



### **Welcome**

Welcome to the fourth edition of the *Melbourne University Law Review* Alumni Association Newsletter. After a sporadic history of publication beginning in 2001, this edition marks the first in a new series of newsletters to be published in print and made available online. Each edition will outline the *Review's* recent activities and include information about upcoming events and issues.

### **About the Alumni Association**

Established in 2001, the Alumni Association's principal functions are to maintain a database of alumni's contact details, publish this Newsletter and host a biennial alumni social event.

All former Members of the *Review* (collectively 793 people) are automatically Members of the Alumni Association.

### **Call for Contact Details**

The Alumni Association's ability to contact past Members is currently hampered by both outdated contact details and the current laws protecting individuals' information privacy. For example, the *Review* and the Melbourne Law School's Alumni Office are not allowed to share the contact details which they have in their respective databases.

Accordingly, we would greatly appreciate it if you would contact the *Review* to provide us with your contact details (including your current occupation, place of work, postal address, phone number, email address and your preferred method of contact) and from time to time when these details change.

Furthermore, if you are aware of any former Members who have not received a copy of this Newsletter, please advise us of their contact details with their permission or encourage them to contact us directly.

### **Upcoming Alumni Association Cocktail Party**

Following on from the success of the 2007 Alumni Association Cocktail Party at the State Library of Victoria, this year's Alumni Cocktail Party is to be held at Comme (7 Alfred Place, Melbourne) on **Tuesday 20 October 2009 from 6:30–8:30pm**. The Cocktail Party is an informal event where past Members can reminisce about their time on the *Review*, collect a free copy of the *Review's* latest issue and meet current senior *Review* Members over drinks and nibbles. All former Members of the *Review* are warmly invited to attend; however, formal invitations (which will be distributed shortly) can only be sent to those whose contact details we have on file. We would therefore be grateful if you could provide us with your preferred method of contact as soon as possible and encourage other past Members to contact the *Review*.



### **Melbourne University Law Review**

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## THE *REVIEW* IN 2009

This year the *Review* comprises 63 Members, with 5 Publications Administrators, 29 General Members, 26 Executive Members and 3 Editors. Sixteen of these joined the *Review* for the first time in 2009 after an exhaustive selection process. The *Review* also has three Faculty Advisers — Associate Professor David Brennan, in his fourth year in the position, Professor Richard Garnett, in his third year, and Professor Jenny Morgan, who returns to the position after a two-year break.

The 2009 Editors — David Heaton, Luke Pallaras and Anna Zhang — were elected unopposed on 13 October 2008 and assumed office on 1 January of this year. A major focus of the Editors has been managing the *Review*'s transition to the new JD student-base. Under the recently introduced 'Melbourne Model', the five-year combined undergraduate Bachelor of Laws course is being phased out and replaced with a three-year graduate degree, the Juris Doctor. This has

implications for the *Review*'s ability to recruit new Members, and for JD students to fully staff the *Review*, as JD students are in the law school for less time and, attending only law classes, generally have an increased workload.

The *Review*'s response to the JD transition has involved running two additional recruitment campaigns in July, after JD students have completed their first semester of law, and securing the introduction of a subject for Assistant Editors and Section Editors. Promisingly, twelve of the *Review*'s current Members are JD students.

One minor change to the composition of the Editorial Board in 2009 has been the creation of the position of Training Manager. This position has been created in order to improve the quality and consistency of the training that editorial Members receive.



The Dean of the Melbourne Law School, Professor James Hathaway (third from left), with the 2009 Editors, Anna Zhang, Luke Pallaras and David Heaton (L to R).

# SPONSORS' COCKTAIL PARTY 2009

Every year the *Review* acknowledges the invaluable contribution of its sponsors at the Sponsors' Cocktail Party. This year, on 14 May, the event was held at the Melbourne Supper Club on Spring Street. It was well attended by *Review* Members and representatives from our sponsor firms.

The Editors gratefully acknowledged the support of the *Review's* six sponsor firms for 2007–09: Allens Arthur Robinson, Arnold Bloch Leibler, Blake Dawson, Freehills, Mallesons Stephen Jaques and Minter Ellison. They also paid tribute to Wilfred Ho, Dakshinee Kodituwakku and Sunny Leow, outlining their many contributions to the *Review* as Editors in 2008.



