

Autumn 2003

ALTA Newsletter

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Report from the Chair of ALTA

It was a great honour to be elected at the annual general meeting, in October 2002, as Chairperson of the Australasian Law Teachers' Association. This took place at the annual conference, hosted by Murdoch University in WA.

It is a real privilege to step into the shoes of my current Dean at UTS, Prof David Barker, who has done so much for this organisation over the last three years.

It is important that any such voluntary organisation does not become a "one-person band".

The team that makes up the ALTA Executive includes the on-going Treasurer, Prue Vines (UNSW) and ALTA Secretary, Dr Elisabeth Peden (Syd).

The Executive is also made up of Prof Rob Woellner (UWS), Lyndal Taylor (UTS) and Prof Zada Lipman (Macq).

As well as the Australian based ALTA Executive, there is a New Zealand

Executive, chaired by Prof Matthew Palmer (VUW).

Congratulations should also be extended to Prof Rosemary Hunter (Griffith) on her appointment as 2003 ALTA President.

The ALTA Secretariat has been based at the Law School of the University of Sydney (Phillip Street, Sydney) for many years and the key administrator has been Leila Wong.

In January 2003, the whole ALTA Secretariat moved to UTS Kuring-gai campus at Lindfield, where the administration is shared between Jeremy Green, Hema Ramakrishnan and Lucinda Amon.

A new computer database has been created and a movement to electronic up-dating of records/membership details and renewals has taken place.

It is hoped that this newsletter will come out from the ALTA Secretariat two times per year, to provide additional member benefits.

As at the end of April, the



ALTA membership (paid-up individuals and Institutions) totals only 279. This can be compared to a final ALTA membership of 652 for 2002.

It is really important that individuals pay their A\$35 calendar year annual membership (or A\$30 for academic Institutional rate) as soon as possible.

If you require any details on invoicing or membership renewal details, please contact Lucinda on 02-9514-5414 or email her at: ALTA@law.uts.edu.au.

Finally, I hope you enjoy reading the 2003 Autumn ALTA Newsletter and look forward to seeing you at the annual conference between 6 – 9 July 2003, hosted by Griffith University in Queensland.

Prof Michael A Adams
michael.adams@uts.edu.au

ALTA membership immediately pays for itself

...

members receive a \$60 discount on the Annual Conference fee of almost double the cost of membership!

Membership Renewal for 2003

ALTA membership has always been cheap, in fact one would say a “bargain”.

Personal membership is only A\$35 per annum — based on a calendar year.

Renewal notices were emailed and posted in January 2003 and need to be paid ASAP.

A number of universities become Institutional members, which lowers

the cost to \$A30 per academic, as it is paid by the university.

The main benefits of membership are:

- Discount on the annual conference (for 2003 this amounts to \$60)
- ALTA Newsletter (at least twice per annum)
- Legal Education Review and/or other journals/digests

- 2003 ALTA Directory of members (to be published for July conference)

For more details, please email Lucinda on alta@law.uts.edu.au

2003 ALTA Directory

Once again, the Lawbook Co (Thomson), has kindly sponsored the printing and publication of the 2003 ALTA Directory of Members.

This will be available to members at the annual

conference (6 – 9 July) at Griffith University Law School.

It is **urgent** that you renew or take out a membership subscription as soon as possible to be included in this year's ALTA

Directory. With the support of Lawbook Co, we will be placing a version on a website as well later in the year.



Legal Education Review

All members of ALTA would be aware of the fine journal that is provided to members as part of the ALTA subscription, in the form of the *Legal Education Review*.

This has been professionally edited by Prof Andrew Goldsmith (Flinders) for a number of

years.

At the moment, the journal is printed separately to a major publisher and this adds to the costs of production.

It is hoped in the near future to announce that a major legal publisher will take over the production, publication/printing and

distribution of the LER. In fact, the next issue will see a change of editor to Lyndal Taylor (UTS) and if you have any legal education submissions, please submit them to: lyndal.taylor@uts.edu.au

Legal Professional Privilege in the High Court

The High Court issued a unanimous judgment upholding the principle of legal professional privilege in *Daniels Corp International Pty Ltd v ACCC* [2002] HCA 49; (2002) 192 ALR 561.

The ACCC served notices on the Appellant's solicitors, pursuant to s 155 of the *Trade Practices Act 1974* (Cth) (the TPA), which required the production of documents held by them as a result of their having acted as solicitors for Daniels Corp.

The solicitors and Daniels

Corp claimed that certain documents were the subject of legal professional privilege and that s 155 of the Act did not authorise the ACCC to require production of documents to which that privilege attached.

The Full Court of the Federal Court held that s 155 did authorise notices requiring the production of such documents.

The High Court held, allowing the appeal, that legal professional privilege is a right that will not be taken to have been abolished by legislative

provisions except by express language or clear and unmistakable implication (per Gleeson CJ, Gaudron, Gummow and Hayne JJ at [11] and 192 ALR 565; per McHugh J at [43] and 192 ALR 572; per Kirby J at [88] and 192 ALR 584; per Callinan J at [132] and 192 ALR 596).

In so finding, the HCA held that s 155 did not expressly abolish the right to claim legal professional privilege nor did it do so by necessary implication.

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Harvard World Model United Nations

While the world witnessed the disintegration of multilateral talks and the impotency of a key UN organ this March, over 800 university students and faculty advisors from across 60 nations reaffirmed their faith in International Law and dialogue.

