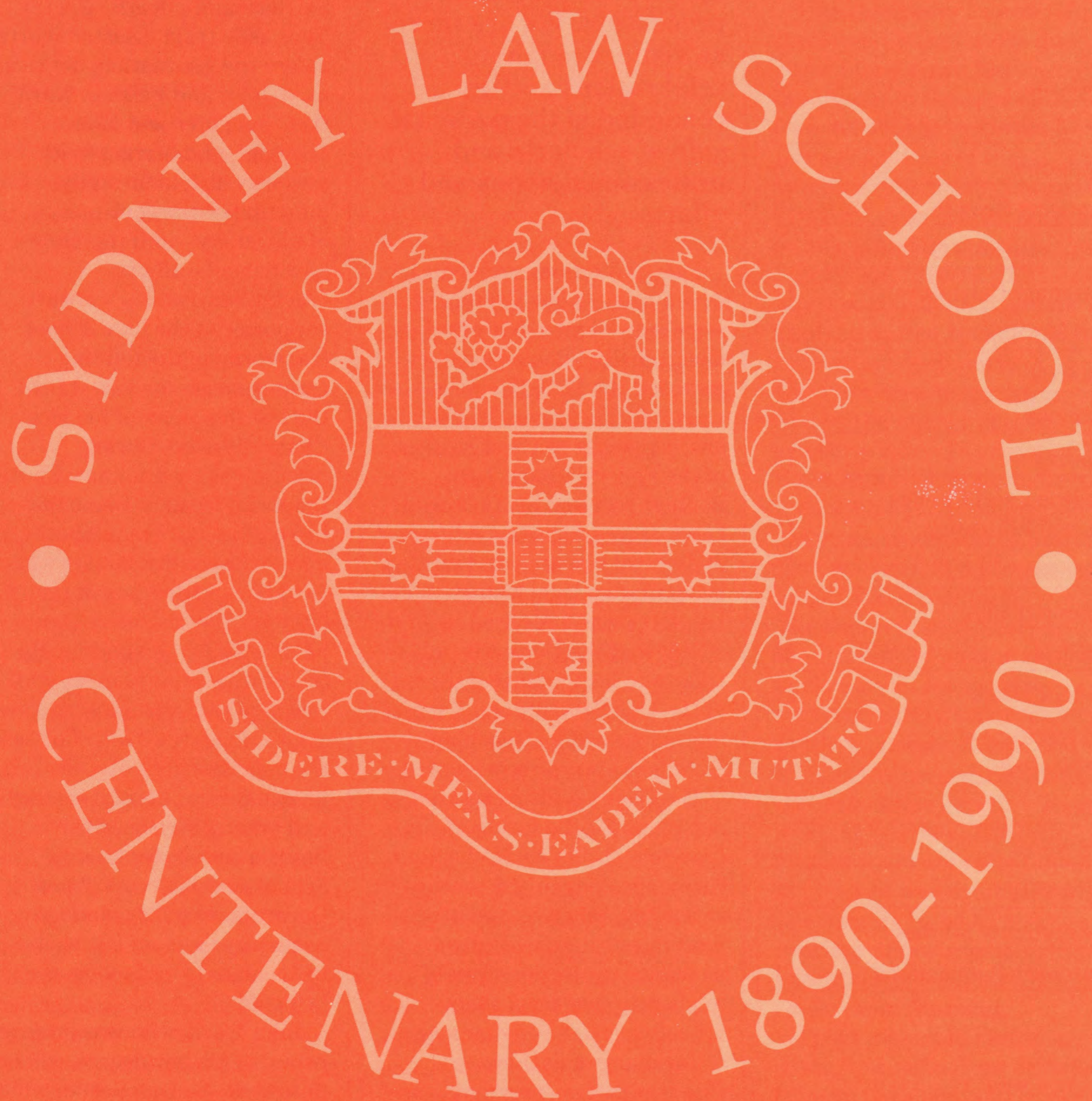


THE SYDNEY LAW SCHOOL REPORTS



VOLUME 1, NUMBER 3, 1990

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Law graduation ceremonies are always somewhat emotional experiences, even for the academics who make up the numbers in the procession. We are there as visitors to family celebrations and are reminded of the personal side of scholarly and professional hopes and efforts.

The graduation ceremonies which marked our Centenary were more than usually lively ones. Sir Nigel Bowen was awarded the LLD, (*Honoris causa*) for his service to the law, especially as Chief Justice of the Federal Court. John Bennett received his Doctor of Laws degree, based on a lifetime of archival research and writing in Australian legal history. John Landerer was honoured as a Fellow of the University, in tribute to his unstinting support of the Law School. John Wade's Special Award for Teaching Excellence was also presented.

The Dean's address laid out our plans for the future of the Law School. Justice Michael Kirby, speaking at the second ceremony, called on the new graduates to show idealism as well as professionalism in explaining new legal avenues for service to the community.

For many of us, however, this graduation ceremony was more significant as an ending than as a beginning. When I last attended a university graduation (before my study leave in 1989) Sir Hermann Black presided as Chancellor with all the sense of occasion and personal attention to the graduands which were

the hallmarks of his service. Professor John Ward, who always seemed particularly to enjoy the law graduations, was in active surveillance, flanked by Keith Jennings, the Registrar. Sir Hermann's death, and the Newcastle train disaster shortly before the graduation, depriving us of John and Patricia Ward, their daughter and Moira Jennings, and leaving Keith seriously ill, had abruptly punctuated the continuity of university—and therefore Law School—affairs.

John Ward was a stalwart supporter of the Law School, transforming the funding arrangements for Law during the last five years of his Vice-Chancellorship. During discussions on funding with the Dean and Head of Department, he would wryly complain that a mere historian could not but yield to the advocacy of the lawyers. The truth was that he needed no persuading. He transformed our student staff teaching ratios from 34 to 1 to approximately 22 to 1, funded the establishment of a 35 terminal computer laboratory and greatly increased the funds available for Law School running costs. When Government policy made it necessary to exact cut backs, he insulated law as long as he could.

John Ward, who was intensely proud of his law degree, will be missed at the Law School which he so effectively sponsored. For me, he and Sir Hermann will quietly superintend the memories which will jostle for attention in the Graduation Days to come.

Robert Austin, Editor
June 1990

THE CHALLENGE OF THE FUTURE

An Occasional Address by Professor James Crawford, Dean of the Faculty of Law and Challis Professor of International Law, delivered at the Faculty of Law Graduation Ceremony, Saturday, 19 May 1990.

1990 commemorates the Centenary of the Law School. Technically the Centenary of the Faculty of Law occurred in 1957, 100 years after the Faculty was formally established by the new University.

In that sense, we are the oldest law faculty in Australia. But, even less than the law itself, a law school is not merely words on paper; it is people relating to each other, students and their teachers. Apart from a small amount of unsupervised postgraduate work, the Faculty only began its teaching existence in 1890. In that year, the first undergraduate students commenced their dual careers as students and as articulated clerks. In that year the first full time Professor, Pitt Cobbett, was appointed. Thus, and appropriately, the Law School celebrates its Centenary 33 years after the Faculty might have done.

In addition to a formal structure, a law school needs a substantial one, stone, bricks and mortar in better architectural days, but if pressed to it, pre-stressed concrete. In its first century, the School was rather peripatetic—as if on circuit around Phillip Street. It had no fewer than six moves to different buildings, only the last of them purpose-built, in its first 80 years. As many of you will have heard, there is much talk of a further move. The purpose built building turns out to be too small. The teaching of combined degree students, in the first three years of their five year combined law degrees, by remote control at three kilometres distance, turns out to be an unsatisfactory procedure. But questions of location, of the style and size of buildings, of hopes for grandeur or at least comfort, of fears—which given the last 30 years of university building in Australia seem eminently justified—of architectural squalor, all of these issues depend upon prior issues of the purpose and mission of a law school, at least of this Law School. So that, even if the financial and other decisions on which the location and design of the new law school will be based had been made—and that is not yet the case, I regret to say—it would still be necessary to ask what it is that we are financing, planning, building for.

Before seeking to answer that question, I must stress that my answer is a personal one. There are naturally differences of emphasis between members of the Faculty on these issues: indeed a certain pluralism, in these as in most educational

issues, is itself desirable. But the Faculty is committed to a move to campus, and that commitment is based upon a certain view of what the Law School should be.

One element of a successful institution is that it has due regard for its own history and traditions. In the case of the Law School I would identify five key features of that tradition. The first is the quality of its students overall, both as students and as shown in their subsequent careers. The second is the quality of its academic staff, measured both by the respect in which many of them are held as teachers, and by the impact of their scholarly work. The third is the substantial input made to its teaching programme, over the years, by dedicated part-time teachers, including many judges and senior legal practitioners. The fourth is the strength of its courses in core areas, for example, contract, equity, torts, real property, constitutional and administrative law, company law, legal theory and international law. The fifth feature is a more recent one, but by now well-established. The Faculty is the largest provider of postgraduate legal education, by coursework and research, in Australia.

These major characteristics of the Law School are certainly being maintained, and in most cases enhanced. This is true, in the first place, of the quality of our students. The HSC cut-off for undergraduate law continues to increase. Less than 1 per cent of last year's HSC students scored 446 or more, this year's combined law cut-off. The continuing increase

is causing us to examine whether additional criteria for admitting students may not be necessary: for example, a combination of HSC plus 1st year University results.

Secondly, the quality of the academic staff has also been more than maintained. This is remarkable, given the range of opportunities for good law graduates and the decline in academic salaries and conditions over the last 15 years. In 1974 the bottom of the lecturer scale was about 150 per cent of average (male) weekly earnings. In 1989 it was 114 per cent of average weekly earnings. In 1974 professorial salaries were about equivalent to those of District Court judges: they are now not much more than half—indeed they are much less than those of magistrates. Faced with this decline, it is a tribute to the professionalism and—I cannot avoid the word—vocation of members of the academic staff that they continue cheerfully to work as hard and as well as they do. But the situation cannot be allowed to continue. Academic staff turnover rates of 15 per cent per annum may be tolerable. The prospect, unless there is real improvement, is for a much higher turnover rate, which would be wholly unacceptable.

Thirdly, the Law School retains the services of a number of part-time lecturers, especially but not exclusively in the postgraduate programme, despite the demands of practice or of judicial office. Significantly, many of the honorary doctorates awarded within the Faculty—including that awarded today to Sir Nigel Bowen—have been given to people who served as part-time

lecturers in the Law School. I should mention their Honours Mr Justice Gummow and Mr Justice Hill, both of whom have given long service in this respect.

Fourthly, the Law School maintains a strong commitment to a compulsory core of subjects which represent the intellectual and practical base for a modern legal career. This base is not narrowly conceived: it includes Jurisprudence as well as Evidence, the core public law subjects (constitutional, administrative, criminal law), an introduction to public and private international law, as well as essential subjects in the fields of common law, equity and statute law. The recent reforms to the curriculum, which have substantially increased the scope and number of optional courses, have not altered the Law School's commitment to high quality teaching in these basic areas.

Fifthly, the demand for postgraduate legal education is likely to continue to increase, and the Faculty is responding by increasing the range of specialist courses available. Several new degrees, including the Master of Taxation and the Scientiae Juris Doctor (the SJD), are proposed for introduction in 1991.

To these traditional strengths we have been seeking to add. For example by interdisciplinary work in selected fields: the Faculty includes staff with expertise in the economics of regulation, in criminology and criminal statistics, in the sociology of law. There are strong interests in such fields as technology and the law, international economic law, alternative dispute resolution. We are also seeking, through

the Centenary, the Graduates' Association and in other ways, to strengthen and reinforce our links with our graduates—we hope to do so with each of you graduating today, so that in the longer term you will have the opportunity to make your contributions to the institution.

