

# ALTA Newsletter

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## Report from the Chair of ALTA

It is hard to believe that 2004 has passed through our hands and here we all are preparing for the 2005 academic year!

The ALTA Secretariat is now fully functioning at the UTS Kuring-gai Campus and is staffed on a part-time basis by Samantha McGolrick and aided by Angus Young and Morgen Kerry.

I was greatly encouraged by the number of law academics that travelled to the "top-end" to attend the 2004 Annual Conference, hosted by Charles Darwin University (formerly the Northern Territory University).

The ALTA Executive committee would like to especially thank the 2004 President, Prof Ned Aughterson of CDU for his help and support. Without a doubt the 2004 conference was an amazing success and I

am confident that the University of Waikato will have the same success with the ALTA Conference to be held between 5<sup>th</sup> – 8<sup>th</sup> July 2005 in Hamilton, New Zealand.

At the 59<sup>th</sup> Annual General Meeting, which took place in the NT Supreme Court, it was agreed to elect the General Executive of ALTA. This includes: honorary officers, Prue Vines as Treasurer, Andrew Tuch as Secretary, and myself as Chairperson.

The General Committee also includes Rob Woellner, Zada Lipman, Paul Moyle and Lyndal Taylor.

The ALTA Directory (which was traditionally in book form and later on CD-ROM) is now provided by the Lawbook Co (Thomson) as an online resource. This database is updated quarterly.

As in previous years, I would like to encourage as many Institutions, as well as Individual members, to renew their ALTA membership and recommend it to colleagues who are also in the academy of law. You should note that your subscription (which runs January to December) is a genuine bargain and now includes a free soft copy of the *Legal Education Digest* four times per year.

For membership inquiries and renewals, please contact Samantha McGolrick on [ALTA@law.uts.edu.au](mailto:ALTA@law.uts.edu.au)

Finally, I hope you enjoy the autumn semester and I will see you in New Zealand for the 60<sup>th</sup> Annual Conference.

**Prof Michael A Adams**  
Chairperson, ALTA  
[michael.adams@uts.edu.au](mailto:michael.adams@uts.edu.au)

## Membership Renewal for 2005

*ALTA membership immediately pays for itself ... 2004's 841 full members are testament to that!*

...

*members receive a discount on the Annual Conference fee of almost double the cost of membership!*

ALTA membership is a "bargain" – especially if your Institution pays! If you personally pay your membership there could be a tax deduction depending upon your personal circumstances. Personal membership for 2005 is only \$A45.00.

Most renewal notices were emailed in December 2004 and need to be paid ASAP. ALTA can then issue an appropriate tax invoice. A large number of universities are

Institutional members, which lowers the annual cost per person to \$A40 per academic for 2005 and an Institutional membership is paid by the university. An Institutional member is much cheaper and easier for ALTA to administer.

The main benefits of a membership include:

- Discount on the Annual Conference
- ALTA Newsletter (PDF version) emailed twice per year
- *Legal Education*

*Digest* (PDF version) emailed quarterly

- *Legal Education Review Journal* (PDF version) emailed once per year
- Your name in our listing of all members, accessible on our website
- Access to Convener listings for your area of interest via our website

For more details, please email:

[ALTA@law.uts.edu.au](mailto:ALTA@law.uts.edu.au)



## 2004/05 ALTA Directory Online

Once again, through their website, the Lawbook Co (Thomson) has kindly sponsored the publication of the 2004/05 ALTA Directory of Members.

You will remember that the 2003 ALTA Directory was provided on CD ROM to all paid-up members for 2003.

In 2004, the Lawbook Co. (Thomson) provided an online

version of the ALTA Directory which will be updated on a quarterly basis.

If you do **NOT** want to be included in the online version for privacy reasons please email us at ALTA as soon as possible at:

[ALTA@law.uts.edu.au](mailto:ALTA@law.uts.edu.au)

The current ALTA Directory Web Address is:

<http://www.lawbookco.com.au/academic/academics/ALTA/searchALTA.asp>



## ONE LAW FOR ALL? Kōtahi Te Ture mo Tātou?

### Upcoming Conference - 5<sup>th</sup> – 8<sup>th</sup> July, 2005

The ALTA Annual Conference makes a welcome return to New Zealand in 2005 and the hosts at the Waikato Law School are well on their way to making it a memorable one. The conference will be held in the pleasant surroundings of the University of Waikato campus, on the outskirts of Hamilton, New Zealand's fourth largest city.

