

OXFORD LAW NEWS



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MESSAGE FROM THE CHAIR OF THE BOARD

Welcome to this year's issue of Oxford Law News. The following pages will hopefully give you a taste of the many exciting events and developments that have taken place in the life of the Faculty during the course of the 2004/5 academic year. While the newspapers seem to make much of the pressures (financial and otherwise) to which Universities are subject today (and these pressures are real), they appear to have rather less to say about the remarkable range of work that continues to be done within the Universities and the achievements of members of the Faculty and our students. This issue will hopefully go some way towards rectifying that balance. The work of Faculty members has been recognised in prizes and awards; a number of successful conferences have been held; we have been fortunate to be able to make a number of excellent appointments and students have continued to represent the Faculty successfully in mooted competitions.

It is hard to believe that a year has gone by since our last issue. Last year Dr Michael Spence announced that I would be acting as Chair of the Law Board while he was on sabbatical leave. The intention was that he would return to resume his role as Chair of the Law Board in October 2005. The intervening year has seen a change of plan. Michael has been appointed as the Head of the Social Sciences Division for a 5 year period which began on 1 October 2005. While his appointment is a considerable loss to the Faculty it is fitting recognition of his leadership and administrative skills. I have agreed to continue as Chair until September 2007. The change in plans does not, however, signify a change in the direction of the Faculty. We remain committed to the study of English law and its development



Photo Barry Roberts

but at the same time we are an international law school and our research and our teaching cannot be seen solely in national terms. Our students are, increasingly, drawn from all corners of the world. We are in the process of raising funds for scholarships in order to ensure that, as far as we can, we can continue to recruit the best students from all parts of the world, irrespective of their financial means. Regular contact with alumni is an important part of our work. In the last year we organised events for alumni in Manchester, London, New York and Beijing. We will do the same in 2005/6 and are currently planning an event in Australia in 2006. We hope to be able to meet you at one of these events.

Ewan McKendrick

Chair of the Law Board

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The Bodleian Law Library at 40

In October 2004, the St Cross Building and the Bodleian Law Library celebrated the 40th anniversary of the official opening of the building in 1964.

Any former student who returns to Oxford and pops in to have a look at the Law Library, will be comforted to know that the interior is as warm and welcoming in its décor as ever. The Reading Room provides a similar first impression to readers in 2004 as it did in 1964. The desks in the light-filled central space are the same timber desks, with the brass light fittings that you may remember. The research desks around the window perimeter are still there, as are the timber door carrels.

However, despite the comforting familiarity of the first impression, many changes have taken place over the years. Most noticeably, the collection has grown to more than fill the available shelving. There are 400,000 volumes held in the library now, nearing the 450,000 capacity that was planned for with such foresight back in the 1950s. Perhaps surprisingly to some, books continue to be a vitally important resource for our students and researchers.

This brings me to the greatest research resource change to the Law Library, which has been the development and ongoing increase of a very wide range of legal databases which complement the book collection. From the introduction of personal computers in the early 1980s, using home made databases, through the CDROM revolution of the late

1980s and 1990s, to the spectacular growth of the world wide web, this has been without a doubt the most interesting, challenging and exciting time to be involved with libraries.

Another key change is the increasing role of librarians in legal research teaching. Not only do we teach a compulsory Legal Research Skills Programme to the first year undergraduates, we offer a wide range of tutorials to undergraduate and postgraduate students alike. The content varies from specific resources available in certain subject areas, to research in foreign jurisdictions, to the scope and contents of the numerous legal databases.

And a final aspect of change is the ever decreasing funding which comes to the Law Library from central University funds. Whereas in the mid 1990s, the University was able to provide the entire materials budget needed by the Law Library, it can now provide less than half of the funds needed simply to maintain the collection. High inflation, consolidation in the legal publishing industry, and the ever expanding number of areas of legal subjects have all contributed to the funding gap.

Alumni could be surprised to see the 'Baker & McKenzie Seminar Room', the 'Freshfields IT Training Room', the Lovells brochure and posters advertising their sponsorship of the

project has been commissioned by the International Criminal Tribunal for the Former Yugoslavia.

OPBP's highly motivated committee hopes not only to further the values of public interest law, but also to provide graduate students with a unique opportunity to hone their skills on complex and fascinating legal issues, thereby enhancing the quality of the graduate experience at Oxford. Overall, OPBP hopes that it is contributing to what will, one day, be seen as a proud tradition of high-quality pro bono work amongst the dreaming spires.

Previously, this work was done in the name of Oxford Public Interest Lawyers (OXPIIL). However, it was felt that, given the significance of the work in which OXPIL was involving itself, the structure of the organisation should be altered in order to bring it formally within the management of the Faculty. For this reason, OXPIL has recently been reconstituted as Oxford Pro Bono Publico (OPBP). Pro bono work at Oxford is now directed by a committee consisting of both faculty members and graduate students; work is only undertaken in conjunction with solicitors and barristers who are themselves working pro bono; and all projects must be approved by the Chair of the Law Board.

In its new incarnation, Oxford's pro bono legal community has wasted no time in attracting a host of diverse and exciting projects. For instance, an OPBP team is presently considering whether a campaign of mass evictions carried out in Zimbabwe constitutes a crime against humanity, while another team is preparing an expert opinion for the Max Planck Institute for International and Comparative Criminal Law on the individual responsibility of members of criminal organisations under the law of the United Kingdom. The latter



Photo Barry Roberts

weekend opening hours, the Norton Rose logo on the website promoting sponsored databases and the Slaughter and May logo on some of the research guides and tutorial timetables. The Law Library in 2004 would not be able to provide a world class collection without the generosity of these and other numerous donors, who provide the extra funding needed for us to meet the ever changing teaching and research needs of our student population

When you are next in Oxford, you would be more than welcome to visit us in the Law Library, and see some of these changes in person.

Ruth Bird
Bodleian Law Librarian

Pro bono work at Oxford continues in a new guise

For many years now, Oxford graduate students and members of the Law Faculty have worked on pro bono projects, involving themselves in some of the most significant and high-profile legal issues of the day. The projects have ranged from drafting an expert opinion on the legality of the Israeli security barrier, supporting the work of defence lawyers involved in the Guantanamo Bay tribunals, and researching the treatment of homosexuals in the US military for litigation in the US Federal Court.

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For more information, visit OPBP's website: www.law.ox.ac.uk/opbp

CENTRE FOR BUSINESS TAXATION

The Law Faculty has been closely involved with the establishment of the new Oxford University Centre for Business Taxation, to be based at the Said Business School. The Centre will carry out a programme of multi-disciplinary research drawing together the expertise within the University across a wide range of areas including economics, finance and law. It will examine the taxation of business activities in the UK and evaluate the effects of the present structure of taxation on the business sector. It will also address policy options for the future that take account of the international dimension to business activity. New staff are to be appointed, including a full time director. In addition, the Centre will draw upon existing staff in the University, including members of the Law Faculty. It is expected that projects will involve not only tax specialists but also those with expertise in many other areas of law which impact upon taxation. Further, the Centre will work closely with the multinational business community in the UK,

the UK Government, the European Commission and the OECD.

Members of The Hundred Group are providing funding of £5 million to support the work of the Centre over an initial five year period, the initiative to set up the Centre having been led by Dr Christopher Wales of Goldman Sachs, formerly adviser on taxation policy to Gordon Brown MP, Chancellor of the Exchequer. During the set up phase of the Centre, the acting directors will be Professor Colin Mayer of the Said Business School and Professor Judith Freedman of the Law Faculty. Taxation law has been taught for many years at the Law Faculty and the team has been strengthened recently by the creation of the KPMG Chair in Taxation Law in 2001 and the McGrigors Career Development Fellow in Taxation Law in 2004, enabling the Faculty to participate fully in this exciting development.

McGRIGORS' CELEBRATION OF CAREER DEVELOPMENT FELLOW IN TAX LAW

On 1 February 2005, McGrigors, a leading UK law firm which has one of the largest, specialist, dedicated tax litigation departments in the UK, hosted a reception at Christ Church for the Career Development Fellow (CDF) in Tax Law at Oxford University.

Over 100 Faculty academics, graduate and undergraduate students, members of the tax world and partners from McGrigors attended a champagne reception in honour of Glen Loutzenhiser, a Canadian qualified lawyer and chartered accountant, who is the first CDF in Tax Law at Christ Church.

Commenting on the career development fellowship, James Bullock, a partner in the tax litigation practice at McGrigors, said, "our relationship with Oxford University reflects the importance which McGrigors places on continuing to develop our strong links with academia. As a firm, we are fully committed to promoting excellence in legal education to create the best lawyers of the future. Historically, tax practitioners have enjoyed close

links with the academic side of the legal profession, something that is set to continue given the ever-increasing complexity and need for innovation in identifying the best tax solutions".

Glen is working with Professor Judith Freedman, KPMG Professor of Taxation Law, and others in the Oxford tax teaching group. Glen assists with teaching on the undergraduate and postgraduate courses in taxation law and carries out his own tax-related research.

An itinerant professor 26 universities and 17 countries



There are unconfirmed reports that during the Great Depression of the 1930s a US university professor lectured at over 100 US universities to maintain himself and his family. In medieval times it was routine for mendicant scholar-teachers to tour the great universities of the day - Oxford, Paris, Bologna.

Over a period of just over a year, **Philip Wood**, who is Visiting Professor in International Financial Law at Oxford, has lectured at around 26 universities world-wide on financial law topics - mainly on global financial law and the role of the country concerned. They included, amongst others, the universities of Harvard, New York, Georgetown, Virginia, Duke, Vanderbilt, Pennsylvania and Michigan in the US, Beijing, Fudan and East China Political in China, Stockholm, Lund, Mainz, Freiburg,

Bern, Bocconi, Zurich and Copenhagen in continental Europe; and Rand University in the Transvaal.