L to R: Benjamin Kiely (Editor 2006), David Heaton (Editor 2009), Sunny Leow (Editor 2008)



L to R: Miranda Webster (Case Note Editor 2009), Wilfred Ho (Editor 2008), Dora Banyasz (Allens Arthur Robinson)



L to R: Dakshinee Kodituwakku (Editor 2008), Anna Zhang (Editor 2009), Jess Liang (General Member 2009)



L to R: Lu Li (General Member 2009), James Weatherhead (Training Manager), Kathryn Tomasic (Assistant Editor), Jo Cameron (Mallesons Stephen Jaques)



L to R: Darryl Slabe (General Member 2009), Nathan Kiratzis (Freehills)



L to R: Christina Giavris (Freehills), Luke Pallaras (Editor 2009)

# ANNUAL DINNER 2008

On 16 October 2008, 120 guests attended Swanston Hall in the Melbourne Town Hall for the *Review's* 2008 Annual Dinner.

The 2008 Editors, Wilfred Ho, Dakshinee Kodituwakku and Sunny Leow welcomed the guest speaker, the Honourable Judge Gordon Lewis, and the Faculty speaker, Professor Adrienne Stone. Judge Lewis gave some humorous reflections on the comical side of life

as a County Court Judge. Professor Stone gave some interesting insights into a topical area in her speech on the Bill Henson affair and freedom of speech.

The Editors reflected on the *Review's* achievements in 2008 and concluded the evening by thanking the Members of the *Review* for their excellent work throughout the year. An enjoyable and relaxing evening was had by all.



L to R: Sunny Leow (Editor 2008), the Hon Judge Gordon Lewis and Caroline Wong (Marketing and Distribution Manager 2008)



L to R: Greg Roebuck, Liam Hickey, Martin Ivanovski, Joel Tito and Nirm Amirthanesan



The *Review* in 2008

## AGLC: THIRD EDITION!

Over the past year, Members of the *Review* have engaged in a collaborative project with the *Melbourne Journal of International Law* ('MJIL') to produce the third edition of the *Australian Guide to Legal Citation* ('AGLC').

The first edition of the *AGLC* was published by the *Review* in 1998 and the second in 2002. The *AGLC* is currently the most widely used and recognised legal citation guide in Australia, having been adopted by numerous law schools, leading law journals and (in part) some courts. It sets out established Australian citation practices and indicates preferred approaches to legal citation where no particular approach has been widely adopted. Designed for academics, law students, legal practitioners and the judiciary, the *AGLC* provides an invaluable tool for legal writing and research.

The third edition combines the expertise of both the *Review* and *MJIL*. It updates almost all rules and examples, ensuring increased clarity, precision and relevance to the reader. It also provides greater guidance in relation to the citation of international legal materials and those from foreign jurisdictions, such as China and Europe, which have only been touched upon in previous editions.

It is anticipated that the third edition of the *AGLC* will be published later this year, in time for the 2010 academic year. In the meantime, the second edition of the *AGLC* remains available for sale through the *Review* and the Melbourne University Bookshop. A free version can also be downloaded (for viewing only) from the *Review's* website.

## 2009 SPONSORS

The *Review* gratefully acknowledges the support of its current sponsors. Their generous support makes the publication of the *Review* possible.

Allens Arthur Robinson



Arnold Bloch Leibler  
Lawyers and Advisers



Freehills

MALLESONS STEPHEN JAQUES

# MULR MEMBERS MOOT AROUND THE WORLD!

Throughout 2008 and 2009, current Members of the *Review* have performed exceptionally well in mooting competitions around the world.

## **European Law Students' Association EMC<sup>2</sup> Moot Court Competition**

This year, the Melbourne Law School team won the European Law Students' Association EMC<sup>2</sup> Moot Court Competition on World Trade Organization law. The team comprised *Review* Members Rudi Kruse and Christopher Tran, as well as law students Erica Leaney and Laura Bellamy (pictured). The team was coached by Associate Professors Andrew Mitchell (*Review* Editor 1997) and Tania Voon (*Review* Secretary 1996). Due to the financial crisis, very few universities in the Pacific Region chose to fund their teams and only three teams entered the Pacific Region competition: the University of Otago (New Zealand), the University of Sydney and the University of Melbourne. Consequently, the Pacific Regional Round was conducted on the basis of written submissions. As Christopher Tran observed, 'this put a lot more pressure on our written submissions, which suddenly were worth 100 per cent.' After a gruelling but enjoyable summer in the library, the team won the Pacific Regional Round by a margin of 47 points and advanced to the Final Oral Round.