What are the alternatives for the future, which must inform the debate about the location of the Faculty? One possibility would be for the Faculty to narrow its focus, to specialise more, and to concentrate more on postgraduate teaching at the expense of undergraduate teaching. There are presently four universities offering undergraduate law degrees within the Sydney metropolitan area. Wollongong and Newcastle are soon to follow, and perhaps in due course Western Sydney will make its own bid. There is also what used to be called the Joint Admissions Board, now the Legal Qualifications Committee, with about 2,500 students enrolled in a non-degree course. Of these institutions only the University of Sydney Law School has a substantial postgraduate teaching tradition. No-one suggests that should be abandoned: the plan for moving the Law School to campus expressly involves retaining a convenient down-town base where postgraduate coursework programmes will be taught. And it is also clear is that if the necessary agreements are not obtained to enable to Law School to move, then this narrowing and focussing will become, for want of any other alternative, the only possible one. The present site simply does not accommodate the staff needed for our present student

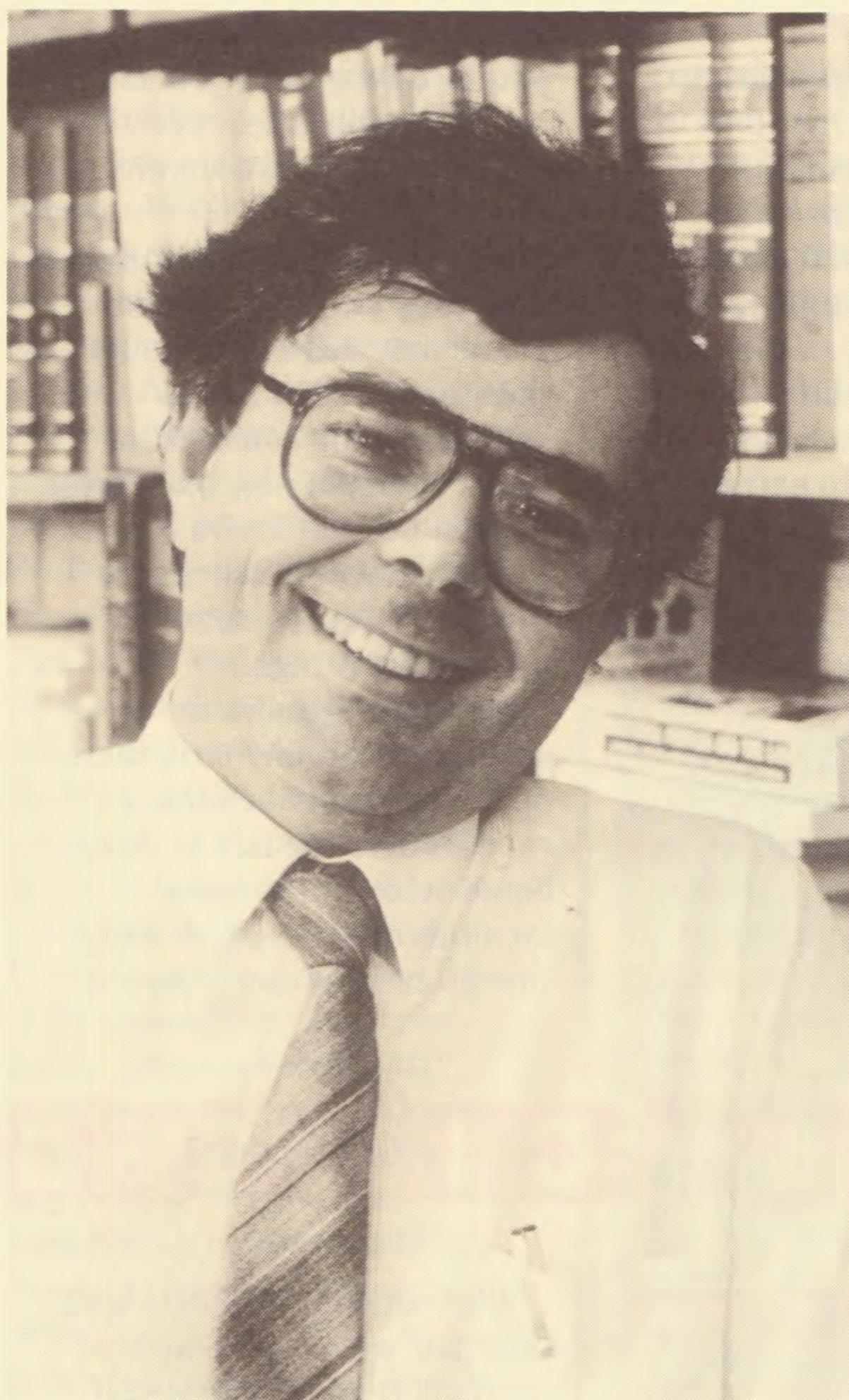
numbers. And if there has to be a reduction, it would be in the number of undergraduate combined degree students, given the current unsatisfactory system of distance education in the first three years of the combined degree.

But it seems to me that the Law School should maintain its position as a major undergraduate teaching institution. Postgraduate law teaching is important, and will become more important. But the essential training in the intellectual and doctrinal aspects of the law, not to mention its interdisciplinary aspects, should remain our essential focus. The Law School must be sufficiently large to maintain its capacity to teach and to research in all the basic areas of Australian law, and of international public and private law so far as they impact on Australia. It must be able to adapt to developing areas of the law, as it has done already in the field of technology law, with the Landerer Chair and a substantial programme of computer-aided research and teaching. The combination of an understanding of basic areas of the law, and of the law in society, together with the intellectual flexibility to adapt to new roles and to new demands, must be the hallmark of future graduates. The Law School needs to be substantial enough, in the depth of its staff and resources, to educate its students accordingly.

There is a dual challenge facing the School—to maintain and reinforce its traditional strengths, and to develop its teaching and research, in areas such as access to law, the

language of the law—in general, the adjustment of the law and its institutions to meet social needs. We certainly have the desire, and we hope to have

the resources, to meet both the perennial and the new demands of legal education, and thereby to serve our students, and the University.



Professor James Crawford, Dean of the Faculty of Law
Photo courtesy of The University of Sydney News

HEADNOTES

Money continues to be a major cause of concern for Law School administration.

The process of settling the Law School budget for 1990 was especially difficult, due to the process of University devolution which shifted much of the financial administration from the University to the Law School itself. More difficult still was the fact that the University found it necessary to extract further savings, and the Law School consequently lost approximately \$200,000, principally through the freezing of positions.

Staff recruitment and retention have become issues of pressing importance. Somewhat surprisingly, in view of the poor salaries which we are able to offer, the Law School

continues to attract very able young lecturers. But continuing turnover (see details of appointments and resignations elsewhere in this issue) has meant that inevitably positions become vacant as soon as (or even before) others are filled. This makes it difficult to pre-plan teaching arrangements, and inevitably interferes with the continuity of research programmes.

To a degree, staff turnover is healthy and desirable; in particular, there is no doubt that the Law School has benefited enormously from the injection of new blood over the last decade. There comes a point, however, where the turnover rate becomes unacceptably high.

The Dean's graduation speech gives some particulars of the erosion of academic salaries over the last 15 years. Some other professional faculties have responded to this problem by deciding not

to fill certain positions and using the salary savings to pay higher salaries to existing staff, in return for (effectively) greater productivity. So far the Law School has not opted for that solution. The thrust of our administration in the recent past has been to increase the number of lecturers available to conduct an effective teaching and research programme, in view of our poor student staff ratio of earlier times. To freeze further positions (remembering that, effectively, some are already frozen by virtue of general university budgetary constraints) would run directly counter to this policy.

Perhaps the only solution is to adopt a more flexible salary structure for universities as a whole, reflecting to some limited degree the pressures of the marketplace, as is the case in the United States.

David Harland
Head, Department of Law

FINANCING GROWTH

PRIVATE FINANCIAL SUPPORT AT THE LAW SCHOOL

Universities have always depended upon private benefaction. Specifically, private money is closely connected with development and growth of scholarship.

Australian universities, and their law schools, seemed to overlook these fundamental propositions in the 1970s, but it is now generally recognised that innovation, growth and development in teaching and research will depend upon the availability of nonpublic funds for the foreseeable future.

Over the course of its Centenary, the Law School has benefited from many donations. It still enjoys substantial benefits from the Challis bequest, which was the basis for its commencement.

Many prizes and scholarships bear testimony to the generosity of their donors. Law graduates have also benefited more than most others from more broadly based scholarships, such as the Rhodes.

It is impractical to provide even a summary account of the history of generosity towards the Law School in these brief notes. Instead, the focus here will be on the recent past when we have seen a dramatic growth in substantial and purpose oriented donations.

One the Law School's firmest

supporters has been the Law Foundation of New South Wales. The Law Foundation provides grants in aid of research projects, thereby fertilising research and the development of thinking about the legal system. This year the Foundation has made a number of major grants to the Law School, including a special grant for the running of the Centenary appeal. The continuing support of the Foundation is gratefully acknowledged.

Another source of private financial support has been the continuing legal education programme conducted by the Committee for Postgraduate Studies since the early 1960s. Profits made from CLE have been used for postgraduate student scholarships, and the financial support of short term visiting scholars who are in Australia and would like to spend a few days or weeks at the Law School. We refer to these visitors as 'Parsons scheme' visitors, because these arrangements were conceived by Professor Ross Parsons.

In the early 1980s, a Perth law firm established a fellowship to financially support a visiting scholar at the University of Western Australia for six weeks. One of the early recipients of the fellowship was well known to us at Sydney Law School, and he passed through on the way to take up his position. His visit set us thinking—if a Perth firm could sponsor a visitor for six weeks, surely a large Sydney firm could support a six months' scholarship. We rang Ian Tonking at Allen Allen & Hemsley. The response of the Allens partnership to our suggestion was almost

instantaneous, and equally enthusiastic. It was our easiest piece of fundraising, and the Allens Visiting Fellowship continues as the most successful visiting fellowship in the British Commonwealth.

To their everlasting credit, Allens accepted terms of appointment which imposed no restrictions on fields of expertise, notwithstanding Allens' obvious involvement in the commercial area. This has been one of the keys to the success of the fellowship.

Allen Allen & Hemsley Visiting Fellows have included Professor David Williams (Cambridge—public and administrative law; Professor Williams is now Vice-Chancellor of Cambridge University and is returning on a special visit this year to mark the Centenary); Professor Richard Buxbaum (Berkeley—corporate and international law); Dr James Harris (Oxford—jurisprudence and equity); Professor Denis Galligan (Dean of Southampton Faculty of Law—jurisprudence and administrative law; Professor Galligan has subsequently accepted a Chair at our Law School); Professor Misao Tatsuta (Kyoto—corporate and securities market law); and, this year, Professor Ewoud Hondius (Utrecht—comparative and consumer protection law).

Blake Dawson Waldron has also shown a keen willingness to give financial support. Their offer of assistance led to the establishment of the Blake Dawson Waldron Chair in Banking Law. At the time when the Chair was established, it appeared likely that one of the world's most senior academic banking lawyers would be an applicant. Unfortunately, that

was not to be. There are, as you would expect, very few senior academic banking lawyers, in view of the attractions of private practice in that field. Consequently (and obviously through no fault of the donors) we have not yet been able to fill the chair.

Freehill Hollingdale & Page have provided support of a different but very welcome kind. The inaugural Sydney Law Review Conference, on directors' duties, was financially



*Professor David Williams,
Vice-Chancellor of Cambridge University*

supported by Freehills, and it was therefore possible to attract international participants of the highest calibre.

Probably the most remarkable episode in recent financial support has been the assistance provided by John Landerer. His initial, unsolicited offer of assistance tested the ingenuity of the Law School's senior management. Given the existence of financial support in the categories described above, the challenge was to identify areas which would best benefit from his generous offer.

At first, Mr Landerer supported the development of a moot court at the Law School, and two scholarships to the United States, to enable graduates to spend the first six months after graduation at a US law school to experience their methods of teaching and thinking about the law.

When Mr Landerer indicated that these methods of support did not absorb all of the funds

he had allocated, we met with him to discuss other avenues of support. Uncivily, we mentioned an idea which would have required substantially more money than we thought Mr Landerer had in mind. This was the proposal to financially support a new Chair of Information Technology and the Law.