He has also delivered other lectures in numerous cities around the world including in Tokyo, Hong Kong, Shanghai, Washington, Stockholm, Asuncion and Cape Town - altogether about 17 countries over this period.

One of the objects of these tours was to

promote England in general and Oxford in particular as state of the art centres for comparative financial law. Most of the lectures were sponsored by Allen & Overy LLP where Philip Wood used to be a partner and remains Special Global Counsel.

The talks were illustrated by colourful and innovative maps from Philip Wood's recently expanded version of 'Maps of World Financial Law' showing the position of the world's 319 jurisdictions on legal topics and grouping the world into legal families by using new criteria and a new taxonomy. For his China tour, he wrote a 100-page 'Report on Financial Law in China'. He is currently engaged on a substantial rewriting of his six books on the law and practice of international finance.

The book, 'Maps of World Financial Law', 5th edition 2005, by Philip Wood is available free: contact philip.wood@allenoverly.com

The Law Postgraduates' Year End Celebration

This year has been a record-breaker for graduate studies in law at Oxford. The largest-ever

classes completed the BCL and MJur (180 students all told). And, remarkably, 29 students successfully completed the DPhil, our highest research

degree. In September, we welcomed approximately 30 students for the MPhil in Law (the limited-entry one-year research degree, open only to students who have met a demanding standard in the BCL or MJur). And we are creating a new MPhil in Criminology, to build on the existing MSc.

So our postgraduates' dinner on 15 July 2005 was a great celebration. On a sultry summer evening in Somerville, 143 students representing 15 different countries, Faculty members, administrative officers in the Faculty and benefactors of the Faculty enjoyed a splendid dinner, and speeches by Gideon Gee (BCL), Sarah McCosker (DPhil) and Timothy Endicott (Director of Graduate Studies). Lord Bingham, the Senior Law Lord, addressed the audience on three features of work in the House of Lords that make it an exciting time for judges and other lawyers: the breakdown of a general attitude of judicial deference to other public authorities, human rights litigation, and the new openness of counsel and judges to the use of comparative law to solve problems that come before the Law Lords.

This dinner has become an annual celebration not only for students

but also for Faculty members. Oxford has the world's leading graduate school in law, for the size



of our research student body, for the excellence of their work, and for the extremely diverse group of outstanding students in the BCL and the MJur. It is exciting for Faculty members to work with these students, and to teach in the best taught graduate degree in law (best, partly, because it is the only graduate degree in law in which small group tutorial work plays such a significant role).

Building on the work of Professor Peter Birks, who served as Director of Graduate Studies (Research) until his death in 2004, the Faculty is working to promote this remarkable community through new subject discussion groups, a weekly programme of lunch discussions for research students, a pilot scheme for Graduate Teaching Assistantships, an enhanced programme for graduates to serve as research assistants, and (crucially) increased scholarship funding within the Faculty.

Timothy Endicott

Richard Youard Lectures in Legal History

On 16 and 17 May 2005 in the Gulbenkian Lecture Theatre, Professor Bill Nelson of New York University gave the fourth of the Richard Youard Lectures in Legal History on the provocative title of 'What the Americans did to the Common Law' or, as he said in his first lecture, actually what the Americans and God did to it and in his second lecture, what the Americans and the American Revolution did to it. This title, original or as amended, perfectly suited the aim which Richard Youard, our kind benefactor, had intended. Richard wants these lectures to be on the broad brush

awaited with great eagerness by Professor Nelson's attentive and appreciative audience.

The evening was rounded off by a small but perfectly formed buffet meal in Magdalen College, which is Richard's old College, courtesy of Mr Roger Smith, and which Richard and his wife Felicity and a number of Richard's and the Faculty's friends (no contrast possible there) attended. We were also able to entertain Professor Reinier Kraakman who had come to visit us at the invitation of Dr Joshua Getzler of St Hugh's College to give two



end of legal history and seeking to engage the interest not only of lawyers who are not necessarily history specialists, but also non-lawyers with an interest in the humanities and social sciences. The series has so far fulfilled that aim with astounding success having attracted a series of lecturers of the highest distinction. The focus this time was on the impact of religious politics on the law, principally in New England in the 17th century and then that of secular politics and beliefs in the late 18th and 19th centuries. The full expression will be made known in a forthcoming book and will be

lectures for the seminar on the historical evolution of business entities. All in all a very good couple of days indeed.

Next year's lecturer is Professor David Ibbetson, Regius Professor in Cambridge and another ex-Magdalen man (converted to the faith, not born into it though) and if that element brings a special smile to Richard's face next year that will be a double bonus.

Jeffrey Hackney
Wadham College

A European Legal Method

Inaugural Lecture by the new Professor of Comparative Law

21 January 2005

Although there is no formal obligation on incoming professors to give an inaugural lecture there is certainly an expectation on the part of the Faculty that new holders of a chair take on this task. Having been appointed to the Chair of Comparative Law with effect from October 2003, my inaugural was long overdue by the time I finally managed to give it, on 21 January 2005. The title was phrased as a question: 'A European Legal Method: Should We, Could We, Would We?', and I tried to answer it in three steps.

In the first part of the lecture I considered the need for a legal method, common to the Member States of the European Union. I attempted to show how uniform law, such as Community law, needs to be applied uniformly in order to achieve the ultimate purpose of legal unification, i.e. securing the uniform effectiveness of the uniform law in all the national legal systems concerned. Uniformity of application, however, requires a uniform legal method; a point which I illustrated with references to the famous Court of Appeal decision in *Bulmer Ltd v Bollinger SA* [1974] 1 Ch 401 and which I defended against various possible objections.

In the second part of the lecture I enquired whether establishing a common European legal method would actually be feasible. I argued that it would require the joint effort of at least four sub-disciplines of legal scholarship: Community law, in particular community constitutional law, comparative law, legal history, and jurisprudence or legal philosophy.

Finally, in the third part of the lecture I attempted to outline the contents of a future common European legal method. It would aim to provide standards for good lawmaking and for the good application of the law. Areas concerned would thus be the style of drafting of legislation and of court decisions, the rules and principles of statutory interpretation and the application of precedent, both in community law and in the laws of the Member States.



In conclusion and in answer to the initial question, I argued that, firstly, there is a case for the development of a common European legal method. Secondly, the project is a feasible one. Thirdly, the areas which it would cover are obvious.

The event was well attended not only by colleagues and students of the Oxford Law Faculty, but also by academics from other Universities and by quite a few practitioners who had come up from London. The Law Faculty kindly hosted a drinks reception after the lecture. The day was rounded off with a splendid dinner at Brasenose to which the College generously allowed me to invite my family and a number of friends and colleagues from all over Europe. I am enormously grateful to all my colleagues and to all members of the support staff both in the Faculty and in College who gave their advice in preparing the lecture and in the (much more intricate!) business of organising the surrounding social events.

Stefan Vogenauer
*Professor of Comparative Law
and Director of the Institute of European and
Comparative Law*

Heydon Lecture

7 July 2005

Justice Dyson Heydon visited Oxford on 7 July 2005 to give a lecture at Keble College in honour of the memory of Professor James Harris. Justice Heydon spoke on 'The Limits of the Judicial Function in a Final Appellate Court', and he outlined with great care and forensic acumen the political and technical restraints on judicial legislation in top courts within common law systems. Perhaps the leading problem he identified was how judges could collect the evidence and arguments necessary to justify legal change, where the issues have not been tested and fought over by professional advocates devoted to promoting their clients' interests before the court. He began his address with a moving tribute to Jim Harris, and a celebration of the strong legal traditions of Keble College. Barristers, judges and academics joined to hear the judge's address and the debate continued over a celebratory dinner.

Justice Heydon joined the High Court of Australia in 2003 after three years serving on the bench of the New South Wales Court of Appeal. He was previously a distinguished silk, the Challis Professor of Law at the University of Sydney and before that a Fellow in Law at Keble College, Oxford. He immediately preceded Jim Harris in that latter post, which is now held by Dr James Edelman. He has written leading texts in tort law, equity and trusts, evidence and trade practices law, and he has helped shape the Australian legal mind through his tireless teaching, editing, advocacy and judicial work. In 2002 he delivered a notable speech criticising the judicial activism of modern Australian courts and commending the strict legalism of Sir Owen Dixon. Justice Heydon studied history in Australia before coming to Oxford as a Rhodes Scholar to read Law. He was the best law student of his year in both the Final Honours School of the BA and in the BCL. It was a pleasure to welcome this distinguished jurist and Oxford law alumnus, with his wife Pamela and daughter Alexandra, back to visit his old College and Faculty.

Thinking like an (academic) lawyer?



Photo Barry Roberts

Christopher McCrudden has been a Fellow of Lincoln since 1980. He is currently Professor of Human Rights Law in the University. His research interests are in the fields of constitutional, administrative, and comparative public law, with a particular specialisation in human rights law. In a recent invited lecture, part of a series inaugurating Oxford's new Centre for Advanced Studies in the Social Sciences, he reflected on the relationship between academic legal research, the social sciences, and public policy. In this extract from the lecture, he reflects on some of aspects of what "thinking like a lawyer" involves, in an academic context. This lecture will be published in a forthcoming issue of the Law Quarterly Review.

Over the past few centuries, Western legal academics often thought they were being "scientific", studying law using reason, logic and argument. They adopted methods that at least dated back to the scholastic philosophers. The methodology adopted is one that concentrates on the primacy of critical reasoning based around authoritative texts.

But this is not simply textual analysis, at least in common law systems, for the idea of law as a practice is deeply embedded. The core of this type of legal research concentrates on issues of legal coherence, what is sometimes called "black letter law", or "doctrinal legal analysis", adopting an internal viewpoint, the meaning of which I'll consider in a moment. Although sometimes much disparaged by non-lawyers (and by some legal academics) as narrow, the ability to engage in this type of research is what most often marks out what are perceived by one's colleagues as "good lawyers" from "bad lawyers". Crucially, traditional legal analysis adopts an "internal" approach. The internal approach is the analysis of legal rules and principles taking the perspective of an insider in the system. As David Ibbetson has written: "Its sources are predominantly those that are thrown up by the legal process: principally statutes and decided cases, supplemented where possible with lawyers' literature expounding the rules and occasionally reflecting on them."