The Final Oral Round was held, for the first time, in Taipei, Taiwan. Christopher reflects that the team was 'quite nervous because we hadn't mooted against another team before, whereas our competition had all mooted against other teams in their respective Regional Rounds.' The team advanced to the semi-finals after mooting against the University of Barcelona and the Universidad Javeriana (Columbia). They went on to win the Competition, beating the University of Maastricht in the semi-finals and Duke University in the final. Christopher lists as the real highlights of the experience: 'getting to know my team, ridiculously cheap dumplings in Taipei, and meeting hard-core world trade law experts'. The team won scholarships to the Summer Academy of the World Trade Institute in Bern, Switzerland, and to the International Economic Law and Policy program at the University of Barcelona.

Incidentally, the University of Melbourne is the only university in the world to have won the Competition twice. The Melbourne Law School was previously victorious in 2006–07 with a team comprising David Heaton, Chian Kee, Sarah Kemeny and Liz Sheargold.

Finally, *Review* Members Kathryn Tomasic and Tim Lau were recently selected for the 2009–10 Melbourne Law School team. We wish them all the best!



L to R: Rudi Kruse, Assoc Prof Tania Voon, Laura Bellamy, Assoc Prof Andrew Mitchell, Christopher Tran and Erica Leaney at the Final Oral Round, Taipei



L to R: Sarah Zeleznikow, Clair Roberts, the Hon Justice Michael Kirby AC CMG, Jessica Chew and Nicholas Butera at the High Court of Australia, Canberra

### ***Phillip C Jessup Moot Court Competition***

Over the summer of 2008–09, one of the *Review*'s current Editors, David Heaton, together with Felicity Ryburn (General Member 2009) and Melbourne Law School students Seamus Coleman, Sienna Merope, and Sonja Zivak competed in the Phillip C Jessup Moot Court Competition. As with the European Law Students' Association EMC<sup>2</sup> Moot Court Competition, the team was coached by Associate Professors Mitchell and Voon. It was the 50<sup>th</sup> year of the Competition and, in the words of David Heaton, 'the organisers drafted a particularly gruesome problem to reinforce this.' The Melbourne Law School's team defeated the University of Western Australia in the Australian final to win the Australian National Round. David was awarded best speaker in the final. The team then travelled to Washington DC, where they won moots against teams from Malaysia, Kazakhstan and British Guyana. Unfortunately, they lost to University College London in the Run-Off Round, but were consoled by the fact that their victors ended up coming second overall.

### ***LexisNexis Constitutional Law Moot***

Last October, *Review* Members Sarah Zeleznikow and Nicholas Butera participated in the LexisNexis

Constitutional Law Moot. The event was held in the High Court in Canberra and adjudicated by the Honourable Michael Kirby AC CMG. The team — consisting of Sarah, Nicholas, Clair Roberts and Jessica Chiew (pictured) — performed extremely well and were narrowly defeated in the grand final by a mere point. They were also awarded Best Written Submissions and Sarah won Best Oralist in the grand final. Sarah, who is currently competing in the semi-finals of the Melbourne Law Students' Society Mooting Competition, reflected:

[It] was an extremely enjoyable but challenging experience. The highlight was mooting in front of Justice Kirby in the High Court (soon before his retirement) — the knowledge and stories that he imparted to us will be remembered for a long time to come.

### ***Charter of Rights Mooting Competition 2009***

This year marks the third annual human rights mooting competition held by the Castan Centre of Monash University. *Review* Members Duncan Kauffman, Jessica Liang and Nicholas Butera have recently been selected as part of the Melbourne Law School's 2009 teams. We wish them and their respective team-mates all the best.

## PAST MEMBER PROFILE: ALLAN J MYERS AO QC



Allan J Myers AO QC studied law at the University of Melbourne and was a Member of the *Review* from 1967–69. He served as an Editor of the *Review* (alongside Charles A Sweeney and John McI Walter) in 1969 and was, in the same year, awarded the University of Melbourne Supreme Court Prize in recognition of his academic achievements. After concluding his legal studies in Australia, Mr Myers completed a Bachelor of Civil Law at the University of Oxford.