Notwithstanding the substantial expansion of funding which would be required, Mr Landerer responded enthusiastically, and the Chair was quickly established. It is now filled by Professor Alan Tyree. John Landerer has also become one of the foundation Governors of the Sydney Law School Foundation, established by the University this year. His continuing support was recognised at the May graduation with the award of an Honorary Fellowship of the University.

Sydney Law School has had

a very happy experience with private financial support in recent times. So long as we can put forward a discrete and workable proposition which fits into the financial objectives of the donor, support is readily forthcoming. We have not had any of the difficult problems which have plagued other universities, which arise when donors seek to control the outcomes of their benefaction in a fashion inconsistent with academic independence.

Of course, financial support of the kinds described above cannot solve the Law School's fundamental and intractable problems: the total inadequacy of the university salary structure for professional faculties like law (see Professor Crawford's article in this issue), and the limited budgets for research and administrative support. Private benefaction serves a different role, by fertilizing growth and development which would not be possible within the constraints of public funding.

The Sydney Law School Foundation will undoubtedly be the biggest source of private financial support so far in the Law School's history. The formation of the Foundation comes at a critical time, as the Law School plans its move to campus. Without private financial support, the Law School will be given premises which will not constitute an adequate workplace for the 1990s. Private benefaction should make an enormous difference to the efficiency and appeal of the new building, as well as helping the Law School's other ongoing activities.

R. P. Austin



John Landerer (left) after receiving his Honorary Fellowship of the University at the May graduation ceremony, with the Chancellor, Sir James Rowland, A.C.

Photo courtesy of The University of Sydney News

THE UNIVERSITY OF SYDNEY LAW SCHOOL CENTENARY

The Honourable Sir Anthony Mason, A.C., K.B.E., Chief Justice of the High Court of Australia, from his speech delivered to launch the Centenary Year of the Law School, 7 April 1990.

The astonishing thing about the Law School's Centenary is that it has taken so long to happen. Initially I had been surprised to discover that the Law School was founded in 1890. After all, the University itself was established as early as 1850. Why then no Law School until 1890?

Melbourne had one in 1873 and Adelaide in 1883.

Perhaps the answer is to be found buried in the recesses of the nineteenth century mind. To Englishmen of that century, indeed to many Englishmen of this century, knowledge of the law was not an essential part of a lawyer's equipment. A candidate for the Bar was not required to be knowledgeable in the law. It was more important that he had the education of

an English gentleman, measured by his ability to construe an ode of Horace and his attendance at the stipulated number of dinners at one of the Inns of Court. Even in recent times Lord Diplock lacked the benefit of a formal legal education, though it would be inaccurate to describe him merely as an educated English gentleman.

By 1890, we had come to realize that the Colony suffered from a shortage of gentlemen and an even greater shortage of educated gentlemen. So we resigned ourselves to producing lawyers who, even if they were not gentlemen, would be well versed in the law.

The place of instruction chosen for the new enterprise was Wentworth Court, close to the Supreme Court, an environment in which the Law



Sir Anthony Mason (left), the Chief Justice of Australia, and Sir Laurence Street, former Chief Justice of the Supreme Court of NSW, are both graduates of the Sydney Law School and both hold honorary degrees from the University. The two delivered speeches in MacLaurin Hall on 7 April to mark the official launch of the Law School's Centenary and Foundation

Photo courtesy of The University of Sydney News

School remained throughout its first hundred years. In 1896 it moved to Selborne and subsequently in 1938 to University Chambers. Its common rooms were then described as 'palatial'. Eight years later, when I joined the great influx of more than 300 post-World War II first year Law students, that description seemed ludicrous. The intake in that year was six times greater than those of the pre-War years, resulting in the temporary expansion of the Law School into Federation House where Mr J.D. Holmes lectured to us in Constitutional Law. He was a perceptive lecturer; his lectures always ended shortly before 5.50 pm enabling those who were fleet of foot to secure a drink at the Long Bar in the Hotel Australia before closing time at 6.00 pm. J.D. Holmes was not so fleet of foot, but he enjoyed the incomparable privilege of taking the first lift to arrive at the conclusion of the lecture. If you were to divine from the flavour of this description that ours was a chauvinistic world, you would be entirely correct. Female students were few in number. Fortunately that deficiency, at least, has been rectified.

At the time of which I speak, the Law School was just beginning to emerge from the influence of its long-serving Dean, Sir John Peden, a noted constitutional lawyer, who was appointed Dean in 1910. He played a prominent part in the public and political life of this State and, to the disappointment of his students, insisted on the attainment of very high standards. Sir John succeeded Professor Pitt Cobbett, a distinguished

international lawyer. *The Jubilee Book of the Law School* records Pitt Cobbett's personality in this way:

At lectures he frequently adopted a crouching attitude, with his left foot on a chair and his head thrust forward. He would wave his spectacles to emphasize a point and would peer sideways through one glass, like bird looking down a bottle. His delivery was rapid, his speech staccato, with abbreviations and explanations interpolated in a lower tone, but, in spite of his sudden bursts of extraordinary speed, he never slurred a syllable. His candour in stating his opinion on class examination results invariably induced a mood of inspissated gloom.

This description, in some respects, reminds me of the Law School's most provocative lecturer in its second half-century—Frank Hutley. His mere intonation of the word 'examination', accompanied by a gleeful smile of anticipation and vigorous rubbing of the hands, certainly induced in his students a mood of inspissated gloom. A former student of philosophy under Professor John Anderson, Frank Hutley personified that spirit of inquiry that should infuse every Law School. Although I not infrequently disagreed with him, I invariably retreated from dialogue with him, better informed or with cause for further reflection. His jousts with Professor Julius Stone, the famous jurisconsult and publicist, were a feature of Law School life for many years.

It would be a sin of omission, never to be forgiven by Mr Justice Meagher and

Mr Justice Gummow, if I failed to mention the Law School's contribution to the development of the principles of equity. It began with Sir Frederick Jordan's *Chapter on Equity*. It exemplified the benefits gained by the Law School from its close association with the Judiciary and the practising profession. And it continued through a series of lecturers, including Sir Kenneth Jacobs, Mr Justice Meagher, Mr Justice Gummow, Mr Lehane, and Mr Heydon, whose illuminating publications on Trusts and Equity have been widely acclaimed, even in the United Kingdom where the perfection of Equity appears to be imperfectly appreciated. The teaching of Equity as a separate subject has been largely responsible for a better understanding here of equitable concepts and doctrines. The long delay in fusing law and equity in this State—the Great Leap Forward in 1975 that should have taken place in 1875—preserved Equity's separate identity as a teaching subject and happily that has continued.

It is not possible on this occasion to mention all those names which have contributed so much to the reputation of the Law School and to the life of the law in this State, but I should take this opportunity of paying a tribute to Professor Morison, whose instructive lectures in Torts and Private International Law were a pleasure to attend, Professor Parsons and Professor Lane.

The life of any institution, in the eye of the historian, can be divided into golden years and years that are distinctly less than golden. I sense that the Law School, having responded

energetically and constructively to criticisms made of it, is now about to enter into an era which promises to be golden. The move to the University campus is a formidable challenge which is bound to stimulate reaction.

For as long as I can remember there has been controversy about the location of the Law School. The debate has reflected the conflicting philosophies concerning the role of such a school. Is it merely to produce graduates to engage in professional practice? If so, then there is much to commend close association with the practising profession, in other words, geographical propinquity with the courts, the Bar and the large city firms. That has been the story of the Law School's first 100 years. But if one's vision of the lawyer is that he or she is something more than a legal technician, then the notion of a

law faculty as an integral part of the University rather than as a mere professional school seems irresistible.

Ultimately it will lead to the emergence of lawyers with a sense of professionalism and with a wider understanding of public and community affairs. Although the Law School has always striven to produce graduates with a sense of professionalism, isolation from the campus has meant that many students have not profited from the wider horizons that life at the University has to offer. Closer integration with the University should enable us to build better bridgeheads between Law and other disciplines. The absence of such bridgeheads is a disturbing feature of Australian public and intellectual life. It makes lawyers vulnerable to the criticism that they are too inward-looking,

that they do not understand, and are unwilling to appreciate, the benefits to be derived from other disciplines. That criticism, along with the criticism that the high cost of justice puts it beyond the reach of the ordinary citizen, is very damaging to that respect for the law which is the very foundation on which the Rule of Law rests. However, in looking to wider horizons, the Law School must focus its primary attention on its responsibility to educate professional lawyers and in that respect it is essential that the close association between the Law School and the profession should continue unimpaired.

So, as the Law School moves beyond its Centenary, it faces a great responsibility in producing future generations of lawyers with the sense of community service to answer those criticisms.

CALENDAR

CENTENARY EVENTS

31 JULY 1990

The Sydney Law Review
Centenary Dinner in the
Great Hall, University of
Sydney.

Tickets: \$50 per person

15 AUGUST 1990

1990 Law Revue at the
Footbridge Theatre and
Supper in the 'Buttery',
Holme Building.

*Tickets: \$35 per person for
Revue and Supper.*

27 AUGUST 1990

Special Centenary
Graduation Ceremony in
the Great Hall, University of
Sydney. This will be a special
night of orations, readings,
music and conferring of
degrees.

*Tickets are free but as
numbers are strictly limited,
bookings MUST be made with
the Law School.*

8 NOVEMBER 1990

"Women at the Law School"
an evening featuring the film
*A Singular Woman: Marie
Byles*, with reminiscences and
talks by women about their
lives and connections with
the Law School.

Tickets: \$15 per person

*Enquiries and Bookings may be
made through the Centenary
Officer, Telephone 232 5944*

Elections, Appointments and Promotions

James Crawford, Challis Professor of International Law, elected Dean of the Faculty of Law from January 1990 for 3 years and 2 months

Mark Findlay, B.A., LL.B. (ANU), LL.M. (Syd), Dip.Crim (Edinburgh), appointed Director of the Institute of Criminology from 1 February 1990 to 31 January 1993

Denis Galligan, LL.B. (Qld), B.C.L., M.A. (Oxon), appointed to a Chair of Law from second semester 1991. (Professor Galligan will be a Visiting Professor in the second semester this year.)

David Harland, Challis Professor of Law, appointed Head of the Department of Law for 1990

Margaret Allars appointed Senior Lecturer

Hilary Astor promoted to Senior Lecturer

Rosalind Atherton, B.A.(Hons), LL.B. (Syd), A.Mus.A.(Aus), appointed Senior Lecturer (previously Senior Lecturer, University of New South Wales)

Belinda Bennett, B.Ec., LL.B.(Hons) (Macq), LL.M. (Wiscon), appointed fixed term Lecturer (previously SJD student, Madison, Wisconsin, and Family Policy and Law Program Fellow at the Institute for Legal Studies at the University of Wisconsin Law School)

Graeme Cooper promoted to Senior Lecturer

Bernard Dunne appointed Temporary Lecturer

Ron Farran appointed Tutor
Katharine Grevling, LL.B. (Tas), Dip.Leg.Practice (Tas CAE), B.C.L.(Oxon) appointed Lecturer (previously Lecturer in Law, Somerville College, Oxford)

Jennifer Hill promoted to Senior Lecturer

Anne Hurley, B.A., LL.B.(ANU) LL.M.(Syd) appointed Lecturer

Dimity Kingsford-Smith, B.A., LL.B. (Syd), LL.M. (Lond), appointed Lecturer (previously Rank Xerox Lecturer in Laws, Faculty of Laws, University College London)

Patricia Lane appointed Temporary Lecturer

Conita Leung, B.A. (Biochem), (Mass), B.A. (Law), M.A. (Cambridge), appointed Temporary Lecturer (previously consultant on Chinese Foreign Investment Law, Australian Immigration Law and business developments in the Asia-Pacific region to Michell Sillar McPhee Meyer)

Eilis Magner promoted to Senior Lecturer

Barbara McDonald appointed Fractional Lecturer

Kathryn McMahon appointed Temporary Lecturer

Andrew Michels, J.D. (Sthn Calif), M.P.A. (Sthn Calif) B.A. (Loyola Marymount), appointed Temporary Lecturer (previously E Barrett Prettyman Fellow, Georgetown University Law Center, Washington D.C.)