The theme of 'One Law for All?' could not be more appropriate and reflects both the host Law School's unique status as New Zealand's only bi-cultural law school and the wider challenge that faces law in an increasingly global yet diverse world. With plenary sessions focusing on the domestic, international and commercial aspects of this topic, the conference hopes to encourage a diverse range of discussions around our central theme.

As usual, the heart of the conference will be the special interest group sessions and the

call for papers has already been announced. We particularly encourage topics which have relevance to the overall theme, but, as usual, papers on any subject will be considered.

After a hard day's discussion at the conference there can be few places better to relax than in the heart of New Zealand's North Island. Only 1.5 hours drive from Auckland, Hamilton is a relaxed and lively student city filled with cafes and gardens. Within easy reach of the world famous Waitomo caves, the beaches of Raglan and the hot springs and volcanoes of the Central plateau, Hamilton is a perfect place to relax and discover the Central North Island. Leisure options also include skiing at the Southern hemisphere's two largest ski areas (both 3 hrs away), although Hamilton itself has a mild climate and never experiences snow.

The organisers aim to offer a range of leisure options for delegates and their families to sample the delights of this part of New Zealand.

Getting here couldn't be easier with direct flights to Hamilton International Airport from Melbourne, Sydney and Brisbane as well as destinations through New Zealand. From Perth you would need to go to Auckland - which is only a 1.5hr drive from Hamilton or you can get a connecting flight from Auckland to Hamilton. There are also direct flights from the Gold Coast to Hamilton. There will be more details on the website.

The conference organisers have secured a wide variety of accommodation options, including motel units for those wishing to extend their stay and bring their families. We look forward to welcoming you to Waikato in July 2005.

Kia Ora.

For more information and to register your interest, please consult the conference website:  
[www.alta2005.waikato.ac.nz](http://www.alta2005.waikato.ac.nz)

**Dr John Hopkins**  
Conference Secretary

## Special Interest Groups - Feedback from 2004 ALTA Conference...cont

### Constitutional Law

At the 2004 Conference the Australian Association of Constitutional Law convened a special lecture by Jennifer Clarke, Senior Lecturer in Law at the Australian National University, on the topic of "The Northern Territory and the Constitution". The paper was then commented on by Mr Tom Pauling QC, the Solicitor-General of the Northern Territory. The papers were well-received and an informal question-and-answer session followed with Jennifer Clarke.

**Patrick Keyzer**

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### Indigenous Peoples and the Law

I would like to pay respect to the Larrikiyah peoples, the traditional owners of last year's conference venue, and thank Richard Fejo for his welcome to country and to thank the many Elders involved in the Conference program for so generously giving their time and knowledge.

Our Interest Group had a strong showing in Darwin with presenters from Australia and Aotearoa/New Zealand.

The group convened two well attended sessions covering a range of reflections on the continuing impact of colonisation and mainstream law on Indigenous peoples' rights.

Matiu Dickson (Waikato) highlighted the New Zealand government's devastating move to extinguish Maori sea-bed rights in his paper entitled, "Modern-day Land Confiscation?", while Matthew Storey (CDU) revealed yet another problem with the NTA, in "Dealing in Native Title".

Marie Were (Waikato) discussed Maori perspectives on contract in "Maori and the 'Contractual Relationship'", while in "Recognition or Incorporation" Deirdre Howard (Newcastle) asked if Australian laws are moving any closer toward real recognition of Indigenous laws.

Elena Marchetti (Griffith) reported some reflections on the Deaths in Custody Royal Commission in "RCIADIC: Lessons in Retrospect", while Julie Cassidy (Deakin) brought us back to a

core issue of sovereignty in "The Impact of the Conquered/Settled Distinction regarding the Acquisition of Sovereignty Australia".

With Marie and Matiu's involvement in planning the 2005 ALTA Conference, we have much to look forward to in July.

Hope to see you there.

**Jen Nielsen  
&  
Phil Falk**

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### Labour Law

Overall the standard of papers presented to the conference were topical and of excellent value. The topics covered were stimulating, direct to the point and audience participation was second to none.