Mr Myers was admitted to legal practice in 1971, signing the bar roll in 1975 and taking silk in 1986. As Queen's Counsel, Mr Myers has a broad practice as a barrister, arbitrator and mediator. He is admitted in all Australian states and territories, as well as in England and Papua New Guinea. Currently, Mr Myers is leading counsel for the State of Victoria in the Bushfires Royal Commission.

In addition to his practice as a barrister, Mr Myers has taught in undergraduate and graduate law courses in Australia, Canada and England. He has also written and delivered many articles and papers and was Assistant Editor of the *Australian Taxation Law Review* for more than ten years.

Outside the legal sphere, Mr Myers has a long history of providing support to professional and charitable entities through membership and chairmanship of committees and foundations at the Victorian Bar, the University of

Melbourne, Newman College, the University of Oxford, the Florey Neurosciences Institute, and many others. He is a Governor of the Ian Potter Foundation and is also a Member of the Graduate Studies Advisory Board of the Melbourne Law School. He has been a Trustee of the National Gallery of Victoria since 2003, and in June 2004 he became the President of the Council of Trustees.

Mr Myers is also heavily involved in business, being a director of various private and unlisted public companies in Australia and overseas.

He was awarded a Centenary Medal in 2001 and, in 2007, was made an Officer of the Order of Australia for his services to business and philanthropy.

Mr Myers recently spoke at the Melbourne Law School's 2008 Prize-Giving Ceremony on Thursday 28 May 2009 (pictured).

## PAST MEMBER PROFILE: GRANT ANDERSON



Grant Anderson studied law and commerce at the University of Melbourne from 1983–88. He was a Member of the *Review* from 1985–88 and assumed the position of Editor alongside Anne Twomey in his final year.

Upon graduating with honours in both his degrees, Mr Anderson joined Allens Arthur Robinson (then Arthur Robinson & Hedderwicks) as an Articled Clerk in 1989. He became a Partner in 1997 and continues to work with the firm today. During his time there, Mr Anderson has practised as a commercial lawyer, specialising in energy and resources law and undertaking both regulatory and transactional work in Australia and overseas. Most recently, Mr Anderson has been heavily involved in advising clients on the Commonwealth government's proposed Carbon Pollution Reduction Scheme and on the establishment of renewable energy projects. As Mr Anderson notes:

This is an exciting and evolving area which combines law, economics and public policy, and is of extraordinary relevance to the kind of world we will live in a decade or two from now.

In 1991, Mr Anderson took a leave of absence from Allens Arthur Robinson for close to two years to work as an Associate to the Honourable Justice Dawson, then of the High Court of Australia. As Mr Anderson reflects:

Working at the High Court was a tremendous experience as it was at the time of *Mabo* and a number of major cases concerning implied rights in the *Constitution*. I was also privileged to have access to Sir Owen Dixon's diaries for the purpose of co-authoring an *Australian Dictionary of Biography* entry on Dixon with Justice Dawson.

In looking back on his time on the *Review*, Mr Anderson considers the highlight to have been 'the very convivial proofing nights that were held at the Editors' houses and fuelled with copious amounts of red wine', although he admits that the accuracy of the proofreading declined as the evenings progressed. Mr Anderson further recalls that:

As an Editor, one of the most satisfying and terrifying events was hosting the Annual Dinner. When I was an Editor, the guest of honour was the Honourable Mary Gaudron and the element of terror came in the form of her plane from Canberra being delayed by fog. It fell to [Co-Editor] Anne Twomey and I to entertain a crowd of very distinguished guests who were eagerly awaiting the main act and not the least interested in us.

Finally, Mr Anderson is especially grateful for the efforts of the 1988 Editorial Board, in particular John Daley (1986–89), for computerising the editorial process, as all current Members of the *Review* remain today!

# CURRENT ISSUE: VOLUME 33 NUMBER 1

The *Review* has recently published its first edition for 2009. It features the following pieces:

## **Articles**

Still Paying the Price for Benign Intentions? Contextualising Contemporary Interventions in the Lives of Aboriginal Peoples

*Peter Billings*

Credit Rating Agencies: A Regulatory Challenge for Australia

*Tin A Bunjevac*

Cross-Examination in Child Sexual Assault Trials: Evidentiary Safeguard or an Opportunity to Confuse?