Stephen Odgers promoted to Senior Lecturer, converted to a Fractional half-time Senior Lectureship (also at the Bar)

Patrick Parkinson appointed Senior Lecturer

Romana Sadurska promoted to Senior Lecturer

Andrew Stewart promoted to Senior Lecturer

Julie Stubbs appointed Lecturer (formerly a Temporary Lecturer on secondment from NSW Bureau of Crime Statistics and Research)

Jennifer Stuckey-Clarke converted to Fractional half-time Lecturer (also Consultant to the Intellectual Property Section, Blake Dawson Waldron)

Julia Tolmie appointed Lecturer (formerly a Temporary Lecturer)

David Wright, B.Ec., LL.B. (Syd) appointed Temporary Tutor

Returned from leave in 1990

Mr Stephen Odgers, Ms Jennifer Stuckey-Clarke

On leave

Professor Richard Vann—
1 March 1990 to 28 February 1991

Professor Alan Tyree—
1 January to 30 June 1990

Professor Colin Phegan—19 July 1990 to May 1991

Associate Professor John Wade—
1 February 1990 to 28 February 1991

Mrs Shirley Rawson—5 February to 30 June 1990

Ms Dianne Skapinker—1 July 1990 to 15 January 1991

Ms Nicola Franklin—2 July 1990 to 28 March 1991

Ms Julie Stubbs—24 July 1990 to 12 July 1991

Dr Margaret Allars—30 April to 31 July 1990

Ms Anne Hurley—24 July to 30 October 1990

—continued on page 14

A WOMAN LAW STUDENT IN THE 1920's

Having read Justice Mary Gaudron's account of her experiences as a woman Law Student in the early 60's I wonder whether you would like to know what it was like in the early 20's.

I was the only woman student at the Law School for most of my course.



The Old Law School in Phillip Street, where Margaret Brandt attended classes between 1925-33. Occupied by the Law School from 1914, the building, formerly known as Wigram Chambers and later renamed University Chambers, was vacated by the Law School in 1969 and demolished.

Photo c. 1968

The Law School was then three floors on the top of the old building on Phillip Street. The top floor consisted of Dr Peden's and Professor Charteris' offices and one class room. The next floor down had two lecture rooms and the men's cloak-room and a minute room, plus washroom for women students (me). The next floor down had three small reading rooms and the Secretary's office where our lecture notes were duplicated. The Secretary was Margaret Dalrymple-Hay, who never, I think, approved of my presence.

The only lift held six or eight, legally, but usually many more students. 'Bob' was the friendly long-suffering operator, who was my good friend and general adviser, and may have been the only person who understood why I was there.

I do not remember any hostility, but no doubt it was there. I was ignored by the chauvinist majority and well-treated by the more enlightened minority, who advised me, among other things, to stay away from any lecture in Criminal Law dealing with more salacious topics. This was not on account of maidenly modesty but rather to allow the lecturer full scope on the bawdier cases. It was the early 20's. I was always marked 'present' as far as I knew. Attendance was compulsory and the roll called. The lecturers began the lecture 'Miss Brandt and gentlemen'.

The classes consisted of 30 to 40 students. There were two Professors—the Dean, Dr Peden and Professor A.H. Charteris, who had had a very prestigious career in Britain during World War I and who was a brilliant

and witty lecturer. I remember a sixpence falling to the floor and he quipped 'Some articulated clerk has dropped his salary'.

The remaining two or three lecturers were young barristers and included Bernard Sugarman (Crimes) and W.V. Windeyer (Torts).

I had completed two years in Arts and Law. I completed the Arts degree. I was articulated for three years at Reynolds White and Crocker at 15 Castlereagh Street.

There were no choices in the curriculum and failure in any one subject meant that it had to be completed before one advanced to the next year. The laws of the Medes and Persians paled before Dr Peden's rules.

The subjects were all compulsory and included Roman Law (Justinian) and Constitutional Law (Dicey)

and Contracts, in Year I. Second year had Property, Public International Law, Crimes and Torts and at least one other: Equity, Private International Law and Jurisprudence, with Legal Ethics in there somewhere.

I do not pretend that I sailed right through. When I finally graduated there was the Great Depression and openings for women lawyers were non-existent.

I'm not sure that I really expected to have a legal career. I've always appreciated my degree.

I met and married a Canadian, in the salmon canning business and came to Vancouver in 1935, and have lived here for 54 years.

What did I do with my Degree?—very little, perhaps. I spent many years in civic

politics and was honoured as an Outstanding Senior Citizen during Vancouver's Centenary in 1966.

My son is a medical doctor in London, England. I think it is only by chance that my daughter married Lance Finch a British Columbia Supreme Court Judge and one of my granddaughters is studying Law at Toronto University.

Margaret Jack
nee Brandt

Graduated 1934

Formerly
Margaret Dunoon Brandt
Law School 1925-33

Now
Mrs R L Jack
3408 W34 Vancouver BC
Canada V6V 2K6

STAFF MOVEMENTS

—continued from page 12

Resignations

Robert Austin resigned on 2 January to join the partnership of Minter Ellison, Solicitors. He will continue his association with the Law School in his capacity of Visiting Professor in Corporate and Securities Market Law.

Stan Hotop resigned on 1 December 1989 to take up an Associate Professorship at the University of Western Australia. He has also been elected Dean of the Faculty of Law and Head of Department.

Leroy Certoma resigned in November 1989 to take up an appointment as Senior Member of the Immigration Review Tribunal, based in Sydney.

Roma Sadurska resigned on 15 January 1990 to take up a position with the European Commission in Brussels.

Adrian Diethelm resigned on 22 January 1990 to join the firm of Allen Allen & Hemsley.

Larry Jackson resigned on 22 January 1990 to join the firm of Freehill Hollingdale & Page.

Carolyn Sappideen resigned to take up an appointment as a Senior Lecturer at Monash University Law School.

Retirements

None

WHERE HAVE ALL THE FLOWERS GONE? LAW SCHOOL REUNIONS

Class reunions inevitably produce the same series of reactions.

First, 'I never got to know any of them well, and anyway no-one would remember me'. Secondly, 'How can I find the time?'. Thirdly, 'X and Y are going so perhaps I should go too' (and consequently an accepting cheque received by the organisers after the deadline). Fourthly (on the night), 'Why don't we do this more often', 'When will the next one be' and 'Its only 2.00 am, why do they want us to leave so early?' In other words, those who overcome their initial reluctance and go to the reunion invariably have a tremendous time, and look forward to the next.

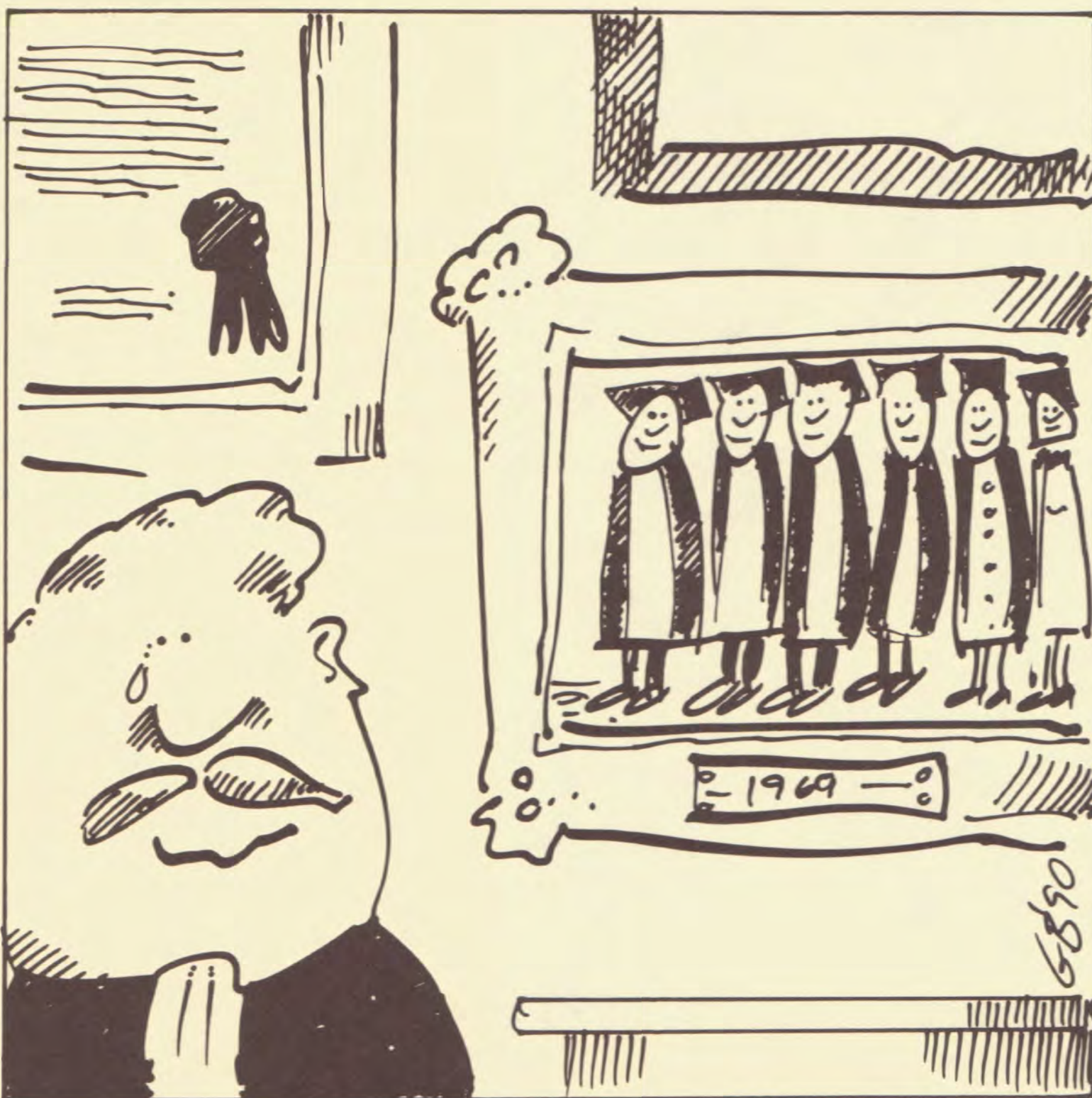
That, at any rate, has been my experience of the 10 year and 20 year reunions for the class of 69. It is the widely reported experience of others.

We are now looking forward to our 25 year reunion in 1994, since every one seems to be more enjoyable than the last.

I pass on for others an idea which seemed to work fairly well for us. Rather than have an after-dinner speaker, we were each asked to briefly explain what we had been doing during the last decade (maximum two minutes). The result was always interesting and occasionally hilarious.

In our first *Sydney Law School Reports*, I encouraged graduate readers to organise or participate in class reunions for their own years (calculated as the year of graduation, not the final year of law studies). The way to get started in arranging a reunion is for three or four co-graduates to form a self appointed organising committee and then contact the Dean's office at the Law School for assistance with names and addresses. As one of our Centenary projects we now have a fully computerised database of all our graduates, as far as possible updated with addresses, contact numbers, and so on. For enquiries contact Kiki Athanassopoulos (Ph 225 9297).

R.P. Austin



THE LATE EMERITUS PROFESSOR JOHN MANNING WARD AO, D UNIV.

The loss suffered by the whole University as a result of the train crash near Hawkesbury River Station on 6 May is particularly keenly felt by the Faculty of Law.

John Ward was intensely proud of his own law degree, was a keen participant in debates within the University involving issues of law and legal procedure, and was a strong supporter of the Faculty, especially over the past five years, in its attempts to improve the level of resources available to it. He was also a strong supporter of the Faculty resolution for the relocation of the Law School on campus. Given the enormous demands made on him, it is remarkable that he managed to maintain such a high personal interest in and knowledge about the Faculty. But in this, as in his other work as Vice-Chancellor, he maintained a judicious balance between personal involvement and allowing the Faculty proper scope to run

its own affairs. And in all things the underlying commitment to the liberal ideal of a University as a community of scholarship, teaching and research shone through.