The incorporation of guest speakers on indigenous affairs gave insight into a side of the law that is rarely captured in the daily tabloids - there is nothing that can replace actually seeing and experiencing first hand. It was extremely useful to engage in a realistic dialogue with the traditional owners

and exchange views in the pleasant surroundings under the Banyan Trees on the shores of Darwin Harbour.

The venue and catering were excellent, setting the scene for what proved an excellent forum to discuss current problems faced by law teachers. It also provided fertile ground for the development of existing techniques and new methods to inform the oncoming generations of those basic principles that form the bastions of any democracy.

With the next year, in Australia at least, sweeping changes are heralded by new broom in Canberra - Labour law or Human Resources law should produce abundant material for authors to draw on the theme of "One Law for All?".

New Zealand, the host country, has been down that track and there is a lot to be gained from their knowledge and expertise arising from the struggles experienced when past New Zealand Governments put a broom through the

## Special Interest Groups - Feedback from 2004 ALTA Conference...cont

then existing Industrial legislation.

As co-convener with Prof Marilyn Pittard we look forward to some interesting and stimulating papers directed at the teaching of a subject under the shadow or enlightenment of change.

**Bob Cleworth**

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### Discrimination and Equal Opportunity Law

Last year's Conference once again, was a great event.

Though no papers were delivered on behalf of our Interest Group, the Conference's core theme and the Elders' participation raised matters central to our concerns, given the ongoing marginalisation of Indigenous peoples through racism and others forms of discrimination. The daily headlines don't seem to promise that much relief is in sight.

Count this as a call for this year's Conference, and I look forward to seeing you and convening a much needed discussion

about how law is and isn't combating the discrimination so imbedded in the common law culture.

**Jen Nielsen**

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### Family Law

For those who were unable to attend the ALTA Conference at Charles Darwin University in July, the papers given by Family Law Interest Group members in attendance consisted of the following:

Sue Armstrong, University of Western Sydney, "The Authority of Women's Legal Services in Family Law Reform".

Associate Professor Geoff Monahan, University of Technology, Sydney, "The Hague Intercountry Child Adoption Convention and Australian Adoptions 2002-03".

Associate Professor Geoff Monahan, "The Representation of Children and Young People - A Matter of Principles?".

Nicola Ross, University of Newcastle, "Objects of our benevolence or our clients? Challenges to best interest

representation of children and young people in the Family Court".

Lisa Young, Murdoch University, "Children Support and Earning Capacity - Fact v Fiction".

The abstract of each of these papers can be downloaded at:

<http://www.cdu.edu.au/alta2004/interestgroups/fl.html>

**Sarah Middleton**

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### International Law

"During the very successful 2004 Conference at Charles Darwin University, three papers were presented within the ALTA Interest Group for International Law.

Myint Zan (University of the South Pacific) spoke about the UN Security Council Resolution 678 (1990) in the context of the 2003 Iraq War and its aftermath.

Andrew Field (Monash University) presented a paper regarding personal injuries during international air carriage under the Warsaw and Montreal Conventions.

Lastly, I, Dan Svantesson (Bond

University), gave a talk about how a new defamation defence could be introduced to deal with private international law issues arising in cases of cross-border defamation.

The papers illustrate the enormously wide range of issues falling within the scope of the Interest Group and I would like to thank Myint and Andrew for their excellent contributions.

**Dan Svantesson**

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### Property Law

The Property Law Interest Group paper at the 2004 ALTA Conference in Darwin was presented by David Grinlinton, Associate Professor of Law at the University of Auckland.

The paper was entitled "Crossing Boundaries: The Foreshore and Seabed Debate in New Zealand". The Property Law session was held in conjunction with the Indigenous Law Interest group and was attended by about 30 people.

The session was chaired by Matthew Storey.

## Special Interest Groups - Feedback from 2004 ALTA Conference...cont

The theme for the 2005 ALTA Conference is "One Law For All?" and the Conference speakers will explore the question of whether one size does indeed fit all?

In the Property Law context this raises interesting questions in different areas of Property Law including Native Title Law and rights to property in general. Although the organisers are particularly keen for

papers relating to this theme the submission of papers on any Property Law subject will be welcomed.