This internal approach dominates traditional doctrinal scholarship. It often involves the close analysis of decisions by the higher judiciary, often at the appellate level, and legislation of various kinds. The task for doctrinal analysis is often to attempt to understand how these various elements fit together, to attempt to draw out the patterns of normative understanding that enable us

to see the wood and the trees together as constituting a working whole.

Frequently, however, doctrinal analysis often takes another form, in which the writer attempts to argue that this or that is the "best" solution to a particular problem, "best" meaning having the best fit with what already exists. Often, the analysis concentrates on questions of law in "hard cases," and how in practice these should be addressed. In this hermeneutic approach, the language used by legal academics is heavily dominated by terms such as coherence, fit, and analogy. What marks out this type of analysis is the attempt to render the law intelligible but sometimes also to show the multiple possible readings and contradictions of existing "law". The combination of norms, concepts and institutions, and their interplay, is mother's milk to academic lawyers.

Looked at from the social science perspective, and using social science terminology, legal academics are constantly constructing explanatory "models" from the legal material at their disposal, models that they then test against that legal material. There are more or less agreed criteria of what are reasonable or unreasonable readings, although it is sometimes difficult to articulate these with any precision and they are subject to change.

I do not want to mislead, however. It is clear that though there are similarities with model building in the social sciences, there are also considerable differences: doctrinal legal models are causal models, and they are empirically tested, but in only a very limited sense; in addition, legal model building takes place within a normative context, and is likely to include normative elements.

Another crucial point is that the approach to legal research that I've identified frequently proceeds from a view of the legal system

as either completely autonomous or, more usually, relatively autonomous. This means that behind such analysis, to quote Ibbetson again, "lurks the assumption that law constitutes a sufficiently autonomous field of experience or discourse that it can legitimately be described by reference to its own sources."

But, the question of what constitutes the appropriate sources of legal analysis is often profoundly contested. So too is the issue of their relative weight or cogency. In particular, the extent to which its sources include materials other than cases and statutes varies over time, and between countries.

To what extent can accepted sources include considerations of justice, morality or utility? Or policy analysis? Or social science evidence on the effects of regulations? When they do, then the "internal" approach to legal analysis will, perforce, include these considerations within their domain.

The notion of internal legal analysis is therefore potentially highly flexible. How far any jurisdiction considers particular sources as relevant is one that is likely to be substantially determined by the (changing) consensus of academic and practising lawyers and judges.

This type of "internal" legal analysis is, by no means all that legal academics do. We now often view law in addition from a philosophical, a political, a sociological, an economic, an historical, sometimes even an anthropological perspective. But however much we diverge from each other, we generally see the ability to "think like a lawyer" as a crucial part of our intellectual endeavours.

Christopher McCrudden

Admissions to Oxford Law

The Oxford Law Faculty is truly global in terms of its students, who come from throughout the UK and all 5 continents. Last year there were over 2,000 applications for both undergraduate and graduate places. Undergraduate applicants are now required to sit the Law National Admissions Test (LNAT). The LNAT is run by a consortium of UK universities, of which Oxford is a founding member. The Faculty has instituted common admissions procedures at the undergraduate level, largely through the excellent work of its admissions coordinator, Dr Liora Lazarus (St Anne's), and through an online admissions decision management system used by all College tutors. Graduate admissions have also been more systematised, through the introduction of a central database shared by the University and the Colleges. For more information on undergraduate and graduate admissions please see <http://www.law.ox.ac.uk/admissions.shtml>

Law Open Days

Over the course of two days in March 2005, 750 sixth form students from around the UK made their way to the Law Faculty to participate in the Law Open Days. For most who attended this was their first glimpse of law studies and of Oxford. The students listened to mock admissions interviews and were informed about life as an Oxford law student. Professor Ewan McKendrick described Oxford teaching methods and talked about new developments within the Law Faculty. Presentations were given by barristers (Raj Pillai of 3 Verulam Buildings and Anneli Howard of Monckton Chambers) and by solicitors (Nicholas Scott of McGrigors and Helen Neish of Lovells); and Law Faculty members gave taster lectures (Mr Roderick Bagshaw in Tort Law, Dr Jonathan Herring in Criminal Law and Dr Anne Davies in Constitutional Law).

Sutton Trust

As part of the Sutton Trust scheme, the Law Faculty welcomed 25 secondary school students from around the UK to participate in a one week Law Summer School in early July. The students all came from families with no previous experience of higher education. Their programme was busy and varied: for example, the students took part in lectures and tutorials delivered by Faculty members; they spent a day in London with Oxford undergraduates visiting Allen & Overy LLP and the Royal Courts of Justice; and, with the assistance of graduate student helpers, they mooted a case on the Occupier's Liability Act (1984). The week was considered by all to be a great success and we hope it has encouraged the students to apply for a place at university.



CRICKET REPORT

OXFORD vs SYDNEY

In many senses, a wet Wednesday in Oxford is a long way from a sunny Saturday in Sydney. Yet, to understand why two cricket teams and a band of hardy spectators were braving the damp of the Christ Church sports ground on 29 June 2005, you have to go back to a challenge laid down six months earlier on the other side of the world. For it was at a conference in Sydney that Malcolm Holmes QC, Oxford alumnus and head of chambers for the Eleventh Floor Wentworth, told Professor Andrew Burrows that he was bringing a cricket team to the UK for a summer tour. It was quickly agreed that Malcolm's Sydney lawyers would face a team of Oxford dons: the Wentworth Wombats versus the Oxford Emeriti in a 20-over match. The Emeriti, skippered by Professor Burrows, called on three further Faculty members, with Ben McFarlane, Ed Peel and Edwin Simpson all contributing with

either bat or ball. Oxford alumnus Andrew Bell top-scored for the Wombats but his dismissal confirmed victory for the home team, which both sides agreed was no indication at all of the likely result of the Ashes series. Discussion between the teams, over subjects ranging from forum non conveniens to the wisdom of holding the first Ashes test at Lord's, continued long into the evening, over a tea generously provided by the Law Faculty.

Ben McFarlane



OBITUARY

Peter Carter, who died on 16 September 2004 at the age of 83, left a 50 year contribution to Wadham College and Oxford Faculty of Law. Peter Carter was an intensely private man. The bare outline is simply recited: Loughborough Grammar School; scholarship to Oriel; war service in the Royal Armoured Corps, 1941-46; Croix de Guerre 1944; First in Law Schools and the BCL; Vinerian Scholar 1949; Fellow of Wadham the same year – 1988 (then emeritus); Income Tax Commissioner 1965-95; JP 1959- 88; married (to Elizabeth Ely) 1960, widowed 1961; Curator of the Bodleian 1963-90; Estates Bursar, Wadham 1965-77; Hon.Bencher of the Middle Temple 1981; married Lorna Sinclair 1982; QC (hon.) 1990.

What the bare outline omits is not just the quality of his contribution or its range, but its flavour. By any standards Peter Carter was an impressive figure: well over six feet tall, with broad shoulders and a solid chest, supported on legs as massive as the trunks of trees. In his youth, he had rowed, and one could see why. There is a story that, shortly before his swearing in ceremony as Queen's Counsel (requiring full Court dress – 'Court' as in Palace, not as in Law), it was discovered that the buckle on the standard-issue knee breeches simply failed to reach around the top of his calves, necessitating an emergency on-the-spot improvisation. On top of this imposing frame was a head, not quite so massive, but which always seemed to be looking down on you, with an expression so impassive that it carried the ultimate judgmental qualities of a sculptured god. In short, here was a formidable presence, the effect of which was felt by anyone he encountered, in committee or person-to person.

Peter Carter was a hugely successful tutor, possibly less so in the FHS, but famously so in the BCL. Once they'd been through the mill, though, Peter's pupils commanded his loyalty, and (if they achieved something to deserve it) his powerful pride as well.

He was also a strong advocate of the law as a profession, because he saw it as something dignified, worthwhile, principled and rigorous, and those were the precepts he dinned into his pupils; by virtue of its very qualities, law was something that had to be done properly.

And law at Oxford, because of Oxford's special potentialities as an intellectual training ground for the whole common law world. Hence also, given its strong American links, his particular attachment to the Middle Temple, which his budding barrister pupils

were simply instructed they would join, in the usual tones that admitted no alternative.

All of this came together in his fierce partisanship for the BCL degree. He was not alone in seeing it as the finest taught law



degree in Britain and more widely. He may not have had as much to do with creating its renown as giants of the day like Rupert Cross and

John Morris, and later on Peter Birks, though as tutor, teacher, and examiner he certainly played as strong a part in demanding the highest standards. But none can have equalled him as a tireless ambassador for the degree in his travels around the Commonwealth, in Canada, Australia, Hong Kong, and to an extent in the USA and Africa as well. He announced its quality in irrefutable terms, and by that very fact helped attract the very best to come to Oxford. That seems to have had a higher priority for him than pure scholarship – but then he started out at a time when teaching could as readily be regarded as the basis for a distinguished academic career as publication. His main contribution to law at Oxford, however, and the most enduring one, will be seen as his role in the creation of the Bodleian Law Library, on the new St. Cross site. He is credited with having stifled (single-handed?) the favoured design, and manoeuvred into its place the design by Leslie Martin and Colin Wilson that was in due course executed. Nor was this just willfulness; it followed an extensive tour, jointly with Sir Humphrey Waldock, of law libraries in the USA and elsewhere, to absorb the best and be warned off the worst. The outcome was not only in dramatic contrast to the cramped awkwardness of the Old Bodleian, but an applauded piece of architecture which could for a period claim to be the most advanced law library in the world, embodying what was for then the almost unheard-of idea of having the entire collection on open shelves. The Carter hand is to be seen also in the style and quality of the interior fittings, resulting, rare in the extreme for the 1960s, in an institutional

building which has worn as well internally as externally.