He had much still to do in his historical work: he had also undertaken to write a chapter in the Centenary History covering the Peden years. (It is hoped that the editors of the history will be able to reconstruct from his existing writings, including his ADB piece on Peden, the substance of what he would have wished to say.) In these tangible ways, but much more in the intangible benefits of his continuing presence and interest, the Faculty has lost a great supporter and friend.

James Crawford



Former Vice-Chancellor, the Late Professor John Ward

Photo courtesy of The University of Sydney News

APPEAL RAISES MONEY FOR PORTRAIT OF FORMER DEAN OF LAW

A portrait of the late David Gilbert Benjafield, a Professor of Law at the University for more than twenty years, a former Dean of Law and a Fellow of Senate, was unveiled at a special ceremony at the Law School on 1 December 1989.

Professor Benjafield, who died in 1980, was one of the original members of the New South Wales Law Reform Commission.

Professor Benjafield's widow,

Mrs Shirley Benjafield, and members of the Benjafield family attended the ceremony together with the artist, Noel Thurgate, and distinguished members of the legal profession and of the Faculty of Law. On the initiative of Dr Bob Stein, money for the portrait was raised through an appeal and a book listing the names of all donors was presented to Mrs Benjafield. The portrait now hangs in the Law School Library.

THE LATE DR ROBERT STEIN

Dr Robert Stein, a Senior Lecturer in the Department of Law and one of Australia's leading scholars on the Torrens system, died on 25 June 1990.

News of his death only came to hand in time to insert this notice before going to press. A full tribute will appear in the next issue of *The Sydney Law Reports*.



The portrait of the Late Professor D.G. Benjafield, C.B.E., D.Phil (Oxon), now hangs in the Law School Library

Photo by Meri Stefanidaki

TRADITION AND CHANGE IN LEGAL EDUCATION

Few changes in Sydney Law School over the last 100 years are as great as the changes in the process of teaching itself. Many of the most significant changes have occurred in the last thirty or forty years.

The Role of Practitioners

Many senior members of the profession recount with nostalgia their own legal education in the days when law students still did articles. Students would stumble into lectures at 5.00 pm after a hard day's work and would then spend the next hour or so discerning as best they might the wisdom being imparted. In that period, the majority of lecturers were members of the profession. Sydney Law School has had a great many distinguished part-time lecturers.

Over the last thirty or so years the major changes have been in the move to the study of law as a full-time degree and the development of law teaching and research as a full-time occupation. The Law School

still retains a number of distinguished part-time lecturers and involves many other practitioners in conducting tutorials. However, almost all courses are now run by members of the full-time staff, and law teaching has emerged as a profession in its own right with a role in education which includes, but is not limited to training students for professional practice.

Foundational to the role of the modern law teacher is that he or she should teach the fundamental principles of the given subject. This is the beginning of, but not the sum of, appropriate professional training. There is a limit to the extent to which the university law teacher either can or should attempt to provide practical professional training. Much that is most important to legal practice can only be learnt by doing. The classroom cannot always effectively imitate the environment of the office, chambers or courtroom. Equally there are aspects of the law which need to be considered in the classroom and which are rarely considered in the rushed environment of professional practice. Perhaps the practising profession is as involved in legal education as it ever was; but its major role is now in teaching young lawyers after graduation and not before it.



Patrick Parkinson
Photo by Meri Stefanidaki

The Lecture: From Medievalism to Modernity

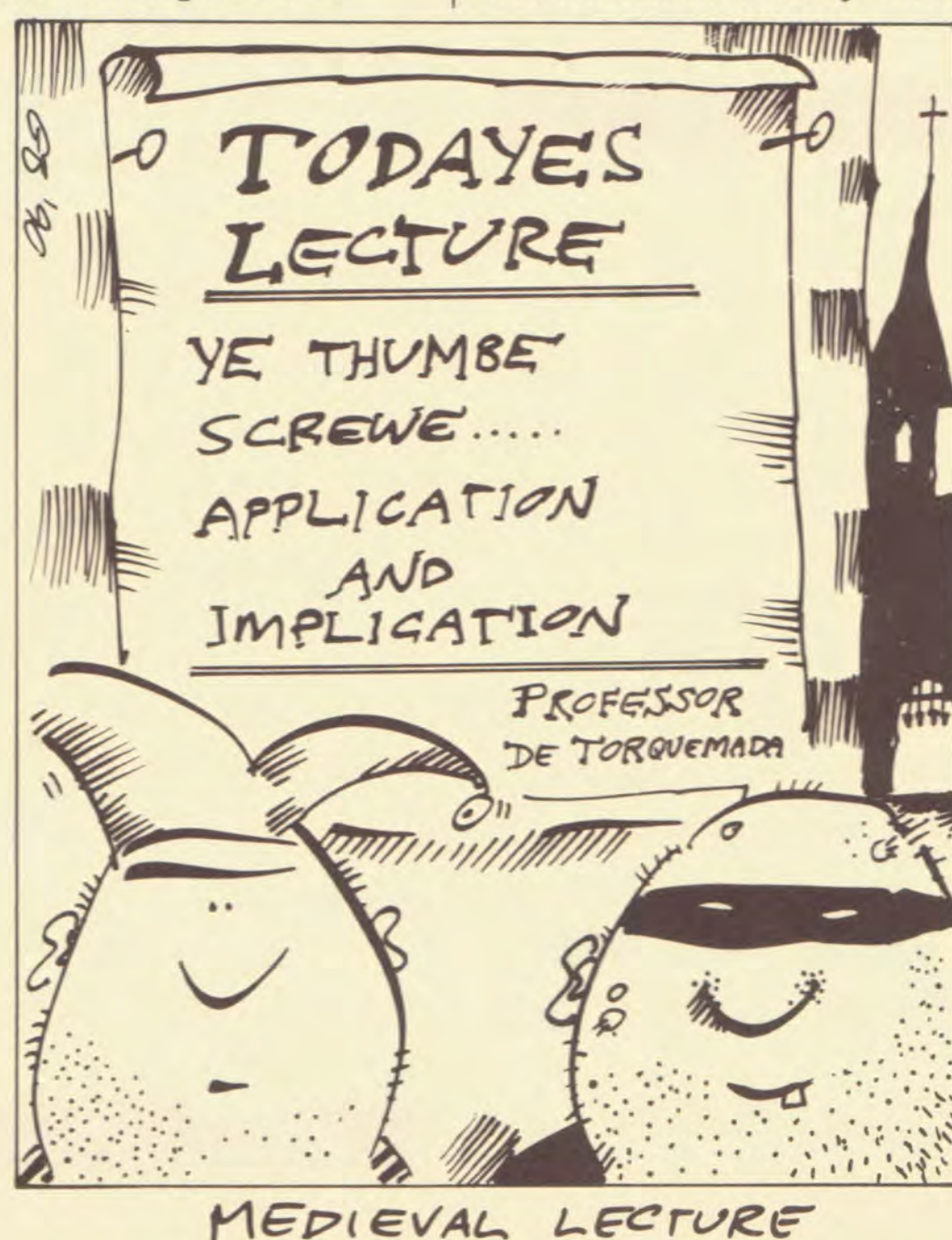
With the emergence of law teaching as a profession has come changes to the manner in which law is taught. The lecture remains the basic unit of teaching but in all compulsory subjects it is supplemented by small group tutorials, in which the material covered in lectures can be discussed in greater depth and applied to given problems. The word "small" is perhaps misleading. Often groups have 25-30 students, sometimes more. The ideal size for tutorials is less than 10. With more than this it is difficult to involve each student in discussion or to ensure he or she has understood the material. However, the staff-student ratio at Sydney Law School has historically been very poor, and only gradually have steps been taken to improve it.

Increasingly however, it has been realized that the formal 50 minute lecture is an ineffective form of communication. The formal lecture became established as the normal mode of instruction at a time when little was written or published. In a time when there is an extensive legal literature, there is less justification for teaching to take the form of an oral exposition of the law. Old habits die hard of course, and often lectures are still used to convey basic information about statutes and cases.

Although the formal lecture can still provide a very important role if it stimulates student reading, rather than replacing it, the lecture is a difficult art with built-in inefficiencies as a means of teaching. What is heard is not always what is said, and what is written in notes is often an inadequate summary of what is heard. The lessons of educational theory have slowly percolated through to university law teachers. It is said that students can only concentrate

effectively for 20 minute periods. (Studies have not been done on how much longer the concentration span of judges is!) The effective teacher will therefore use a variety of communication techniques in the course of a 50 minute lecture. Formal lecturing can be supplemented by the use of overhead projectors to provide an outline, and varied by involving students in discussion and debate. Even in large lecture groups, students can be split up into small groups to discuss an issue for five minutes, or to consider an answer to a legal problem. The conclusions reached in the small groups can then be discussed in the class as a whole. Hypotheticals, in the style developed so well for television by Geoffrey Robertson, can be an effective form of learning. Videos may also be a valuable way of beginning discussion of a particular problem. In one or two courses, two teachers run classes jointly, allowing both to give perspectives on the issues in question. The new curriculum has allowed for many more electives and several of these are being taught on a seminar style basis. Use is also made in certain courses of role play and simulated negotiations where this is appropriate.

Such techniques of participatory learning and use of audio-visual forms of communication are not yet as widespread as they might be, but are definitely on the increase. The last five years in particular have seen considerable developments along these lines. A number of members of staff have participated in week-long Law Teaching Workshops and



considerable use has also been made of the University's Centre for Teaching and Learning which aims to equip members of staff as teachers. Consideration is also being given to the use of computers for certain teaching purposes.

Teaching Law in the 1990s

Despite a reputation for conservatism in legal education, the Law School is now providing leadership in many aspects of law teaching. Members of Faculty recently established the *Legal Education Review*, which is published under the auspices of the Australasian Law Teachers Association. Much more emphasis is being placed now than a few years ago on the monitoring of teaching performance and the recognition of good teaching for

promotional purposes. Good teaching however, takes time and is considerably affected by the staff-student ratio and general support services for members of Faculty. Historically, legal education in Australia has suffered from very poor funding. As the Law School moves into another century, it needs the co-operation of the University, government and the profession in its endeavour to improve the quality of law teaching.

Patrick Parkinson

RELOCATION

RELOCATION UPDATE

In an Occasional Address delivered at the Law Graduation Ceremony on Saturday 19 May 1990 the Dean, Professor James Crawford, spoke of the aspirations of the Law School in its Centenary, in the context of the projected move to the main University campus. As reported in the last issue, the Faculty is waiting on the outcome of negotiations between the University and the State Government on the disposal of the Phillip Street building. It is now expected that this process will be concluded by the end of

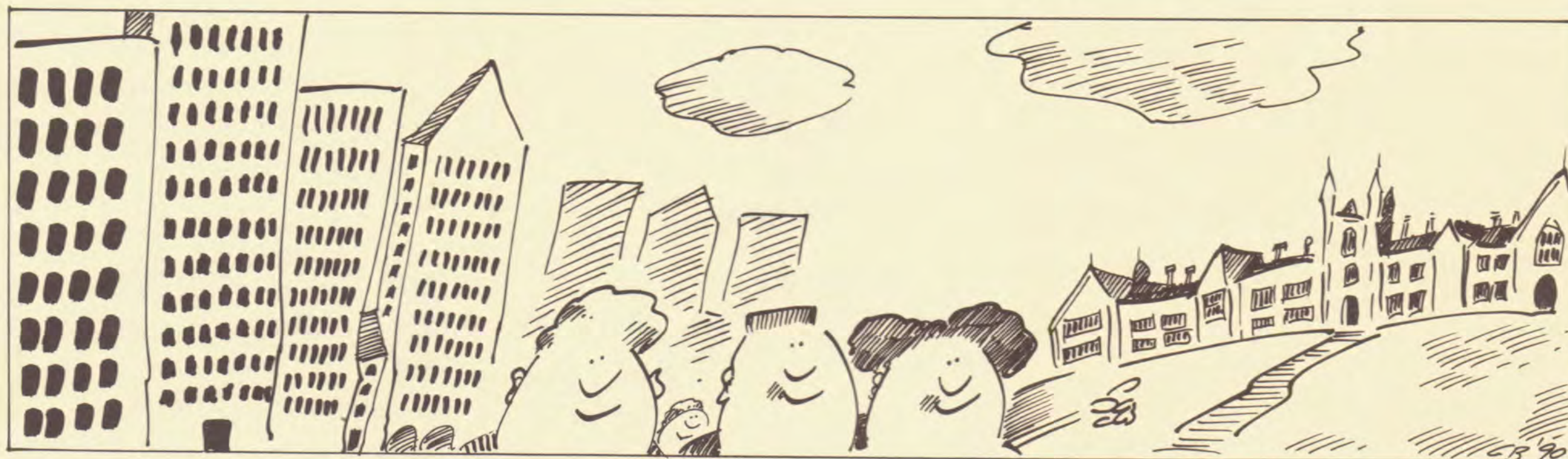
July. In the meantime, the Dean and the Faculty have been active in preliminary planning. Earlier this year the Dean and Mr Philip Westwood, Deputy Bursar, Building and Grounds Office of the University, visited a number of United States Law Schools. The schools were selected on the reputation of their buildings and libraries and the information gathered has provided a valuable source of ideas.

