those whose companionship made the daily grind worth it.

# THE Alumni update - news of alumni

Thanks to all those who completed the response form in the last issue of the Sydney Law School Reports. Following are a number of small profiles on some of our distinguished alumni.

### 1938 Athol R Moffitt

Admitted to the bar in 1938, appointed QC in 1958 and was a Supreme Court Judge from 1962-1984. President of the Court of Appeal 1974-1984; Royal Commissioner (organised crime) 1972-1973. War years spent with the RAA going from Gunner to Captain. Prosecutor at Japanese war trials in Labuan Borneo in 1946. After retirement author of a number of works including A Quarter to Midnight - Organised crime and Decline in Independence of our Institutions (1975); Protect King Fisher (Borneo and Sandakan) (1978); Drug Precipice (co-author - 1998) and Drug Alert (Drugs - For Parents and Teachers) (1998).

# 1939 John O'Brien

Retired Supreme Court Judge of the Criminal Division

## 1941 Hugh Gilchrist

Retired in Canberra, writing Volume 3 of a history of Australia's relations with Greece. Volume 2 was launched at Sydney University by Philip Ruddock in 1997 and Volume 1 by Dame Leonie Kramer in 1992.

# 1962 Thomas J Handler

Retired partner, Baker & McKenzie London Solicitors, specialising in dispute resolution and environmental law. Has published and lectured widely in these specialisations. Community and commercial mediator, Director/Trustee of environmental law charities, neighbourhood watch coordinator.

### 1965 Terrence S Wolfe

After a short period as a solicitor, 15 years at the Bar and 15 years as a Crown Prosecutor, Terrence has now retired. He will involve himself in community volunteer work and proposes to study for a Master of Laws.

### 1968 Norman E Delaney

In 1975 Norman became the first full time barrister at Lachlan Macquarie Chambers in Parramatta, after having been a solicitor. After 30 years as a solicitor and barrister, Norman was appointed Judge of the District Court in February 1998.

# 1968 John C McCorquodale

After his retirement as Deputy Government Solicitor in the Commonwealth Attorney-General's Department, John undertook two United Nations consultancies on international double taxation in Beijing (China) and Pyongyang (North Korea). He has maintained his doctoral interests and published a book and many articles on Aborigines and the law.

## 1974 Frank King

Has now retired from over 30 years practice as a sole practitioner in commercial law in the Sydney CBD. He continues to indulge his passion for travelling.

### 1975 Denis Farrar

Upon graduation Denis worked for ALAO in Canberra when it was in its infancy, then for Freehills. Since 1984 he has worked in his own firm with a variety of partners. Denis specialises in family law and the firm now comprises 7 solicitors specialising in this area. He is also President of the Law Society of the ACT and is active in legal aid, mediation and counselling areas.

### 1976 Vera Dunn

Has practised almost continuously since 1977 in various NSW Government departments as a government lawyer. Her areas of practice have included conveyancing and building construction law but now personal injury. Like many women she juggles a career with a family and two children. She has been with the Department of Corrective Services.

### 1977 Daniel E Tyler

Daniel is a senior pilot with Care Flight Rescue and Medical Helicopters. He also has a part-time business called Heli-Consultants Pty Ltd., specialising in Heliport Development and Helicopter Operations. Daniel is President of the Helicopter Association of Australia, and is on the board of directors of the National Emergency Medical Service Pilots Association (USA).

# 1978 James F Rodgers

Married with two children, James has been a senior housemaster at St Ignatius' College, Riverview since 1996 and is currently studying for a MEd (Admin) degree through UNE. James is actively involved in cricket play-

ing, administration and coaching at Sydney University Cricket Club, the Sydney Cricket Association and at St Ignatius' College as coach of three 1st XI Premierships.

# 1985 Bruce R Harris

After practising for six years in Sydney and London, Bruce obtained his MBA from the Australian Graduate School of Management. He is currently working as a management consultant for Andersen Consulting, specialising in organisational change.

# 1989 John A Franklin

After working for extended periods in both private and public practise, John became the Executive Director of the Law Society of Western Australia. Subsequently he became the Federal Secretary of the Electrical Contractors of Australia and is currently studying for his PhD in Dispute Resolution.

## 1990 Paul A Lewis

Paul is an associate at Thorntons Lawyers where he specialises in Family Law. He is also an experienced mediator and facilitator and the immediate past President of the Australian Dispute Resolution Association Inc.

# 1992 Graydon Dowd

Graydon is a senior associate at Blake Dawson Waldron

# 1992 Anthony J Rumble

Anthony is head of the Finance and Treasury Group at PriceWaterhouseCoopers. Completing his PhD ATAX in 1998, Anthony has consulted on corporate tax reform to the Australian Taxation Office, Treasury, OECD and the Business Coalition for Tax Reform.

# 1993 Ted Dwyer

Ted completed an MBA at the Macquarie Graduate School of Management and is undertaking a PhD in Paris, specialising in post-industrial retail markets.

### 1993 Michael J Wright

Michael was admitted as a solicitor in July 1993 and joined McClellands as a solicitor. He was appointed an associate at McClellands in 1996 and a partner in 1998.

### 1995 Andy Ching

Andy is an Associate Director, Equity and Derivatives
Trading for Citic Toner in Hong Kong.

Melinda McMullen, Co-ordinator, Alumni Relations

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The Sydney University Law Reports is **your** newsletter. We value input from graduates and staff; indeed, we depend upon it! The Editors intend to include direct feedback in future issues so put pen to paper or fingers to the keyboard and get in touch.