His decisive role as the enforcer of high standards continued beyond the commissioning of the building in 1964, in a special post which was virtually created for him by the Law Faculty, which he held until 1990, and which died away not long after he himself relinquished it. This was all entirely fitting for someone as passionate as he was about buildings and their design, who gave as his recreation in Who's Who "appreciating architecture", and who had seriously considered himself becoming an architect, before settling on the law.

At the personal level, there was more of the heart and far less impassivity. The bravery and dash of his wartime exploits with the 1st Lothians and Borderers is properly captured in The Times obituary and the letters that followed. He was in the attack on Walcheren – overshadowed in the popular memory by Antwerp, but every bit as brutal if not more so. Because he would never talk about it, one can only imagine the effect these experiences must have had on a very young man who dealt with his human sensitivities by holding them under rigid control. Likewise for the romantic tragedy of his fleetingly short first marriage to a fellow Oxford lawyer already in the throes of her fatal illness. As the years wore on, the face relaxed, the smiles became more frequent, and it became easier to see some of the more orotund pronouncements for the jokes as which they had been intended. He loved company, and holding forth in company. As much as he enjoyed being entertained, so he enjoyed entertaining – and did so in style, with as fine an eye for clothes and the appearance of the table as he had for food and first-class wine. Those who had known him over the years dated the final emergence of his warmer side to his marriage to Lorna, and the very happy 20 years that followed, and watched with admiration how she tided him through the period after his first stroke three years ago.

The Wadham Peter Carter joined under Maurice Bowra in the 1940s was a place of character, and of characters. It still is, though both the character, and the characters, have changed. Peter Carter was proof that you didn't have to be either distraught or outré to be one of them.

Roy Stuart

It was with great sadness that we announced the death, on 13 June of this year, of Roy Stuart. Roy was a valued member of the Faculty for many years and he will be greatly missed. He was elected to a Fellowship in Law at Hertford College in October 1969 and shortly afterwards to a Lecturership in Law (CUF) in the University. Over the following 34 years, Roy made an enormous contribution to the teaching of law at Hertford and in the Faculty. The page on the Hertford College web-site amply demonstrates the great affection which Roy's students had for him and the enormous respect which they had for him. The following passage, written by Dr Alison Young, who is currently a Fellow of Hertford College and was Roy's colleague in the years immediately preceding his retirement, was originally published on



the Hertford College web-site and it aptly summarises Roy's qualities.

'Roy's contribution to the study of law is incalculable. He was dedicated to the tutorial method, and taught law to generations of students. For Roy, teaching always came first. Having excelled himself, he always demanded the best from his students; from the moment of his formidable admissions interview to beyond the completion of legal studies. Those taught by Roy recall how he bridged the intellectual gulf between tutor and student with perceptive questions, which appeared to enable students to reach his level, only to realise that yet more work was needed. Even on those occasions when students were convinced they had fully understood a particular legal topic, Roy's tutorial soon led to the realisation that they

had merely touched the tip of the iceberg. His enthusiasm for law was infectious. He would literally leap out of his chair with excitement when a student grasped the subtle legal point he was making. Colleagues recall his commitment to teaching, which ensured that no new legal development went unnoticed. He was equally dedicated to the well-being of his students, being particularly supportive of those who felt they did not match the perceived mould of a model Oxford student.

It is no understatement to say that Roy has been the embodiment of law at Hertford. His mixture of exacting standards and humility means that he will live on in the hearts and minds of many lawyers and legal academics. He may not leave behind a long list of publications but his legacy is far greater: his legal arguments live on in the hearts and minds of his students.'

Anne de Moor 1951-2005

Anne de Moor was Fellow in Law for over two decades at Somerville. During that time the Law School in the college developed steadily from the foundations which had been successfully laid by her predecessors, including Lady Hazel Fox. In fact Anne was Somerville's first full-time tutorial Fellow in Law. Over time the intake of undergraduate students expanded; the graduate community increased. Much of the credit for the progressive strengthening of the Somerville Law School belongs with Anne. She was a patient, enthusiastic teacher, deeply concerned for the welfare of her students. Her contribution was firmly in the tradition on which the college prides itself - informal, supportive, non-hierarchical. She also shared the College's deep commitment to the value of diversity among the student body and this was reflected from the moment of her election as a Fellow in her unwaveringly meritocratic attitude to admissions. Latterly, after seven years as Somerville's sole law Fellow, Anne was joined by Grainne de Burca, who moved to a Chair at the European University Institute in Florence in 1998, and then by Clare Ambrose, now in practice in London. Somerville today has two Law Fellows, Julie Dickson and Ben Goold. The modern shape and vigour of the College's Law School owes a great deal to Anne's contribution, the value of which will endure. She was also closely involved in some of the most turbulent times in the College's history, in particular the decision taken anything but lightly in the 1990s to admit men. Her readiness to engage constructively in debates about the College's identity and purpose, alongside the virtues of her scholarship, was recognised by her election to an Emeritus Fellowship of the college when she took early retirement. She remained a familiar and welcome face around college after retirement and her death caused a deep sense of shock to all in Somerville.

Stephen Weatherill

I first met Anne de Moor when I was a BCL student in 1986. With Andrew Ashworth, Hugh Collins and Nicola Lacey - what a dream team! - she convened the main seminars for the BCL course Philosophical Foundations of the Common Law. Much later, after her earlier collaborators had moved on, I became Anne's co-teacher on the same course. Anne had both a philosophical and a legal training, and she did an excellent job of schooling our BCL students in the alchemy of the two. Yet her interests were both more general and more specific than the course title suggests. More specific because, among the various parts of the common law that we discussed, it was the law of contract that primarily engaged her attention. More general because her philosophical interests in law were not limited to the common law. Having studied in Louvain as well as Cambridge, she was a natural comparativist, and her distinctive contribution to the course was always to remind us, gently but decisively, of the parochialism of our common-law assumptions.

The same themes ran through Anne's published work in English. In a series of valuable articles on the role of intention in the formation and interpretation of contracts, she developed a now well-known contrast between the more 'objective' ways of the common law and the more 'subjective' ways of Napoleonic law. She was sceptical about English contract law's claims to be interested in a true meeting of minds. Indeed she was of a sceptical disposition more generally, tending to doubt the accuracy of the law's self-image. When she wrote on the general theory of law - her second major interest - it was mainly to cast doubt on received wisdom concerning the nature of legal reality. She was particularly intrigued by the iconoclastic work of Ronald Dworkin. When she took early retirement from her Oxford post in 2001, Anne continued to take a close interest in Dworkin's ideas and remained a keen participant in the relevant seminars at Oxford and UCL. It will be impossible to attend such seminars in future without remembering and missing Anne's many lively contributions to them, and indeed to the academic life of her College, her Faculty, and her subject.

John Gardner

CRIMINOLOGY

NEW DIRECTOR OF THE CENTRE FOR CRIMINOLOGY

Ian Loader joined the Faculty in July 2005 as the new Professor of Criminology and Director of the Centre for Criminology. He was also elected a Fellow of All Souls College. Ian graduated in Law from Sheffield University in 1986 before studying for a masters in criminology and a PhD at the University of Edinburgh. From 1990-92 he was Lecturer in Criminology and Jurisprudence in the Law Faculty at Edinburgh. He arrived at Oxford from Keele University, where he had worked since 1992 as a member of Keele's renowned Department of Criminology. In recent years, Ian has been an invited visiting scholar at the Centre of Criminology in Toronto, and he spent six months during 2004 as a Jean Monnet Fellow in the Law Department of the European University Institute in Florence.

Ian's recent research has been concerned to understand contemporary transformations in policing and security, and cultural sensibilities towards crime, order and justice. Since 1994, he has published four books and numerous articles on these topics – including, most recently, *Policing and the Condition of England: Memory, Politics and Culture* (2003, Oxford) - see www.crim.ox.ac.uk/staff/IanLoader.htm). At Oxford, Ian plans to develop his work in two broad areas. He is presently writing a book - provisionally entitled *Civilizing Security* - that aims to articulate and defend the idea of security as a public good, and to spell out what this entails for the delivery and regulatory role of the state. It is due to be published by Cambridge University Press in 2007. Ian is also, in the broad field of security, participating in a multi-institution project on 'The Changing Landscape of Liberty and Security in Europe' funded by the European Commission - www.libertysecurity.org; and is developing a project with his Law Faculty colleague Benjamin Gould on the marketing and consumption of security hardware and services.

Ian's second principal research interest lies in developing an historical sociology of crime policy and criminology in England and Wales over the last several decades - one that examines its intersections with political culture and ideologies. Ian has recently

completed preliminary oral history research on these topics and has written a couple of articles establishing the orientations and parameters of this work, including a piece due to be published shortly in the *British Journal of Criminology* - entitled 'Fall of the "Platonic Guardians": Liberalism, Criminology and Political Responses to Crime in England and Wales' - which charts the ascendancy and dissolution of a once hegemonic elitist liberal consensus of how government should properly respond to crime.