Closer consideration has also been given by the Faculty to the likely location of the new building. The Faculty's strong preference is for a site

stretching from the southern side of Fisher Library to the Carslaw building on City Road. The site has the advantage not only of proximity to the main University Library but is equidistant from the three generalist Faculties with which our students in Combined Law degrees are associated, namely Arts, Economics and Science.

The process of implementing the Faculty's decision to relocate, now almost three years old, continues its slow but steady progress.

Colin Phegan
Professor of Law



COMPUTER AIDED INSTRUCTION

How can we improve the quality of legal education when the university is being savaged by shortsighted governments? One avenue being explored at the University of Sydney is the use of computers as an integral part of the teaching process.

As with everything associated with computers, there is an acronym. The general term is CAI (Computer Aided Instruction). It usually refers to programs that allow the computer to act as a tutor/teacher.

Advantages of CAI

The key educational strength of CAI is that it allows personalised teaching. Students may spend as much or as little time as necessary to absorb and understand the material. This is in stark contrast to the traditional lecture method that forces all students to maintain the same pace.

CAI programs also prohibit the student from gaining access to new material until the old material is sufficiently understood. Again, this is educationally sound but is not part of the traditional lecture method.

CAI also offers administrative advantages. Students may undergo tuition at a time that suits them. Lessons may be distributed to other institutions resulting in an economy of scale. In a fully computerised course, there would be no timetable problems nor, in an age where it is reasonable to expect students to have their own computer, any need to limit class size because of lecture theatre limitations.

Problems with CAI

So why don't we make more use of CAI? The short answer is that it is, paradoxically, labour intensive. Construction costs for a good CAI program are between 200 and 400 teacher hours per one hour of tutorial.

It is not just initial construction costs that are high. Most CAI programs are very difficult to modify. In an area such as law that requires frequent updating, this is a very serious limitation.

Some work at Sydney

These problems are being addressed by research at the University of Sydney. Two distinct approaches are under investigation. The first is a search for methods of making CAI program construction more efficient. The second is to appropriate the benefits of CAI while avoiding most of the costs entirely.

Construction tools

One possibility for reducing costs and building better programs is to use computer tools to help the author. There are several possibilities.

One promising strategy is to use outline processors such as *Thinktank* or *More* to impose structure on the program at the design stage. By following certain structural rules, the author would write the tutorial using the outliner. Special tools then convert the outline into a CAI program. Work is underway to define the structure rules and to build a translator that would transform the outline format into an executable CAI program.

A more sophisticated attack is to build "intelligent" programmes to assist in the authoring process. These would be "expert systems" that capture the rules of good tutoring. Unfortunately, universal rules of good tutoring are elusive!

Combining text and computers

The most promising approach for immediate results is to capture the advantages of CAI without actually building CAI programs. The key to this is a judicious mix of traditional materials and computers.

We are trying one such approach, the Keller Plan, in 1990. The basic instructional medium is the familiar reproduced reading materials. The problem with the traditional materials is that they are not suitable for self-study by (relatively) inexperienced students. One of the important roles of the teacher is to help the student in using primary materials.

CAI uses two strategies to overcome this problem. First, the student is presented with materials in a particular order that depends upon the student responses. In this way, the student receives a personalised guide through the materials. Secondly, CAI programs prohibit "overreach" by refusing to allow the student to progress to unfamiliar material until he or she shows that they understand the preliminary material.

The Keller plan achieves a similar result by different, and cheaper, methods. The teacher prepares a detailed study guide that shows the student the route through the materials. The guide also contains questions for self-testing so that the student can always measure his or her progress.

Pacing is controlled by a series of short examinations.

A student may not proceed to the next "unit" of materials until he or she shows comprehension of the current unit. There is no penalty for failing a unit test other than the requirement that the student must return to study the materials until ready to attempt the exam again.

This is where the computer comes in. There are 15 units and roughly 100 students. Overseas experience suggests that students will take each test about 1.5 times on the average. With over 2000 tests to mark in a single semester, the plan would be unworkable without a significant increase in human resources or some scheme of examination by computer.

Alan Tyree and Shirley Rawson have received a grant of \$24000 from The Law Foundation of New South Wales to assist in the implementation of a pilot program. Most of this will be used for the development of a regime for examining by computer.

Research in other subject areas shows that the Keller Plan can be as effective as small group Socratic teaching. By using a mix of traditional methods and computers, this success is achieved at a substantially lower cost.

Other CAI developments

Although this research is important, it is also important for us to gain experience in traditional CAI program construction. Several members of the Faculty are active in CAI development.

Eilis Magner has devised and implemented a small CAI program which is a required part of her evidence course. It deals with a part of the hearsay rule. The program is written in LES, the language developed by Andrew Mowbray as part of the DataLex project.

Don Rothwell has recently finalised our affiliation with CALI, the Center for Computer-Assisted Legal Instruction at the University of Minnesota. This affiliation gives us access to a large library of CAI programs. Don has identified some of these programs as suitable for modification in our jurisdiction.

The Future

CAI is not the answer to all problems faced by legal education in the 90s, but we believe that the rational integration of computers with more traditional methods of teaching is an important step toward solving some of them.

Alan L Tyree
Landerer Professor of
Information Technology
and Law

It was shown by the analysis in the Pearce Report (*Australian Law Schools—A Discipline Assessment for the Commonwealth Tertiary Education Commission*, AGPS, Canberra, 1987), that the Sydney University Law School compared more than favourably with most other Australian Law Schools with respect to its output of published research. This level of publication was achieved in spite of a staff/student ratio which was historically the worst of any Law School, and probably of any Faculty, in any University in Australia. Subsequently we were able to make some improvement to the staffing ratio, but the potentially beneficial effects of that seem to have been more than offset by other factors, including the perennial problem of resignations by experienced staff.

The Pearce Report noted recurring complaints from the staff of Law Schools about the lack of time for research work. The amount of time usefully available for this important function is perceived to have decreased further since then, and for reasons more intractable than staff resignations. Increasing inroads into time seem to have been occasioned by changes which have been embraced by or forced on Universities in the last three years or so. In particular, the move from three terms to two semesters, which was accompanied by curriculum changes, has not increased the number of weeks' lecturing over the course of a year, but seems to have greatly reduced the time usefully available for research and writing. In addition,

budgetary constraints over time have resulted in fewer support and ancillary staff, although this has been offset to an extent by the willingness of many academic staff to acquire the skills necessary to do their own word processing. (Any typos in this piece are all my own work!). Finally, it is commonly observed that the amount of time now required to be spent on administrative work has increased greatly for many staff, especially those holding offices of one kind or another in the faculty or university structure.

In those circumstances, it is pleasing to note that publication continues at a high level in terms of both volume and quality, and new and interesting methods and areas of research continue to emerge along side the more "traditional" forms of scholarly activity. There is, of course, a place and a need for both. Diversity of this kind is possible and desirable in a Law School of this size.

How is this sustained, perhaps increased, level of research activity to be explained in the light of adverse countervailing factors? The question is not unique to this Law School or this University. It is probably not capable of a definitive answer at this stage. However, there is evidence that the cost of much research in the tertiary sector is paid for by the staff themselves, "by working hours massively in excess of a normal working week (or year). There is growing evidence that university staff commonly work more than a 55 hour week with between 10 and 20 hours spent on research." (M. Bartos, "Time To End Myths on University Funding" *FAUSA News*, 89/5, 25 October 1989, 1 at p.6)

Recent Books

Already in 1990 the following books, authored or co-authored by members (or in some cases recent members) of the Faculty, have been published:

Margaret Allars, *Introduction to Australian Administrative Law* (Butterworths)

Brent Fisse, *Howard's Criminal Law* (5th edn) (Law Book Co)

Wood and Certoma, *Hutley, Woodman and Wood's Cases and Materials on Succession* (4th edn) (Law Book Co)

Greg McCarry (with J. J. Macken and Carolyn Sappideen) *The Law of Employment* (3rd edn) (Law Book Co)

Sappideen, Butt, Certoma and Stein, *Cases and Materials on Real Property* (3rd edn) (Law Book Co)

Andrew Stewart (with Breen Creighton), *Labour Law: An Introduction* (Federation Press)

Research activities in 1989

The Research Reports for the Departments of Law and Jurisprudence for 1989, which are in the course of preparation, will reveal the following research output in that year (figures are approximate at the time of writing). In 1989, members of Faculty authored or co-authored 16 books, edited or were on the editorial boards of 10 journals, published 17 chapters of other books and over 80 articles, and delivered 46 conference papers. They also obtained 9 research grants.

Greg McCarry
Convenor, Research and Library Committee

The 1990 Sydney University Law Society has approached the Centenary year with the full realisation that it could play an important part in the spirit, vision and unity of the Law Faculty.

Rather than accept a year dictated merely by the various social and sporting events that inevitably occur, we have taken the time to address the needs of law students and the Faculty. In doing so we have set ourselves three over-riding objectives:

- to provide all law students with the opportunity to become involved with and benefit from their education at an academic, social and professional level;
- to work in the best interests of the Law School as a whole, emphasising quality, professionalism, accessibility and enthusiasm; and
- to reaffirm the important role of the University of Sydney Law School in the education and development of law.

We have already gone some way to achieving these goals.

Structural and Financial Improvements

This year we have established the Centenary Sponsor Group as the first step in ensuring a viable financial structure for the Society for future years. Special thanks go to the foundation members of the Sponsor Group: Allen Allen & Hemsley; Baker & McKenzie; Blake Dawson Waldron; Clayton Utz; Freehill Hollingdale & Page; Mallesons Stephens Jaques; Minter Ellison; and Sly & Weigall.

In addition, the Society has been restructured to include the Science Economics Arts Law Society (representing students in their first three years of law on campus), and to be a representative body for all the student committees that operate at the Law School, such as Blackacre, the Law Revue, Faculty representatives, mootings, seminars, social and sporting activities.

Information About Careers

Complimenting the established summer clerk and graduate recruitment programme, law students are increasingly being given the opportunity to learn about alternative career paths. Following the initiative of the Womens Group, the Society held the first Professionals Night in May involving organisations from law firms and accountants, to such bodies as the Australian Tax Office, the Environmental Defenders Association, the Redfern Legal Centre and even Actors Equity.

A Taste of 'The Real World'

As part of our contribution towards the education of students and their understanding of the application and consequences of the law, the Society will be reviving the Courtwatch Programme and our speakers forum—the Phillip Street Lectures. In addition, we are conducting workshops to meet the demand by students for training areas such as 'Interview Techniques' and 'Presentation Skills'.

User Friendly Technology

One of the longer term goals of the Society, in conjunction with the computer department, is to provide students with greater access to word processing and laser printing facilities.