*Annie Cossins*

The *Charter's* Irremediable Remedies Provision

*Jeremy Gans*

The Professional 'Tug of War': The Regulation of Foreign Lawyers in China, Business Scope Issues and Some Suggestions for Reform

*Andrew Godwin*

National Litigation and International Law: Repercussions for Australia's Protection of Marine Resources

*Natalie Klein and Nikolas Hughes*

The Nature of Torrens Indefeasibility: Understanding the Limits of Personal Equities

*Kelvin F K Low*

Change of Position and Restitution for Wrongs: 'Ne'er the Twain Shall Meet?'

*Paul A Walker*

## **Critique and Comment**

The False Analogy between Vilification and Seditious

*Katharine Gelber*

'Storyline Patents': Are Plots Patentable?

*Ben McEniery*

## **Case Note**

*Lumbers v W Cook Builders Pty Ltd (in liq)*

Restitution for Services and the Allocation of Contractual Risk

*Michael Bryan*

# FORTHCOMING ISSUE: VOLUME 33 NUMBER 2

The *Review* expects to publish the following pieces in its next edition, however, this list is subject to change.

## **Articles**

Piercing the Veil on Corporate Groups in Australia

*Helen Anderson*

Incapacity, Non Est Factum and Unjust Enrichment

*Elise Bant*

From Good Intentions to Ethical Outcomes: The Paramountcy of Children's Interests

*Jonathan Crowe and Lisa Toohey*

'Generally Inconvenient': The 1624 *Statute of Monopolies* as Political Compromise

*Chris Dent*

Representations as to the Future as Misleading Conduct under the Proposed Australian Consumer Law

*Arlen Duke*

'An Alien by the Barest of Threads': The Legality of the Deportation of Long-Term Residents from Australia

*Michelle Foster*

Franchising and the Quest for the Holy Grail: Good Faith or Good Intentions

*Andrew Terry and Cary Di Lernia*

Judging the Judges: Are They Adopting the Rights Approach in Matters Involving Children?

*John Tobin*

## **Critique and Comment**

Unlovely and Unloved: Corporate Law Reform's Progeny

*Cally Jordan*

The National Unfair Contract Terms Provisions: Substantive Unfairness, Transparency and an Accurate Model of the Decision-Making Processes of Contracting Parties?

*Jeannie Marie Paterson*

## **Submissions to the Review**

Submissions for Volume 34 Number 1 (April 2010) are now open and will close on 31 December 2009.

Past Members are warmly invited to submit academic articles, case notes or book reviews for possible publication in the *Review*. Information regarding submission dates and processes, as well as the *Review's* Publication Policy, can be accessed on our website. Alternatively, past Members should feel free to contact the *Review* directly for further information.

To date, over 60 alumni have published scholarly pieces in the *Review*.

## **Newsletter Contributions and Feedback**

Contributions by alumni for subsequent editions of this Newsletter are warmly welcomed. We also welcome feedback on this Newsletter and alumni events.

## **Accessing the Review**

Hardback subscriptions to the *Review* are available through Thomson Reuters (Professional) Australia Ltd at a cost of A\$66.00 per issue (incl GST and postage and handling). Enquiries should be directed to:

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Hardback copies of any issue — from the first volume of *Res Judicatae* (published in 1935) to the current volume — can be ordered directly from the *Review*. Single issues prior to 1977 cost A\$44.00 (incl GST) and those from 1977 to date cost \$33.00 (incl GST). Postage and handling charges vary according to order size.

The *Review* can be accessed online for free through AustLII (from 1999 onwards) or by subscription from the following service providers: Hein Online Law Journal Library (from 1957 onwards), Informit Australian Public Affairs Full Text (from 1994 onwards), Informit AGIS Plus Text (from 1999 onwards), LexisNexis Academic (from 1997 onwards), Gale Cengage Expanded Academic ASAP (from 2001 onwards) and Gale Cengage LegalTrac (from 2001 onwards).

Prepared by the 2009 Alumni Association Coordinators Rowan Minson and Alexandra Whelan with the assistance of IT Manager Gavin Ballard

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