With the appointment of Ian as Director,

programme which it plans to run from 2006, for which it is seeking recognition - and with its student funding - from the Economic and Social Research Council. The Centre is also launching an MPhil in Criminology in 2006. This, as well as being an important degree in its own right, aims to offer a bridge between the MSc and the Centre's DPhil programme - something that accords well with Ian's plan to foster and sustain within the Centre a thriving community of doctoral researchers. In addition, the staff of the Centre continue to teach a 'Criminal Justice and Penology' option on the final year of the Undergraduate



Photo Barry Roberts

along with the arrival in April 2005 of Dr Julian Roberts as Reader in Criminology and Assistant Director, the Centre has entered an exciting new period in its development - both in terms of the provision of graduate teaching, and as a site of high-quality criminological research. In respect of the former, the Centre plans to extend and develop its reputation - nationally and internationally - as an important and first-rate site of graduate criminology. The Centre intends over the next several years to raise and maintain the number of students on its MSc programme to 30 per year. It is also developing - as part of this expansion - a 'research variant' of its taught masters

Law degree, as well as a course on 'Crime, Justice and the Penal System' on the Faculty's postgraduate BCL and MJur degrees. The Centre will also continue to run what has over the years become a successful series of criminology seminars. From October 2006, these will take place fortnightly during term on Wednesday afternoons in the Social Sciences Building.

In respect of research, Ian's first task as Director is to lead the process of forming a new research strategy for the Centre - one that builds upon the strengths that have been built up over the Centre's 30 year history,

while also seeking to take the Centre in some new directions. The prime aim of this change of direction is to place greater emphasis on conducting theoretically-driven empirical research that continues to intersect with, and speak to, current dilemmas in crime control and penal policy. A key part of this strategy will be an intention to identify broad thematic research areas around which the Centre will seek to organise and develop its intellectual life. These themes seem likely to include crime, risk and justice; policing and security; victims, sentencing and penal policy; organised crime, and public opinion, politics and crime control.

The Centre for Criminology houses an impressive array of talented scholars working across a number of fields of crime, criminal justice and punishment. In addition to the new Director and Assistant Director, its membership comprises two professors (Andrew Ashworth and Lucia Zedner), three University Lecturers (Carolyn Hoyle, Federico Varese and Colin Roberts), two University Lecturers (CUF) (Benjamin Goold and Liora Lazarus), and two Senior Research Associates (Ros Burnett and David Faulkner), as well as several contract research staff. Dr Richard Young, who has been a key and valued presence in the Centre over many years, leaves Oxford at the end of December 2005 to take up a Chair at Bristol University. We wish him all the best and are currently seeking a replacement. The Centre also enjoys close links with researchers working in other social science units in Oxford, as well as being well-placed to develop closer intellectual connections with other subject groups within the Faculty - most obviously in areas such as socio-legal studies, regulation, human rights, criminal and public law. These are links that Ian, as new Director, is keen to encourage and build upon, as the Centre - cognisant of its history - enters what promises to be an intellectually vibrant and exciting future.

EUROPEAN & COMPARATIVE LAW

Training Programme for National Judges in EC Competition Law

The University of Oxford Centre for Competition Law and Policy (CCLP), in conjunction with the Institute of European and Comparative Law (IECL), was successful in securing a grant from the European Commission for the training of national judges in EC Competition Law.

This exciting initiative and the show of confidence from the European Commission will allow the CCLP and IECL actively to contribute to the dissemination of legal expertise in competition law in the new enlarged European Union in the next academic year.

The programme, which will take place in April 2006, is open to judges from the current 25 EU Member States, the other EEA contracting parties and the two candidate countries. It will focus on European competition law and policy and its application at Community and national levels. Special attention will be given to the enforcement of competition laws by the national courts and the co-operation between them and the European Commission.

***Details of the programme are available on the
CCLP website - www.competition-law.ox.ac.uk***

Oxford Law Alumni Lectures

23 May 2005

The second pair of Oxford Law Alumni Lectures were given at Allen & Overy LLP on 23 May 2005. The lectures were on two areas of European Community Law and were delivered by Professor Stephen Weatherill, Jacques Delors Professor of European Community Law and Fellow of Somerville College and Professor Derrick Wyatt QC, Fellow of St Edmund Hall.

In the first lecture, Professor Weatherill examined the European Commission's proposals on European Contract Law. In it he focussed on the 'way forward' for European Contract Law mapped in the European Commission's communication of 2004. This takes as its centrepiece the drafting of a

'common frame of reference' which would set out common fundamental principles of contract law, supported by definitions of key concepts and model rules. This is not harmonisation as commonly understood but nor is it a European Civil Code. The lecture examined what exactly it is and whether we really need it.



In 'Trade, Tax and Takeovers – can the European Court de-regulate Europe despite Brussels?', Professor Wyatt examined the difficulties European legislators have had in removing barriers to cross-frontier business activity. With the lawmakers deadlocked by disagreement (for example in relation to tax harmonisation and the services directive) or confined to adopting European rules of symbolic rather than practical significance (such as, for example, the takeover directive) it has been the Luxembourg Court, rather than the European legislators, which has taken



up the banner of de-regulation. The Court has challenged national rules on banking, tax and capital structures which operate as barriers to market entry and which reduce the competitiveness of the European market. Professor Wyatt argued that, for those who believe in free markets, these contributions by the Luxembourg Court are timely and welcome.

The lectures produced a lively discussion among the participants which, along with the drinks generously provided by Allen & Overy LLP, made the evening intellectually stimulating and highly enjoyable. The Law Faculty would like to thank Allen & Overy LLP for its generosity in hosting this event.

Andrew Burrows

Summer Institute

on The Intersection of Rights and Regulation at the Centre for Socio-Legal Studies

29 June to 3 July 2005

From 29 June to 3 July 2005, the Centre for Socio-Legal Studies hosted a 4 day Summer Institute chaired by Dr. Bronwen Morgan on the topic of 'The Intersection of Rights and Regulation: New Directions in Socio-Legal

Scholarship'. The LSA-Oxford Summer Institute 2005 is the first of three linked Institutes, all of which will develop the theme of the intersection of rights and regulation. Dr. Morgan led the consortium that bid for and won support for the three Institutes. The second and third Institutes in the consortium will be hosted by the University of the Witwatersrand, Johannesburg, South Africa in 2006 and by the University of California at Santa Barbara, USA, in 2007. Different facets of the theme will be developed across the three Institutes, with an emphasis on methodology in 2005, political economy in 2006, and identity and diversity in 2007.

The aim of the Oxford Institute was in part to build and expand the field of socio-legal studies by exposing postgraduate and junior faculty from a range of disciplines (anthropology, law, politics, and sociology among others) to the broad, cross-cutting themes of socio-legal studies as a whole. The Institute also worked towards publishing the work of the younger scholars, for example, in a web-based forum for Working Papers of the Summer Institute Consortium.

The 2005 Oxford Summer Institute received applications from 26 different countries and 24 postgraduates or junior faculty of 12 different nationalities were chosen to participate. Topics discussed varied from the relationship between indigenous rights and property regulation, to comparative explorations of family and marriage laws in Egypt, Israel and India. The faculty leading the Institute comprised 6 from the United States and 6 from the UK, including both Dr Bronwen Morgan and Professor Denis Galligan from the Centre for Socio-Legal Studies. Dr Doreen McBarnet and Professor Christopher Hood also made special guest appearances. The Institute's key sponsors were the US-based Law and Society Association (LSA), the Oxford University Law Faculty and the Centre for Socio-Legal Studies. This was the first time the LSA has sponsored a Summer Institute outside the US. Vital support was also given by the UK socio-legal constituency, including the Socio-Legal Studies Association and two journals in the field, *Journal of Law and Society*, and *Law and Social Inquiry*.

For more information on the Institute, please visit www.lawandsocietysummerinstitutes.org



European Contract Law

Joint Conference of the Institute of European and Comparative Law and Clifford Chance LLP

18 and 19 March 2005

In the academic year 2004-5 the Oxford Institute of European and Comparative Law launched a series of annual high profile conferences, hosted jointly with its major benefactor, global law firm Clifford Chance LLP. The first of these dealt with the 'Harmonisation of European Contract Law: Implications for European Private Laws, Business and Legal Practice'. The conference was held at St. Anne's College on 18 and 19 March 2005 with Sir David Edward, formerly a Judge at the European Court of Justice, in the chair. Both the speakers and the almost 120 delegates represented a variety of European

legal systems and made for a stimulating mix of academics and practitioners.

Contributors included Professors Alpa (Rome), Bernitz (Stockholm), Goode (Oxford), Hesselink (Amsterdam), McKendrick (Oxford), Weatherill (Oxford) and Zimmermann (Hamburg) and representatives of the European Commission (Dr Dirk Staudenmayer), the Department for Constitutional Affairs (Mr Paul Hughes), the Law Commission for England and Wales (Professor Hugh Beale), the Office of Fair Trading (Professor Sir John Vickers), the Federal Association of the German Industry (Rechtsanwalt Andreas Dietzel) and Clifford Chance LLP (Stuart Popham, Senior Partner and Daniela Weber-Ray, Partner).

There were vigorous and highly informed discussions about all sorts of issues relating to the European Commission's recent proposals for further harmonisation of contract law. A particular highlight was the presentation, by Clifford Chance's Senior Partner Stuart Popham, of a business survey which had been commissioned by the law

firm with Oxford Professors Vogenauer and Weatherill acting as academic advisors. The results gave a surprising degree of support for further harmonisation amongst European businesses, and thus lend legitimacy to the Commission's activity in this area. They will soon be published in a joint article of the academic advisors in the *European Law Review*, an extended version of which will also appear in the conference volume. The latter is edited by Professors Vogenauer and Weatherill and will be published, under the title 'Harmonisation of European Contract Law: Implications for European Private Laws, Business and Legal Practice', by Hart Publishing in early 2006.

The next conference of the Institute and Clifford Chance LLP will be held on 17 and 18 March 2006. The topic, 'Regulating the European Market', should make for a similarly interesting event.