**Eileen Webb**

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### [Legal Research and Communications and Law Librarians](#)

The Legal Research and Communications Interest Group met for two sessions on the Friday during the conference. Both sessions were devoted to an update on the extensive work being

undertaken by the Australasian Legal Information Institute (AustLII) which has provided free access to Australasian legal material since its inception in 1995.

Philip Chung, Executive Director of AustLII, provided detailed information on current funding sources, database availability and special collections on AustLII. He also spoke on the work being done to augment the material available through WorldLII so that Australian legal researchers can easily access the hosted

databases from other countries. Both sessions were chaired by Terry Hutchinson and were well attended.

The Law Librarians Group did not hold a separate Interest Group meeting at the conference and interested members of that group joined with the Legal Research Communications Interest Group.

**Terry Hutchinson  
&  
John Bahrij**

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### [Law and Medicine](#)

Two papers were delivered at the 2004 conference in Darwin by Cordelia Thomas from Massey University in Wellington, New Zealand and by the group convener, Julie Zetler.

Cordelia gave a paper entitled "Whose body is it? Collection and Retention of Guthrie Test Samples". Cordelia's paper addressed the significant issues of law and policy in relation to avenues of access to human tissue specimens, specifically where it is logistically

impossible to obtain consent and where a specimen has been previously collected and retained for other purposes. Such specimens may come from the tissue that was removed in the course of screening, diagnostic or therapeutic procedures, autopsies, or the voluntary donation of materials such as blood or semen.

Cordelia discussed the problems associated with the involvement of commercial enterprises and distribution of such samples.

Julie Zetler's paper, entitled "Electronic Health Records; Privacy

and Confidentiality Concerns" explored the highly sensitive issues involved in personal health information that is stored in electronic format. These issues include the collection of, the use of and the correct access to this information; the disposal and safe storage of patient electronic medical records, with special emphasis on privacy and confidentiality issues.

Julie discussed the benefits of how electronic storage would improve the quality, effectiveness and efficiency of the health care system whilst ensuring that privacy, confidentiality and security would be

paramount.

There was a good audience for both papers and this engendered a lively and very helpful discussion about the issues. It would be really great if a few more papers in this area were forthcoming, as this particular venue provided a supportive and positive forum for new research, different ideas and first time conference speakers.

Thanks go to Julie for her efforts as National Convener of the Law and Medicine Interest Group.

As the new Convener for the group, I look

## Special Interest Groups - Feedback from 2004 ALTA Conference...cont



forward to seeing you at the 2005 Conference in Hamilton, New Zealand and please consider submitting a paper.

**Judie Lancaster**

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### Equity and Trusts

The highlight for us as Convenors of the Equity and Trusts interest group for 2004 was the flavour of the ALTA Conference at CDU 2004. The theme of "Crossing Boundaries" was a very fitting context in which to consider conscience based topics such as reconciliation and the plight of refugees.

We also enjoyed some carefully researched and professional presentations from our colleagues on the topics of "Presumed Undue Influence, Manifest Disadvantage and Explicability" courtesy of Fiona Burns (Sydney University) and "Flaws in the rule in *Yerkey v Jones*" courtesy of Ralph Melano (University of Western Sydney)

The reenactment of the "Trial of Dhakiar" at the Conference dinner was not only an historically enlightening piece but also superb

entertainment, against the backdrop of the gallows of the Fanny Bay Gaol.

Congratulations to everyone involved in the ALTA 2004 Conference experience and we look forward to seeing you all in Hamilton in 2005.

**Melinda Shirley  
&  
Tina Cockburn**

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### South Pacific Legal Studies

The most exciting news for the South Pacific Legal Studies Group ('SPLSIG') from the ALTA 2004 Conference was the conferral of honorary life membership of ALTA on Dr Guy Powles. Guy has been an active and supportive convenor of the group for many years and has provided mentoring to many of its members.

The SPLSIG ran two interest group sessions at ALTA this year and

the papers presented provoked some lively discussion.

The first session, on Friday 9<sup>th</sup> of July, featured papers from Guy Powles, "Some Thoughts on the Future of Customary Law in Pacific Island States", Miranda Forsyth, "The Kastom Road between Peace and Justice in Vanuatu" and Barbara Ann Hocking, "Teaching Refugee Studies to Overseas Students".