As a separate goal, we hope to assist the Law Library in computerising its loan system and providing the simple alternative of card-operated photocopying machines.

Revitalised Publications

It is appropriate in the Centenary year that our students cast a critical eye on the current state of the Australian legal system and make recommendations as to its future development. Those are but some of the objectives of the editorial committee of *Polemic*, which was launched in May. Best described as a 'socio-legal journal', *Polemic* will be available to both students and to the wider legal community.

Blackacre, our annual publication, is being supported this year by the Law Book Company and re-vitalised to reflect the full range of activities of the Law School. This year's edition promises to be exciting reading, including profiles of eminent graduates of the University.

Co-operation

The Law Society plays an important role in ensuring there are open communication channels with the Faculty and with the Academic Board,

and in providing constructive proposals for improvement in the Law School. We have received a great deal of support from the Faculty, both at a formal level and through informal occasions such as our Staff-Student Cricket Day. But we continue to experience 'teething-problems' with the semester system, some issues of academic assessment and ensuring a fair and reasonable system of supplementary examinations.

The Society is also playing a greater role in co-operation with other universities. Although we had the misfortune of allowing N.S.W. Uni to take the Evatt Cup from us, our Mooting teams continue to do us proud. This year the Society is co-ordinating the Inter-State Summer Clerkship Programme and we will be well represented at the annual conference of the Australian Law Students Association in Perth.

Welcoming Change

As our Centenary year has highlighted, there is little comfort in the past if we are not open to change in the future. Although we are proud of the achievements of the Law Society, we are always open to a better way and to your assistance in making our organisation more relevant to all law students.

James Larmer
President,
Sydney University Law Society

C R I M I N O L O G Y

SOME THOUGHTS ON THE INSTITUTE OF CRIMINOLOGY

In the fourth decade since its establishment and in the Law School's Centenary year, the Institute of Criminology has a unique vantage point from which to cast a critical eye over the operations of criminal justice in this State.

The Institute has colonised a common ground, providing a forum for debate on matters of urgent concern before those who have the responsibility to implement change.

The Institute of Criminology is a body within the Faculty of Law at the University of Sydney. While operating comfortably in a law school environment, the Institute has neither been bound to a single discipline, nor discharged its duties for any one master. Its teaching, research, and public education functions have always been directed towards broad community needs. This will continue.

The principal areas of activity by the Institute have involved:

- the presentation of courses of study in Criminology, at Degree, Diploma and Masters levels;
- the organisation of a programme of public seminars on topics of contemporary concern in the field of criminal justice;
- the publication of the proceedings of these seminars and other related information;
- the provision of specialist "in-house" seminars which bring together the critical views of those actively involved in particular issues of criminal justice; and
- assisting a wide range of applied and theoretical research initiatives concerned with crime and criminal justice in N.S.W.

With the continuing support of its members, the Institute aims to achieve:

- the continued diversification of its public education function;
- the upgrading and expansion of innovative publishing ventures;
- the development of a specialised training potential;
- the further review of its teaching commitment; and
- the creation of a research infrastructure which will complement the public and private sector needs of this State, as well as a wide range of community interests.

Publications

Following on from its 78 issues of the *Proceedings of the Institute of Criminology*, the Institute has launched *Current Issues in Criminal Justice*. The first numbers of this journal were still closely wedded to the public seminar programme, and it is envisaged that the more significant seminar papers will continue to form the backbone of content. However, the journal is intended to provide a wider vehicle for debate around contemporary crime issues. To facilitate this we will solicit articles on chosen topics, analyse the issues discussed at in-house seminars, comment on research in progress, and provide regular notes on topics of public interest. The journal is presently being published three

times a year.

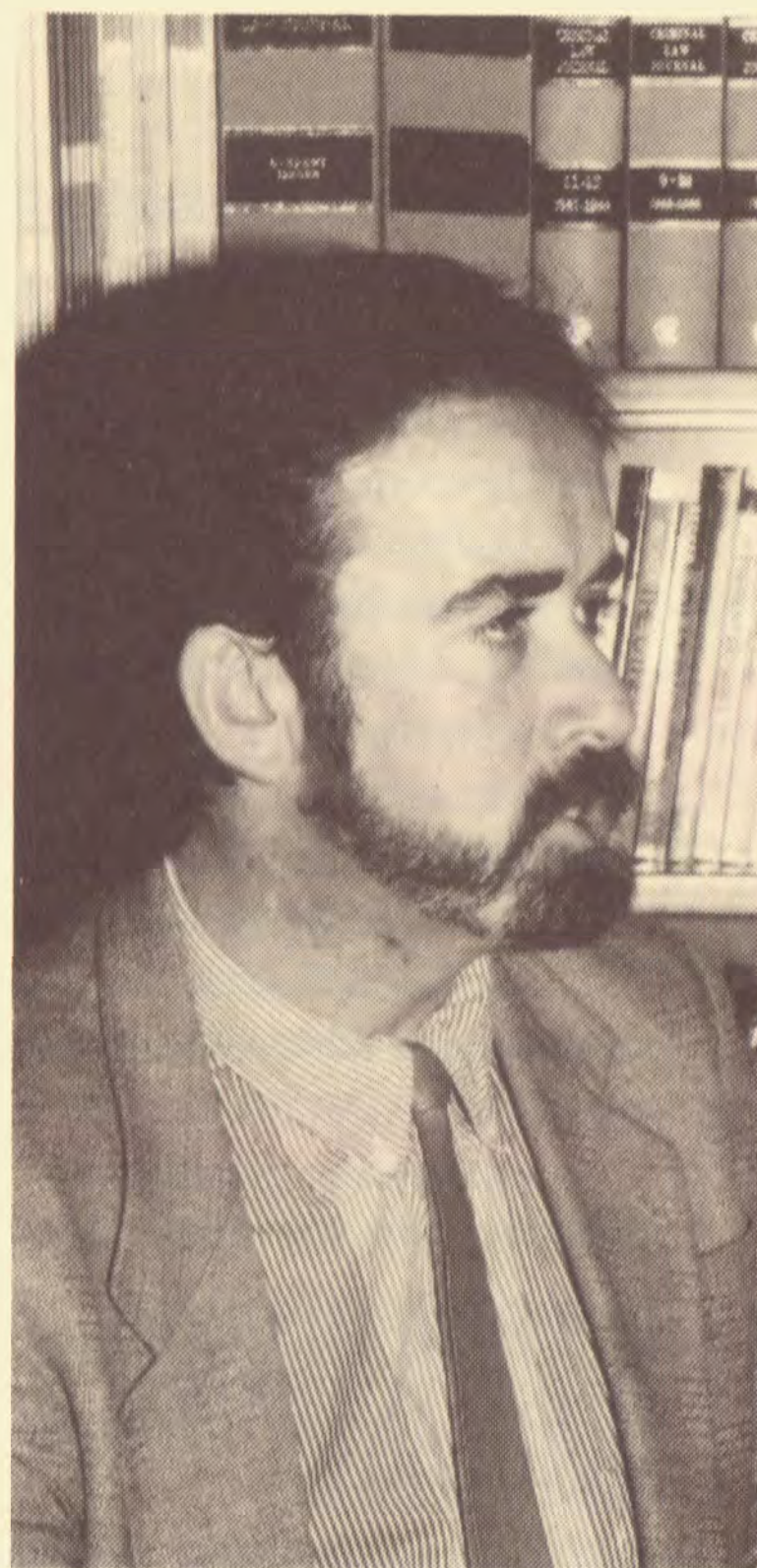
Staff of the Institute are developing legal information management systems, on a micro-computer format. One prototype contains relevant Commonwealth and State legislation, over 40 leading cases, 20 or so major commentaries, and instructive examples of corporate compliance systems. This material is extensively cross referenced and can be quickly accessed in several different ways. Such models will have a variety of different and exciting applications in teaching and research programmes.

Public Education

In addition to the tradition of four public seminars per year (which have recently focussed on topics such as money laundering and the confiscation of assets, court delay, committal hearings, specialised investigation agencies, sex, violence and censorship), the Institute is now running a host of occasional seminars for expert audiences. Issues such as fraud and corporate culture, the use of hypnosis in criminal investigation, and computerised information management, reveal the variety and specialisation of this programme. The Institute will also be contributing more particularly to continuing legal education.

The Provision of postgraduate courses of study in criminology will be enhanced in 1991 with the commencement of the Masters in Criminology, which will be open to non-law graduates.

Further information on the activities and publications of the Institute are available from the Institute's Secretary, Ms Julie Harris ((02) 225-9239).



Mark Findlay
Director,
Institute of Criminology

The Placements Office is responsible for the administration of the Law School's student employment activities.

Foremost among these is the *Employment Interview Scheme*, conducted by the six law schools in Sydney and Canberra in conjunction with approximately thirty law firms. The Graduate Employment Programme places some final-year students in full-time positions on completion of their College of Law course and the Summer Clerkship Programme places some penultimate-year students in employment in their summer vacation. In 1989 the following firms participated in the programmes:

Allen Allen & Hemsley
Australian Government
Solicitors Office
Baker & McKenzie
Barker Gosling
Blake Dawson Waldron
Bryson-Taylor & Associates
(Summer Clerkship only)
Clayton Utz
Corrs (Graduate only)
Coudert Bros
Cutler Hughes and Harris
Director of Public
Prosecutions
(Commonwealth)
Dunhill Morgan
Ebsworth & Ebsworth
Fitzgerald White Talbot & Co
(Muswellbrook)
Freehill Hollingdale & Page
Gadens
Hunt & Hunt
Lane & Lane
Mallesons Stephen Jaques
Minter Ellison

Moore & Bevins
Moray & Agnew (Graduate only)
Norton Smith (Summer Clerkship only)
Owen Hodge & Son
Parish Patience
Phillips Fox (Summer Clerkship only)
Rosenblum & Partners
Simon & Baffsky (Graduate only)
Sly & Weigall
Tress Cocks & Maddox
Westgarth Middletons

Approximately 2000 applications were submitted through each of the programmes by Sydney Law School students.

As part of the programme, representatives from the participating law firms visit the Law School to speak to students about their firms and the employment opportunities they offer. Some employers prefer to give these talks "in-house". These "lunchtime presentations" have proved to be popular and informative for both the speakers and the audience, and offer an excellent opportunity for intending applicants to become familiar with the firms and the nature of legal practice as a solicitor.

Each year one of the law schools acts as Co-ordinator of the programme. In 1990 this will be the Faculty of Law at the University of Technology, Sydney. Employers interested in participating in either or both the Graduate or Summer Clerkship programmes are encouraged to contact the Co-ordinator.

The Professional Observation Programme, conducted by the Law Society of New South Wales and the five Sydney law schools, provides

one week's unpaid experience in a practitioner's office during student vacation. Students need to have completed all first-year law subjects in order to be eligible to participate.

The Judges Associates Register is a register of graduands and recent graduates who are interested in appointment as a judge's associate. Students wishing to be placed on the register should submit two copies of their curriculum vitae to the Placements Officer, attaching a certified copy of their academic transcript, and giving an up-to-date contact address and the date they will be available for employment. Details of students on the register are sent to judges when they contact the Law School in search of an associate. It is then up to the judge to select and contact the applicants.

The Careers and Appointments Service, located in the Mackie Building, Arundel Street, Forest Lodge is responsible for careers advice, careers library, part-time and vacation work, and the graduate vacancy mailing list. The CAS also conducts a number of employer campus interview programmes including the Accounting Interview Programme and Careers Week.

The Placement Officer welcomes inquiries from employers or students regarding any of the activities supervised by the Placement Office.

Rebecca Hawke-Weaver
Placements Officer
Ph (02) 225 9267

The provision of non-degree post-graduate courses for members of the legal profession is the objective of the Faculty of Law's Continuing Legal Education programme.

Members of the Faculty's academic staff as well as occasional visiting lecturers, based both locally and overseas, act as convenors who maintain contact with all the latest developments which form the basis of the courses conducted. The following is a list of Continuing Legal Education courses which were presented in 1989, together with the names of the academic convenors.