The 2003 Harvard World Model UN (WorldMUN) was held this year at the Ruprecht-Karls-Universität Heidelberg and provided the setting for seven Australian students to gain a unique lesson on the formation of International

Law.

The students from Macquarie University, University of New South Wales and the University of Technology, Sydney represented the interests of India, Myanmar and Australia in six of the sixteen simulated committees.

There, they attacked international issues ranging from 'Post-conflict reconstruction' and 'Human rights violations in times of conflict' to 'Freedom of speech in the internet age' and 'Maritime

Piracy'.

Formal parliamentary debates and diplomatic negotiations were aimed at devising resolutions to the problem while ensuring the maintenance of their national interests.

In addition to gaining a heightened awareness about a range of international issues the students experienced the nuances of international policy making with the intricate difficulties present in multilateral negotiations.

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HIH Royal Commission Report Released

“In an ideal world the protagonists would begin the process by asking: is this right?”

...
In corporate decision making, as elsewhere, we should at least aim for an ideal world.”

The much anticipated report from the Royal Commission into the failure of HIH Insurance Group was released by Justice Neville Owen on 16 April 2003.

The Commissioner has made 61 policy recommendations and has identified a number of possible breaches of the *Corporations Law* (now the *Corporations Act 2001*) and the *Crimes Act 1900* (NSW).

The report indicates that there are 56 matters that should be referred either to the ASIC or (in a small

number of cases) to the NSW DPP.

In his report, Justice Owen highlighted the fundamental nature of corporate governance by suggesting that:

‘In an ideal world the protagonists would begin the process by asking: is this right? That would be the first question, rather than: how far can the prescriptive dictates be stretched? The end of the process must, of course, be in accord with the prescriptive dictates, but it will have been informed by a consideration of

whether it is morally right. In corporate decision making, as elsewhere, we should at least aim for an ideal world.’

The report can be viewed in html format at <http://www.hihroyalcom.gov.au/> or purchased from the Australian Government Info shops, at a cost of A\$39.95 for the three volume set.

Dawson Inquiry into Trade Practices Act released

A voluntary formal clearance should be introduced, parallel to the existing informal clearance process, in relation to merger applications requiring consideration under s 50

...
no amendment should be made to s 46 but the ACCC should give consideration to issuing guidelines to its approach to Part IVA

The review of the competition provisions of the *Trade Practices Act 1974* (Cth), headed by Sir Daryl Dawson AC KBE CB, was released on 16 April 2003. The review Committee also included Jillian Segal and Curt Rendall.

The Committee concluded that the competition provisions of the TPA have sustained a competitive environment which has benefited consumers in terms of service and price.

The Committee found that the TPA has achieved an appropriate balance between the prohibition of anti-competitive conduct and the encouragement of competition.

In forming this assessment, the Committee drew on a broad range of views expressed in submissions made to it, discussions overseas and consultations with a wide range of interested parties.

The theme of the report is

that the competition provisions should protect the competitive process, rather than particular competitors. Further, competition laws should be distinguished from industry policy.

The Committee made 43 recommendations aimed at improving the competition and authorisation provisions, and the administration of the TPA.

The report is available to download from <http://www.tpareview.treasury.gov.au/>

Changing Law



**ALTA
2003**

Australasian
Law Teachers
Association
Conference

Sunday 6th – Wednesday 9th July 2003

Hosted by Griffith University Law School
at Queensland College of Art
South Bank, Brisbane, Queensland

www.griffith.edu.au/school/law/alta2003



Key Speakers

Prof Larissa Behrendt

Prof Richard Collier

Prof Costas Douzinas

Andrea Durbach

Prof Reg Graycar

Prof Jane Kelsey

Prof Erica McWilliam

Dr Aileen Moreton-
Robinson

Prof David Saunders

Prof Clifford Shearing

Conference Managers

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ALTA Secretariat

Legal Education Digest

For over ten years, the NSW Centre for Legal Education has produced a 20-page digest of the main literature on legal education covering the USA, UK, Australia and New Zealand.

For the last few years, Dr John Nelson, has been editing the *Legal Education Digest* (LED). This has made the LED a very useful resource for academics interested in

legal education.

The LED provides a summary of key articles published and a full citation to enable libraries to obtain the full-text versions.

It is hoped that later in 2003 we will be able to negotiate a "free" electronic subscription to all the paid-up members (worth A\$55) of ALTA.

The LED has previously been published by the University of Newcastle as host of the Centre for Legal Education (CLE).

In early 2003, both the CLE and LED moved to the UTS Kuring-gai Campus at Lindfield.

For more details, please email:
LED@law.uts.edu.au

Conference Updates

World Women Lawyers
30 June–1 July 2003
London UK

ALTA
6–9 July 2003
Brisbane AUSTRALIA

International Bar Assoc
14–19 September 2003
San Francisco USA

ALTA Conference Papers Available NOW
Papers from both the 2001 (Vanuatu) and 2002 (Western Australia) ALTA Conferences are now available.

2001 ALTA Conference Papers available for A\$20 from University of the South Pacific. Email Sue

Farran
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2002 ALTA Plenary and Guest Speakers' Papers available from
www.law.murdoch.edu.au/alta/papers.html

Interest Group Convenors

There are 32 Interest Groups that represent the special interests of ALTA members.

Each Interest Group has a national convenor as well as a conference convenor. At present, the academics

listed on the following page are the convenors. Their email addresses are provided to enable you to contact them directly.

2003 ALTA Interest Group Convenors

Clinical Legal Education

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