The second session, on Saturday 10<sup>th</sup> of July, featured papers from Tony Angelo, "Recent

Developments in the South Pacific", Alex Amankwah, "The Emerging Relevance of Traditional Knowledge in Relation to Scientific Resource Exploitation" and Jennifer Corrin Care, "Putting Asunder: Divorce and Financial Relief in Solomon Islands".

Group members also exchanged information about recent publications on South Pacific law and other research and development issues.

It was mentioned at the ALTA AGM that the Web site was being redesigned. It was agreed by SPLSIG members that the convenor would contact the ALTA Secretariat and enquire whether it would be possible for interest groups to have a spot on the Web site to post news, abstracts, etc. This proposal is currently being considered by the Secretariat.

**Jennifer Corrin Care**

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## Special Interest Groups - Feedback from 2004 ALTA Conference...cont

### Revenue Law

Once again, the Revenue Law Interest Group presented highly successful sessions at the ALTA Conference in Darwin 2004. Two sessions involving presentations of four papers each of a very high quality, with 11 attendees providing considerable feedback and interaction between the presenters and audience were given.

Dr Julie Cassidy led off with a paper on "To GARR or not to GARR...", a comparative analysis of the Australian and Canadian general anti-avoidance income-tax provisions, drawing on the Canadian provisions to suggest a number of possible improvement in the Australian Part IVA.

Associate Prof Michael Walpole presented a paper on "Goodwill -- the use of intangibles on transfer pricing", including an interesting case study on the streaming of royalties through offshore CFC subsidiaries. The paper exposed a serious loophole in the current Australian provisions, and suggested ways in which this could be remedied.

Ian Iredale's paper on "The underlying structure of legislation: GST", built on his previous work with electronic flowcharts and looked at the key structural elements of the GST

legislation, using electronic "road maps".

I presented a paper on "Why settle for second-best: some thoughts on improving sec 263", which looked at defect in the current income-tax access powers given to ATO officers, and suggested possible improvements based on other existing Australian provisions.

The Revenue Law Interest Group continues to prove highly successful, with a relaxed atmosphere and very high quality of papers -- at least two of the papers presented at ALTA have subsequently been submitted for publication in technical journals.

**Robin Woellner**

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### Law in Non-Law Schools

Two papers, were delivered at the 2004 Conference in Darwin followed by a group discussion of a proposal to change the name of the Law in Non-Law Schools Group.

The first paper was by Patty Kamvounias and Jane Oakeshott from the School of Business in the Faculty of Economics & Business at the University of Sydney and I, Judie Lancaster, presented the second paper.

Patty and Jane's paper entitled "Out of the

classroom and into the courtroom: court visits in the non-law degree curriculum" addressed why it is important to include court visits in non-law degree courses and the educational benefits of combining court visits with a written report. The paper outlined the authors' experience of using court reports for assessment and demonstrated how the written report of the practical exercise is useful as a tool to identify students with difficulties in written academic English.

My paper, entitled "Proactive v Reactive: teaching preventative law to cross-disciplinary students", introduced a new preventative or risk-management approach to the teaching of cross-disciplinary students. I am currently piloting this approach with my colleague, Dr David Meltz, in the Business Law and Ethics subject which we jointly co-ordinate at UTS.

The paper explored methods for facilitating the development of competence in applying legal knowledge in a proactive manner and an appreciation of the importance of compliance in professional life.

The papers were

## Special Interest Groups - Feedback from ALTA 2004 Conference...cont

followed by an enthusiastic discussion of a proposal I put forth to change the name of this interest group or alternatively, to create a new Interest Group with a title to cover a broader range of inter-disciplinary teaching and learning interests.

The primary catalyst for the proposal was the number of ALTA members who had an interest in being part of this Interest Group but felt that the current name did not satisfactorily reflect broader contemporary, inter-disciplinary categories of non-law school teaching.

Additionally, the words 'non-law school' are considered by some to deliver a negative connotation. This will be debated at the Executive Committee meeting when it convenes in Hamilton, New Zealand in 2005 and discussed in the Interest Group.

Finally, warm thanks go to Colin Huntly for his past work as National Convener of the Law in Non-Law Schools Interest Group.

**Judie Lancaster  
(on behalf of  
Susan Corbett)**

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## Evidence and Procedure

A big thank you to Dr Bridget Cullen-Mandikos, retiring chair of this interest group, and Colin Ying who officiated at the 2004 Conference in Darwin in Bridget's absence.