Family Law—Spousal Maintenance—A Revival?

(Two lectures)

Associate Professor John H. Wade

Aspects of Intellectual Property: Copyright & Commercialisation

(Three two-hour lectures)

Ms Shelley Wright, Lecturer in Law

Repudiation of Contracts

(One afternoon and evening of lectures and dinner)

Dr John Carter, Senior Lecturer in Law

Computer Applications for Lawyers

(Full day course)

Mr Don Rothwell

The Implications of Recent High Court Decisions for the Law of Evidence

(Three two-hour lectures)

Ms Eilis Magner, Lecturer in Law

Restrictive Trade Practices

(Three two-hour lectures)

Mr Christopher C. Hodgekiss, Barrister at Law and Lecturer (part-time)

Family Law: Child Sexual Abuse and the Family Court

(Two one-and-a-half hour lectures)

Mr Patrick Parkinson, Lecturer in Law

The Tax Law Treatment of Superannuation, Life Insurance and Retirement Income

(Full day course)

Professor Richard J Vann

Dispute Resolution

(Two two-and-a-half hour sessions)

Professor Paul L Tractenberg, Visiting Professor, Rutgers University

Computer Applications for Lawyers (MkII)

(Full day course)

Mr Don Rothwell

Recent Developments in Criminal Law

(Two two-hour lectures)

Mr Bron McKillop, Senior Lecturer

Customs Law in 1989 and Beyond

(Full day course)

Professor Richard J Vann

All of these courses were held 'in-house' at our convenient CBD location.

In the Law School's centennial year, we have continued to present lectures covering a wide range of subject areas. An *Industrial Relations and the Law* series of lectures, directed at a more general audience, was held at the Law School in 1989, in conjunction with the Department of Industrial Relations of the Faculty of Economics. A similar course was

held from 7 March to 30 May 1990.

During the second half of 1990 we will be presenting courses in the fields of:

- Lawyers in the Community;
- Money Laundering;
- Equitable Remedies;
- Immigration Law;
- Trade Practices;
- Intellectual Property;
- Dispute Resolution;
- Taxation Law and International Taxation Law;
- Conveyancing;
- Anti-Discrimination and the Law; and
- Family Law.

These will complement the session on *Taxation of Foreign Income—Controlled Foreign Companies and Foreign Trusts* which was held in February this year.

All legal copyright deposit libraries are issued with our papers. The policy of the Committee for Postgraduate Studies in the Department of Law is to distribute remaining papers for complete courses, after a delay of a fortnight, for the cost of half a full enrolment in the course. Requests are dealt with promptly. Subject to availability, which can be confirmed by phoning (02) 225 9238, papers can be ordered by using the usual registration form, clearly marked 'Papers Only' and sent together with a cheque made payable to The University of Sydney for half the registration fee. This should be addressed to me, Miss Jenny Littman, C/- Faculty of Law, 173-175 Phillip Street, Sydney, 2000 or through DX 983 Sydney.

The provision of this Centenary edition of *The Sydney Law School Reports* has been subsidised by the Committee for Postgraduate Studies in the

Department of Law, of which the Continuing Legal Education Programme is an instrument. This office is responsible for transmission of this document to as many of our current and former students as can be traced. Please assist by contacting us should your address change. Any recent enrolment in our courses should maintain our contact with you in order to forward all materials which we feel are relevant to

your interests. Should you wish to vary our records please let us know.

Another function performed by this office in this, the Centenary year, is the liaison between potential participants in the Sydney Summer School 1991 and the lecturing authorities. The Sydney Summer School provides intensive advanced education and training in legal issues relevant

to the Asian Pacific region. It is held during a two-week period in Sydney, at the Law School, during January each year. It is hoped that this will provide a network for lawyers in Australia and the Asian Pacific region and continue to enhance the international esteem already enjoyed by this Law School.

Jenny Littman
Co-Ordinator
Continuing Legal Education.

VISITORS

Visitors to the Faculty in 1990 include:

Professor Ewoud Hondius of the University of Utrecht, The Netherlands, is the Allen Allen & Hemsley Fellow for 1990. He will be with us from mid-July to the end of November 1990.

The Allens Fellow for 1991 will be Professor Norbert Reich, Director, Centre for European Legal Policy in the University of Bremen, Federal Republic of Germany. He will be with us in the second semester of 1991.

Professor Alexander J Easson of Queen's University, Kingston, Canada, has been appointed Visiting Professor in the Department of Law from 10 July to 30 November 1990.

Recent 'Parsons' Scheme' visitors:

Professor Roland Hjorth of the University of Washington, Seattle, U.S.A.—from 29 October to 9 November 1989.

Professor Stanley Sadinsky of Queen's University, Kingston, Canada—from 12 February until June 1990.

Professor J.K. Mittal, Director of the Indian Law Institute, New Delhi, India—from 15 February to 11 April 1990.

Professor Graeme Newman, Professor of Sociology, School of Criminal Justice, The University of New York at Albany—eight weeks from 1 March 1990.

Professor Campbell Perry, Professor of Psychology, Sir George Williams Faculty of Arts and Science, Concordia University, Montreal, Quebec, Canada—from 2 March to 27 April 1990.

Professor Norman Palmer, University of Southampton, United Kingdom—from 9 March to 5 April 1990.

Professor N Gravels of the University of Nottingham—from 19 to 23 March 1990.

Professor Paul Tractenberg from Rutgers University—from 11 September to 31 December 1989.

Professor Dennis Nolan from the School of Law, University of South Carolina—one week from 9 October 1989.

POSTGRADUATE STUDIES

The 1990 academic year began with a healthy intake of over 600 postgraduate students.

The numbers have swelled especially in our LL.M. by coursework with 472 enrolled compared to 414 the previous year, a 14 per cent increase. The intake in our three postgraduate diplomas (**Labour Relations and the Law, Criminology and Jurisprudence**) maintained its previous level of around 100 students. There was also a slight increase in the number of students doing our research degrees, the Ph.D. and LL.M. by thesis, with a current enrolment of 43.

Several developments have occurred in respect of our coursework programmes. Two new LL.M. courses have been introduced this year, namely, **International Trade Regulation and Taxation and Social Policy**, bringing to 29 the total number of courses offered.

There has also been a substantial revision of the postgraduate Diploma of Criminology programme. In place of the conventional structure of four year-long courses, a student is now required to complete eight courses, each of one semester in length. While retaining a compulsory component of core

courses, the new arrangement enables students to choose from a wide range of electives. The courses offered this year were **Explaining Crime, Contemporary Crime Issues, Criminalisation, Criminal Liability, Crime Control, Criminal Justice Process, Australian Police Systems, Sentencing and Punishment, Forensic Psychiatry, Advanced Criminal Law and Crime Research and Policy**. The Faculty has made two new appointments, both prominent criminologists, to ensure a flying start to the restructured Diploma programme. Every indication is that it has been well received, from very positive student feedback to the numerous enquiries received from members of the police force, corrective and social welfare services and other interested members of the public.

By far the most significant development in our coursework programme has been the planning of several new postgraduate degrees to be launched in 1991. Much thought has gone into the structure of these new degrees and securing the necessary resources.

The **Scientiae Juris Doctor (SJD)** degree comprises a combination of coursework and research requirements different from the LL.M. by thesis and the Ph.D.

Three new Masters degrees have been introduced and geared towards persons wanting to specialise in certain areas. The **Master in Labour Law and Relations** will enhance the careers of persons working in the fields of industrial law and industrial relations, and others who desire to study more of

employment and industrial law.

The **Master of Taxation** degree will comprise courses covering policy issues as well as the operation of the tax system. It is open to persons practising in taxation law who desire to undertake postgraduate studies in the tax area but are currently unable to do so because they do not have an undergraduate law degree. It is therefore available to people with qualifications in accountancy and economics.

The **Master of Criminology** will cater to persons interested in pursuing study of this discipline beyond the diploma level.

Finally, a **Diploma of Postgraduate Law** will be offered to students interested in a postgraduate coursework programme, but for whom the LL.M. by coursework is inappropriate.

While most of the year's activities have been in relation to our coursework programme, we have by no means neglected our postgraduate research students. A series of half-day seminars has been organised at monthly intervals throughout the year. Topics already covered include overcoming the isolation of research, formulating and developing a thesis, and working with one's supervisor. A hands-on training session in the Faculty's computer laboratory is being planned for September. The students have found the seminars extremely helpful and have used these meetings to develop 'networks' among themselves for the purpose of building a more congenial student community.

Stanley Yeo
Associate Dean,
Postgraduate Studies

CENTENARY PUBLICATIONS

A Century Down Town tells the history of Sydney University Law School from 1890 to 1990.

It is being edited by John Mackinolty, former Dean of the Law Faculty and Chairman of the Academic Board of the University, and Judy Mackinolty, formerly Lecturer in History and Education at the Universities of New South Wales and Macquarie. It traces the ages of Sydney Law School as marked by its Deans; Pitt Cobbett, Peden, Shatwell and the miscellany who crowded the seventeen years after Shatwell's retirement. The eminent lawyer-historian, Dr J.M. Bennett, is writing on the Pitt Cobbett era and Professor J.M. Ward, former Vice-Chancellor of the University, was to write on Sir John Peden. *A Century Down Town* is one of the many projects to have suffered from the sudden and untimely loss of Professor Ward who was killed in the Hawkesbury train disaster. The editors hope to use Professor Ward's papers and other work, including that originally prepared for the *Australian Dictionary of Biography*, to assist in the preparation of that chapter.

The authorship of the Shatwell years has been undertaken by Emeritus Professor W.L. Morison whose own academic career at Sydney Law School began before Shatwell's arrival and ended after his retirement. From his first-hand experience, Professor Morison has been able to temper the more formal record with anecdote, a combination which

it is expected will characterise the rest of the book whose remaining contributors are Mr B. Bilinsky, Professor R.P. Austin, Miss O. Wood and Professor R. Vann, all of whom were full-time members of Faculty during the period on which they are writing.

A Century Down Town is a generously illustrated hardbound book which will provide a rich source of information about our first hundred years and a lasting memento of our Centenary.

The Sydney Centenary

Essays is the Law School's second Centenary publication. The *Essays* provide a sample of scholarly writing representative of research and teaching at Sydney and thus indicative of the School's scholarly achievements during its first hundred years. The essays are not historical in orientation but rather seminal pieces on matters of current interest written by established scholars, all of whom once taught or still teach at Sydney Law School. The contributors and the subject areas within which each essay is located are: Professor A.E.S. Tay (Jurisprudence); Professor J.R. Crawford (International Law); Justice W.M.C. Gummow (Equity); Dr M.N. Allars (Administrative Law); Justice P.E. Nygh (Conflict of Laws); Professor B.W. Fisse (Criminology); Associate Professor G.J. McCarry (Industrial Law); Emeritus Professor R.W. Parsons (Taxation); and Emeritus Professor W.L. Morison (The Common Law).

Each subject area on which an essay has been written was chosen because it was in some

way closely associated with the School. This association has varied depending on the subject—for example, jurisprudence and international law have a special place in the School, because of their institutionalisation through the establishment of a Chair in those fields and, more recently two Chairs, one in Jurisprudence and the other in International Law. Other subjects, such as equity, administrative law and conflict of laws, commended themselves because of the prominence which the subjects have held in the undergraduate curriculum. The establishment and development of our postgraduate programme, which is second to none in this country, was instrumental in the development of strengths in areas which have continued to play a central part at the postgraduate level, such as criminology, industrial law and taxation. Thus those three subjects were added. In a School grounded firmly in the common law tradition, it would have seemed anomalous to omit the common law from the list of essays. The collection is therefore completed with an essay on the common law.

The *Essays* will appear as a special issue of the *Sydney Law Review* but will also be available for purchase in a hardbound commemorative edition.

It is hoped that both publications will provide stimulating reading. You are encouraged to order your copies as soon as possible in order to take advantage of the pre-publication offer. An order form is enclosed with this issue of the *Reports*.

Colin Phegan, Professor of Law