Stefan Vogenauer

Professor of Comparative Law and Director of the Institute of European and Comparative Law

Fusion conference

16 to 18 December 2004

From 16 to 18 December 2004, a conference was held in New South Wales entitled "Fusion: The Interaction of Common Law and Equity in Commercial Law". The conference brought together the world's leading authors and judges in the field of equity and was the largest private law conference hosted in Australia (with an attendance of over 300 lawyers and sponsored by three of Australia's leading law firms - Blake Dawson Waldron, Freehills and Mallesons and the Australian Financial Review). The conference was organised by two graduates from Oxford

(Simone Degeling and James Edelman) and a large contingent of lawyers from Oxford attended and spoke including Professor Andrew Burrows, Dr Joshua Getzler, Mr Robert Stevens, Mr William Swadling and Mr Ben MacFarlane. The goal of the conference, as Sir Anthony Mason aptly put it in his speech at the conference dinner at Parliament House, was to "bring together fragmented bands of warring academic and judicial tribespeople to discuss the Fusion wars". Although debate was, at times, heated, there was little personal animosity and a consensus on this particularly controversial current legal issue (the relationship between the law deriving from the Courts of Chancery and the law deriving from the King's courts) has begun to emerge.

The papers from the conference have been revised and updated and will be published in October 2006 by Thomson LBC in a collection entitled "Equity in Commercial Law" to be edited by Simone Degeling and James Edelman. Simone and James have begun organising a sequel to the conference for August 2007. The theme of the next conference is 'Unjust Enrichment in Commercial Law'.

(L to R)
Dr Michael Rush
(an Oxford DPhil, supervised by Professor Burrows who is currently working as the Associate to Hayne J on the High Court of Australia)
Dr James Edelman
(Fellow, Keble College)
Professor Andrew Burrows
(Norton Rose Professor of Financial and Commercial Law and Fellow of St Hughes)
Professor Steve Hedley
(Professor of Law, University of Cork)
Mr Robert Stevens
(Fellow and Tutor at LMH)



International Intellectual Property Moot 2005

The price of being a celebrity and the right to personal image were the subject of debate at the third annual International Intellectual Property (IP) Moot, held this year at Oriol College between 8 and 10 April 2005. Hosted by the Intellectual Property Institute (IPI) and the Oxford Intellectual Property Research Centre (OIPRC) at St Peter's College, the event brought together students from universities across the UK, Eire and even Brazil, with teams from the University of Rio Grande and Sao Paulo University. Over the weekend, the teams honed their advocacy skills before experienced IP practitioners acting as judges, and for the final moot before a panel of three judges from the Court of Appeal and Patents Court. The two days also provided an opportunity for those considering a career at the bar or general law practice to mix with both senior and junior barristers, solicitors and patent agents.

Following an initial round of written submissions, judged by a team from Bird & Bird, twenty teams of two mooters each were

invited to the oral stage of the competition in Oxford. The range of experience of the competitors varied widely: there were law graduates, those completing the CPE, and even one plucky team of first year undergraduates with only two terms of legal study. All were well prepared, with substantial bundles of precedents presented to the bench in each round. Questions from the bench were fielded well, as mooters handled difficult points of law with considerable skill.

The final, as in past years, proved to be nail-biting to the end. Held in Oriol College's Harris Lecture Theatre, Lord Justices Mummery and Jacob and Mr Justice Pumfrey listened to mooters from the Universities of Sheffield and Birmingham argue it out, with Birmingham winning by a narrow margin.

Now in its third year, the IP Moot at Oxford is well established as a highly competitive event on both the Mooting and Intellectual Property calendars. It enables mooters from a wide range of backgrounds and experience to test themselves and inspires students everywhere to pursue studies in Intellectual Property law.

Credit should be given to the Organising Committee (Tetyana Nesterchuk, Sophie Palmer, Nicola Pierce, Felicity Prior and Leythem Wall); the Administrator of OIPRC, Gillian Brook; the many sponsoring law firms, patent agent offices, barristers' chambers and organisations; and the publishers,

chambers and authors who donated their books as prizes. A special mention goes to Oriol College, the IPI, the Intellectual Property Lawyers' Organisation, and of course Mummery LJ, Jacob LJ and Pumfrey J.

Sophie Palmer
Keble College

Inner Temple Inter Varsity Moot

The Inner Temple Inter-Varsity Moot took place on Sunday 6 February 2005 in the Inner Temple. Over twenty teams took part, consisting of undergraduate and graduate law students. Representing Oxford were Sophie Walker and Celia James-Cattell. After a difficult first round where Oxford was beaten by Oxford Brookes, Sophie and Celia were given a second chance as one of the highest scoring losers. They proceeded through the following stages to beat a rather aggressive King's College London team in the semi final. The final was judged by Lord Merriman and put the Oxford team, once again, against Oxford Brookes. This time, Oxford rose to the occasion and were announced the winners of the competition.

The Shearman & Sterling Moot

The Shearman & Sterling LLP Oxford University Law Faculty Mooting Competition 2005 was won by Zahra Hayat (Lincoln) and Imran Afzal (Merton).

The 2005 competition took place on 26 February 2005 in St Catherine's College. During the morning the moot problem was argued twelve times with each team arguing it twice, once as appellants and once as respondents. All of the morning moots were judged by partners and senior associates from Shearman & Sterling LLP. The semi-finals were held after a lunch for all the competitors and judges in St Catherine's. In the Grand Final, presided over by The Hon. Mr Justice Toulson, Chairman of the Law

Commission, Zahra Hayat and Imran Afzal narrowly defeated Ryan Kohli (St Edmund Hall) and Sion Owen (Lincoln). Toulson J commended both teams on the quality of their performance and gave his judgment on the contentious legal issues underlying the moot problem.

The prizes were presented to the winners, runners-up and group winners by Kenneth MacRitchie, Managing Partner of Shearman & Sterling LLP's London office. The winning team received £500, the offer of vacation placements with Shearman & Sterling LLP, and the right to represent Oxford University in the ESU National Mooting Competition in 2005-6.

Shearman Sterling Moot winners win ESU Runners Up

The winners of the 2004 Shearman & Sterling Moot, Katherine Hallett and Jeremy Lightfoot, both of New College, represented Oxford this year in the ESU competition. They reached the final where they were beaten by a team from City University. The final was held in the Lord Chief Justice's Court of the Royal Courts of Justice and was judged by a panel chaired by the Hon Mr Justice Lawrence Collins.



The runners up received 'The Scarman Shield', £750 each and the Faculty received £500. The cash prizes were generously donated by Essex Court Chambers, where all four finalists were offered a mini-pupillage.

Professor Vaughan Lowe elected as a member of the Institute of International Law

Professor Vaughan Lowe, Chichele Professor of Public International Law and a Fellow of All Souls College, has been elected to membership of the prestigious Institute of International Law (Institut de Droit International). This is one of the highest honours that can be accorded an international lawyer. The Institute of International Law was founded in 1873 in Belgium with the objective

of creating an institution independent of any governmental influence which would be able both to contribute to the development of international law and to act so that it might be implemented. The Institute of International Law was awarded the Nobel Peace Prize in 1904 in recognition of its action in favour of arbitration among States.



Photo Barry Roberts

Professor Sandra Fredman becomes Fellow of the British Academy

Sandy Fredman grew up in South Africa. She took her first degree, in philosophy and mathematics, at the University of Witwatersrand in Johannesburg and was awarded the prize for the best woman university graduate in South Africa in the year of her graduation. After working as a journalist, covering some of the worst manifestations of the apartheid, including pass laws, housing and removals, she came to Oxford as one of the first women Rhodes Scholars. Here she read law, obtaining first class honours in both the BA and the BCL. The profound influence of growing up under apartheid has shaped her primary interest in human rights, labour law and gender equality, leading her to take her articles with a trade union firm in London. Her first academic job was that of lecturer in labour law at King's College London and she was subsequently elected as a tutorial fellow at Exeter College, Oxford, in 1988. In 2000, she became the first woman professor in the Oxford Law Faculty.

She teaches labour law, constitutional and administrative law, as well as comparative human rights and European equality and employment law. She is also a barrister, practising as an academic consultant at Old Square Chambers. Her research to date focuses on the ways in which the law addresses imbalances in social power, and she has published widely, including a number of books, such as *Discrimination Law* in the

Clarendon Series (OUP, 2002); *Women and the Law* (OUP, 1997); *The State as Employer* (1988) with Gillian Morris; and *Labour Law and Industrial Relations in Great Britain* (2nd ed, 1992) with Bob Hepple. She edited *Discrimination and Human Rights: the Case of Racism* (2001) and *Age as an Equality Issue* (2003) with Sarah Spencer. She has also written numerous articles and chapters.

As well as her academic work, she has been active in the field of policy. She is currently a member of the Panel of Experts advising on the proposed Single Equality Bill in Northern Ireland and is one of the scientific directors of the EU Network of Legal Experts advising the

European Commission on the implementation of the equality directives. She has contributed to ongoing policy in the equality field in Great Britain, particularly in respect of gender, age and disability discrimination, as well as contributing to the Commission examining the Federal Labour Code in Canada. She currently holds a Leverhulme Major Research Fellowship, researching human rights as positive rights, creating obligations on the State rather than simply restraining abuse of power.



Photo Barry Roberts

HONOURS & AWARDS

Embarking upon a Leverhulme Research Fellowship

I have been asked to provide a short news report about the Leverhulme Research Fellowship which I have been awarded to hold for the next three academic years, so here, with apologies for the blowing of my own trumpet, are some details of what it involves and a brief outline of the research project in which I plan to engage during those three years.

Like several Law Faculty members before me, including recently two very close colleagues, one the late and much missed Professor Jim Harris from 2000 to 2003, the other Professor Sandy Fredman for the three years from 2004, I have had the good fortune to be given a Leverhulme Research Fellowship, with effect, in my case, from 1 October 2005. In this year, I have that good fortune in common with 25 members of arts, social sciences and humanities faculties in the UK, of whom three others are from elsewhere in the University of Oxford.

These Fellowships are awarded on the basis of a projected personal research project for each applicant. My research project is to develop my work on the Contract of Employment both by expanding it to include a wider category of Personal Work Contracts in general, and by giving it a European comparative dimension. My hope is to create that European comparative dimension by reference both to the employment law of a selected group of other European countries, and to European Union law itself so far as it affects such contracts, which it does to an increasingly important extent.