Three papers were presented at the Darwin interest group meeting:

- David McIlwraith spoke on the electronic organisation of practice and evidence, and
- Joseph Azize entertained the group with an analysis of pleadings as narrative. There were about a dozen attendees, and
- I raised some issues concerning developments in jurisdiction in the EU and UK compared with Australia,

In order to enliven the group, it has been proposed that a workshop between interest group meetings at the Annual Conference might be valuable. As it happens, Changes in Civil Litigation: A Teaching and Research Symposium is to be held in Adelaide on Friday and Saturday, the 15<sup>th</sup>

and 16<sup>th</sup> of April 2005.

Further information can be obtained from David Bamford, symposium organiser, at the:

School of Law,  
Flinders University  
Tel: (08) 82013884  
GPO Box 2100  
ADELAIDE 5001.

[civil.lit@flinders.edu.au](mailto:civil.lit@flinders.edu.au)

I hope many members of this interest group will consider attending that symposium as well as the 2005 ALTA Conference at the Waikato Law School in Hamilton, New Zealand from the 5<sup>th</sup> – 8<sup>th</sup> of July. Please note these dates in your diaries as I expect to meet lots of my colleagues at both of these events.

Please contact me if you are interested in offering a paper / presentation at the 2005 ALTA Conference.

Happy 2005 to you all.

**Kay Lauchland**

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## 2005 ALTA Interest Group Convenors

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\*\*\***(New Interest Group as of 2005)**\*\*\*  
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## Pearson Education Special Offer for ALTA Members

### ***Pearson Education - A New Face in Legal Publishing***

You may be unfamiliar with the Pearson Education name but you might have heard of some of our imprints like Longman, Prentice Hall and Addison Wesley. Pearson (under the Longman imprint) has been publishing legal texts for many years in the UK.

For decades Pearson has been the leading publisher of academic texts and resources across many disciplines throughout the world. With this experience we believe that we can offer something quite unique to the study of law in Australia.

### ***Supporting educators***

Understanding the pressures on your time and your increasing teaching loads, Pearson Education Australia is able to support law teachers with a range of innovative teaching and learning technologies that allow improved course management; greater teaching flexibility and improved student learning outcomes.

### ***We would like to talk to you...***

We are looking for talented and enthusiastic academics who are interested in writing and publishing in a range of legal areas.

We have a strong tradition in developing materials for undergraduate subjects however we are also interested in discussing the opportunities in other areas of law.

If you would like a copy of the *Pearson Education Author Pack* or if you have any comments or questions, please don't hesitate to contact Jason Midler on (03) 9811 2865 or email: [jason.midler@pearsoned.com.au](mailto:jason.midler@pearsoned.com.au)

### ***Special limited offer for ALTA members!***

As a member of ALTA we'd like you to get to know Pearson. Between now and 28 February 2005 you can follow this link to take advantage of a 25% discount on a selection of Pearson books: [www.pearsoned.com.au/alta](http://www.pearsoned.com.au/alta)

## Website Development

### **Australasian Law Teachers Association**

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&  
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ALTA Secretariat

If you have visited the ALTA website recently you would have been shocked at how badly in need of an update it is!

The ALTA Executive has agreed to pay \$2000 to develop the website to a more professional standard.

This development will occur throughout 2005 and any suggestions or feedback will be gratefully received.

Please email your feedback and suggestions to:

[ALTA@law.uts.edu.au](mailto:ALTA@law.uts.edu.au)

### **The Current ALTA Website is:**

[www.austlii.edu.au/au/special/alta/index.html](http://www.austlii.edu.au/au/special/alta/index.html)

## Obituary

### **Professor David John Harland** 6<sup>th</sup> January 1940 - 30<sup>th</sup> November 2004

David Harland, who was a long standing lecturer and professor at the University of Sydney Law School, passed away at the age of 64 years on the 30<sup>th</sup> November 2004.

David began working at Sydney University Law School in 1966 and

excelled in the areas of Contract Law and Consumer Protection Law. He received many accolades and awards in these areas, until his death.

David was an honorary member of ALTA and served as both a President and

Chairperson of ALTA.

David will be sadly missed by his family, as well as many of his Law School and ALTA colleagues.