This Fellowship provides, with the agreement of the University and of my College, St John's, for which I am very grateful, for me to have research leave and for replacement of my teaching during that period of research leave. A colleague with teaching and research interests

in the field of labour law, Dr Wanjiru Njoya, has been appointed to a replacement post for three years, and I am entirely confident that she will ensure that the teaching input in that field is fully maintained. Despite that, there is also an inevitable transfer of burdens to existing colleagues, and I am especially grateful to Dr Anne Davies and to Dr Simon Whittaker for the willingness with which those have been shouldered. For my part I hope to remain fully engaged in the academic life of the Law Faculty during the three years concerned, and I hope my research activity may contribute in particular to the work of the Institute of European and Comparative Law, within which I have been given the status of Research Fellow.

Mark Freedland



Photo Barry Roberts

ALUMNUS AWARDED A SUPREME COURT FELLOWSHIP

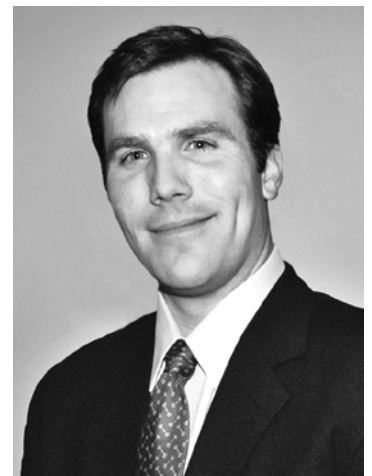
David L. Nersessian (DPhil 05) has been awarded a Supreme Court Fellowship.

Founded in 1973 by Chief Justice Warren Burger, the Supreme Court Fellows Program provides an opportunity to study firsthand both the administrative machinery of the federal judiciary within the United States and the dynamics of inter-branch relations.

The fellow based at the Supreme Court is assigned to the Office of the Administrative Assistant to the Chief Justice, which aids the Chief Justice in his administrative, policy, and ceremonial responsibilities for the Supreme Court and the federal judiciary. The administrative assistant serves as a liaison

for the Chief Justice to the legislative and executive branches as well as the Judicial Conference of the United States, the Board of Regents of the Smithsonian Institution, and other judicial and non-judicial entities.

The fellow based at the Court participates in long-range projects as well as day-to-day administrative tasks, and is assisted by two judicial interns operating under the fellow's supervision. The fellow is responsible for briefing distinguished court visitors on the workings of the American judicial system and the Supreme Court of the United States. Projects in which fellows may participate include researching and providing background information for the Chief Justice's



speeches and reports, preparing analytical reports on legal and managerial issues, providing assistance to the Court offices, and developing programs designed to enhance public understanding of the Federal Judiciary and the Supreme Court.

Professor Sir Roy Goode is awarded the DCL

Professor Sir Roy Goode was awarded the prestigious degree of Doctor of Civil Law in Trinity Term 2005. This higher degree was awarded by the Law Board on the basis of an examiners' report on a number of books and articles submitted by Professor Goode. The degree is awarded for published work which consists of "an original contribution to the advancement of knowledge of such substance and distinction as to give the candidate authoritative status in some branch or branches of legal learning".

Sir Roy is, of course, the acknowledged leading academic authority on commercial law. He has had a profound impact on the thinking of academics, policy-makers, practitioners and judges on many issues of commercial law, both in this country and abroad.

During his so-called retirement, Sir Roy has produced new additions of three of his major books, Commercial Law, Legal Problems of Credit and Security, and Principles of

Corporate Insolvency Law. Of these, the first is perhaps the most remarkable and effectively 'created' the modern subject of commercial law. Regarding the core of commercial law as being the law governing the transactions between commercial parties, the book (which in its third edition runs to 1210 pages) clarifies and critically assesses the principles of law applicable across a huge area. This includes contract, personal property, parts of tort and unjust enrichment, credit and security, insolvency, domestic and international sale of goods, carriage of goods, payment methods such as negotiable instruments and letters of credit, and the resolution of commercial disputes through litigation and arbitration. Far from being a dry legal analysis, the text is replete with examples of how the law works (or does not work) in practice. Basing himself on the premise that commercial law must respond to the needs and expectations of commercial parties, the text sometimes sets itself the very difficult task of explaining how new-style practices operate and what their legal underpinnings are or may be. Indeed, it is Sir Roy's distinctive contribution that he has brought together demanding theory and cutting-edge legal practice. One may

not agree with all of Sir Roy's reasoning (and famously the House of Lords disagreed with his rejection of the notion that 'charge-backs' were invalid because conceptually impossible). But whether discussing new practices or old cases, the text throughout contains a brilliant and succinct analysis of the relevant principles of law. No-one before had attempted such a broad survey of principle in this field and a comparison with earlier books on aspects of what tended to be called 'mercantile law' reveals starkly how fresh and dynamic Sir Roy's approach has been.

Sir Roy has been and continues to be a leading figure in the work of Unidroit (most recently, in relation to the Cape Town Convention on International Interests in Mobile Equipment) and he was also a member of the Lando Commission on the Principles of European Contract Law. All this has led to him being one of the best known and most highly respected academic lawyers across both Europe and the common law world.

It is clear, therefore, that Sir Roy continues to be as dynamic as ever; and the Law Faculty congratulates him on his richly deserved DCL.

Andrew Burrows

Bodossaki Prize

Dr Pavlos Eleftheriadis, a Fellow and Tutor in law at Mansfield College, was awarded the Bodossaki Prize for Law for 2005. The Bodossaki Foundation is a private foundation set up in 1973 for educational, medical and environmental purposes (<http://www.bodossaki-foundation.gr>). Since 1993 the Foundation has been running a programme of 'Bodossaki Foundation Academic Prizes' awarded to scholars of Greek nationality or descent, under the age of 40 for "exceptional achievements in their respective fields". In 2005 the prizes were advertised in Biology, Law, Nanotechnology and Physics. Candidates had to give an extensive account of their research, submit references and provide copies of published papers and books. The prizes were awarded in a ceremony at the Great Hall of the University of Athens in the presence of the President of the Republic Dr Karolos Papoulias in June.

At the ceremony, the prizewinners spoke briefly about some aspect of their work. After Professor Loukas Tsoukalis (now of the University of Athens but formerly of St. Antony's College,



Oxford) presented his work on European law and legal philosophy, Dr Eleftheriadis spoke on 'What lawyers know'. The speech will be published in the Greek philosophy review 'Cogito'. The ceremony attracted wide publicity in the Greek media. When interviewed on national television, Dr Eleftheriadis said, "it is a great honour for me and a wonderful recognition in my home country, but scholarship is a team sport.

I owe a huge amount to other people at the universities I have studied and worked, both in Greece and the United Kingdom". Dr Eleftheriadis is a graduate of the University of Athens; he completed LLM and PhD degrees at Corpus Christi College, Cambridge; and moved to Oxford from the London School of Economics in 2003.

HONOURS & AWARDS

New Zealand Distinguished Visiting Fellow

John Eekelaar was elected Distinguished Visiting Fellow for 2005 by the New Zealand Law Foundation. He visited New Zealand during July and August, giving lectures and seminars at the Universities of Otago (the host institution), Canterbury, Victoria (Wellington), Waikato and Auckland. He also met judges, practitioners and researchers in the area of family law.

The visit will further reinforce the very strong links that exist between the Oxford Law Faculty and the law faculties in New Zealand.

Dr Jeremy Horder seconded to the Law Commission

After nearly 16 years as a tutor at Worcester, Dr Jeremy Horder joined the Law Commission in January 2005 as the Law Commissioner with special responsibility for the criminal law. Dr Horder is the first Law Commissioner from academia to be given oversight of the Commission's criminal law projects. Other Oxford Law Commissioners (on the civil law side) have been Sir Jack Beatson, Professor Andrew Burrows and Sir Peter North.

Dr Horder has joined the Commission at an important time in the life of its criminal law projects. The government announced in late July 2005 that the Commission would produce a Consultation Paper on proposals to reform the law of murder by the end of 2005.

A secondment to the Law Commission is for five years and Dr Horder expects to return in early 2010.



Photo JMB Photographic Ltd

Susan Bright awarded Research Readership

Sue Bright has been awarded a two year Research Readership by the British Academy commencing in October 2005. During this time she will be looking at the law of leases from a number of perspectives - historical, comparative, social, and theoretical - in order to provide a deeper understanding of the nature and uses of leases, of the rights and responsibilities within the leasehold relationship, and an analysis of whether the concepts of the past meet modern and future needs. In preparation for this larger project, she hosted a conference at New College in September 2005 on the theme of 'Landlord and Tenant Law: Past, Present and Future' in which leading practitioners and academics presented papers on the past, present and future directions of commercial, residential, agricultural and long residential leases.

The Times Law Awards Essay

Fraser Campbell, a fourth year law student at Pembroke College, has been awarded the first prize of £4,000 in The Times Law Awards essay competition. The competition was held by The Times in association with the Chambers of Lord Gribner QC of One Essex Court to encourage young legal talent.

This year's competition entrants were challenged to write the best essay on the topic 'Tesco law: the shape of things to come? Will Clementi be good for consumers but bad for lawyers?'. The Clementi report mooted the establishment of 'Legal Disciplinary Practices', which would enable solicitors to enter into partnerships with barristers and other legal professionals. Fraser's essay argued that these reforms could facilitate a long overdue departure from the restrictive historical accident of a solicitor/barrister distinction. Fraser was awarded the prize by the Lord Chancellor, Lord Falconer of Thoroton, at a dinner in Lincoln's Inn.

Commenting on his win, Fraser said, "I was delighted to reach the prize shortlist and to win was a very welcome surprise, given the number and quality of entries. Seeing my essay published in The Times was an exciting experience, and the prize money will be very useful for my summer travel plans and living expenses when I undertake the Legal Practice Course in London next year, before training with Clifford Chance. If only all my law essays were so lucrative!" .



HONOURS & AWARDS

Dame Ruth Deech

Ruth Deech, a member of the Law Faculty and Principal of St Anne's from 1991-2004, has been appointed to a life peerage and has been introduced by the University's Chancellor, Lord Patten, into the House of Lords as Baroness Deech of Cumnor. She will sit on the cross benches from Autumn 2005.

Ruth Deech read law at St. Anne's and was then called to the Bar. After teaching in Canada and working for the Law Commission she joined the Law Faculty in 1970 as the fellow and tutor in law at St Anne's College. She taught family law, property law and jurisprudence and was also a visiting lecturer at Osgoode Hall, Cape Town and Florida. She served as Senior Proctor and succeeded in establishing



day nurseries for University members. Among other University posts, she was an elected member of Hebdomadal Council for 14 years, a Visitor of the Ashmolean Museum, Chair of the Admissions Committee and a Pro Vice-Chancellor. From 1994-2002 she chaired the Human Fertilisation & Embryology Authority, a statutory body with responsibility for regulating infertility treatment and embryo research. She was also a member of the Human Genetics Commission. Ruth Deech is a Rhodes Trustee and a founding Mandel-

Rhodes Trustee; an honorary Bencher of the Inner Temple; an honorary fellow of the Society for Advanced Legal Studies and a fellow of the Royal Society of Medicine.

In 2002 she was appointed a Governor of the BBC for four years. After leaving St Anne's in 2004 she was appointed the first Independent Adjudicator for Higher Education, a new post tasked with resolving student complaints from all universities in England and Wales, replacing the jurisdiction of the Visitor.



Titles of Distinction

Adrian Briggs has been awarded the title of Professor of Private International Law. He spends his time writing about the conflict of laws in general, and jurisdiction and foreign judgments in particular. In addition to books and articles on the subject in his own name, and teaching it to BCL and MJur classes, all of which still allow him to have a little fun with the subject, he is one of the team of editors for Dicey & Morris, *The Conflict of Laws*, where fun is not prized but relentless accuracy is. That, and the fact that one can practice the subject as well, means that there is always something new to do.

Doreen McBarnet of the Centre for Socio-Legal Studies, became Professor of Socio-Legal Studies in 2004. A graduate in history and sociology, her work has always been highly interdisciplinary. Her research has ranged from studies of criminal justice and the nature of law and legal ideology, through research on tax avoidance, corporate governance, regulation and 'creative compliance', to her current projects on legal work, legal creativity, and corporate social responsibility, which are being conducted as part of a three year ESRC professorial fellowship.

Professor McBarnet teaches on a range of courses in Law and Social Sciences and the MBA course on Corporate Responsibility at the Said Business School. She has published extensively, her most recent book being a retrospective edition of collected essays from a range of her work, 'Crime, compliance and control' (Ashgate 2004).



Lucia Zedner, Law Fellow at Corpus Christi and a member of the Faculty and the Centre for Criminology, took up the title of Professor of Criminal Justice in October 2005. She recently held a British Academy Research Readership to work on 'Security and Justice'. She publishes widely in criminology - her latest book, 'Criminal Justice', was published by Oxford University Press in 2004.

Keith Hawkins, Fellow and Tutor in Law at Oriel College, was awarded the title of Professor of Law and Society in 2004. His research is concerned with legal decision-making and discretion. His most recent book, 'Law as Last Resort: Prosecution decision-making in a regulatory agency' (OUP, 2002), was awarded the Jacob Prize for 2003 by the American Law and Society Association.

Dan Sarooshi, Fellow in Law at the Queen's College, was awarded the title of Reader in International Law in 2004. He publishes widely in Public International Law, and in 2005 he was elected Director of Studies at the Hague Academy of International Law. One of his books, 'The UN and the Development of Collective Security' (OUP, 1999), was awarded the 2001 Certificate of Merit Book Prize by the American Society of International Law and the 1999 Guggenheim Prize (biennial) by the Guggenheim Foundation in Switzerland. His latest book, 'International Organizations and their Exercise of Sovereign Powers', was published by OUP in July 2005.

John Cartwright, Official Student (Fellow and Tutor) in Law at Christ Church, was awarded the title of Reader in the Law of Contract in 2004. Contract law is at the centre of his teaching and research, and extends beyond English contract law to comparative contract law, and land law. Amongst other things, he is currently working on a new (and extended) edition of his book on Misrepresentation (Sweet and Maxwell 2002); editing (with Edward Burn) the 17th edition of Cheshire and Burn's 'Modern Law of Real Property'; co-editing a volume on Precontractual Liability for the Trento Project on the Common Core of European Private Law; and starting work on a new book designed to introduce civil lawyers to English contract

Arrivals

Dr Julian Roberts has recently been appointed Reader in Criminology and a Fellow of Worcester College. Prior to joining Oxford, Julian was Professor of Criminology at the University of Ottawa where he was one of four faculty members to hold a University Research Chair. He graduated from the University of Toronto with a doctorate in psychology in 1983. Since then he has taught in law, criminology and psychology at five universities and in both English and French.



Photo Barry Roberts

Dr James Edelman joined the Law Faculty in 2005 as a Fellow at Keble College and University Lecturer (CUF). He completed a DPhil in Law (supervised by the late Professor Peter Birks) then taught as a lecturer at St Edmund Hall, Oxford for two years before returning to Australia where he practised for 3 years as a barrister in the chambers of Malcolm McCusker QC (where he maintains chambers) and taught part-time at the University of Western Australia. He left Australia in January 2005 to take a position as a Reader at King's College London. His DPhil was published by Hart Publishing in 2002 as 'Gain-based Damages' and he has also written books on 'Interest Awards in Australia' and 'Unjust Enrichment in Australia' (forthcoming in 2006). His research and teaching interests are in trusts, Roman law, restitution and tort and he also writes on criminal law and property law.

Dr Helen Scott was appointed to a University Lecturership (CUF) in association with St Catherine's College in October 2005. She completed BA (Honours) and LLB degrees at the University of Cape Town before coming to Balliol to do the BCL in 1999. Having written her MPhil thesis on the restitution of mistaken payments in English and South African law, she recently completed her DPhil thesis, entitled 'Unjust enrichment by transfer in South African law: unjust factors or absence of legal ground?'. She teaches Roman law, Tort and EU law, and her research interests fall chiefly within the law of obligations and civilian legal history. She spent three years at Trinity College as a Fixed-Term Fellow in Law before coming to St Catherine's.



Photo Barry Roberts

Julian has recently stepped down as Editor of the Canadian Journal of Criminology, a position he has held since 1993. During his time in Canada, Julian's research was regularly cited as an authority in judgments from the Supreme Court of Canada. His latest book 'Understanding Public Attitudes to Criminal Justice' will be published by the Open University Press at the end of this year. Other recent books include 'The Virtual Prison' (published by Cambridge University Press in 2004) and 'Penal Populism and Public Opinion' (published by Oxford University Press in 2003). Asked about his impressions of Oxford after two months, Julian commented, "teaching at Oxford is a dream realised and a great honour. The Faculty of Law is world class in every respect, and I could not be at a better institution. I am delighted to be here".

Dr Rebecca Williams is delighted to be returning to the Oxford Law Faculty having completed her first degree and BCL at Worcester College. She then spent three years at Birmingham University studying for a PhD looking at unjust enrichment cases involving public bodies (a comparative study of France, England and the EC). For the last four years she has been based at Robinson College, Cambridge and the Centre for Public Law in the Law Faculty at Cambridge. Her principal areas of interest are criminal law, public law (including EC public law) and unjust enrichment (restitution). Rebecca has now taken up a University Lecturership (CUF) in association with Pembroke College.



Photo Barry Roberts

Dr Catherine Donnelly was appointed to a University Lecturership (CUF) in association with Wadham College in October 2005. Catherine took her LLB in Trinity College Dublin, where she became a scholar of the University in 1995. She completed a BCL at Magdalen College, Oxford in 1997, followed by an LLM in Harvard in 1998. Catherine passed the New York bar examination in 1998 and worked as a litigation attorney at Davis, Polk & Wardwell in New York from 1999 to 2001. From 2001 to 2004, she wrote her doctorate in comparative public law at Oxford, again at Magdalen College. She was called to the Bar of England and Wales in 2003 and has just finished pupillage at Blackstone Chambers in London.

Births

This has been a very productive year for the Oxford Law Faculty. Lisa and Ben Goold (Somerville) celebrated the year end arrival of their daughter, **Sophia** (Photo), born in December 2004. Beth and Michael Spence (St Catherine's) added a fifth child, **Felicity**, to their fold in January 2005. Helen and Ed Peel (Keble) welcomed **Charlotte** to the family in February 2005. Roderick Bagshaw (Magdalen) and Elizabeth Fisher (Corpus Christi) welcomed the arrival of **Arthur**, their second son, in April 2005. Jonathan Herring (Exeter) and his wife, Kirsten Johnson, shared the news of **Darcy** in May. Jonathan and Justine Pila (St Catherine's) announced the addition of a second daughter, **Davita**, this August. Edwin Simpson (Christ Church) and his wife, Tanya, were greeted with the arrival of **Thomas** in late August. It is worth noting that three of these parents also feature in this year's publications list, while another will soon have a book out.



Departures

Dr Bronwen Morgan and Dr Simon Halliday, both Research Fellows of the Centre for Socio-Legal Studies (CSLS), have been enticed to senior positions in other universities: Dr Halliday to a Readership at Strathclyde University, Dr Morgan to a Chair at Bristol University. During their years at the CSLS, both have won international reputations for their research in law and society; they have published widely, been central figures in the discipline, and excellent colleagues. Their joint contribution extends well beyond their loyal and unstinting commitment to the CSLS: both contributed to undergraduate and graduate teaching in law and other disciplines, were involved in the training of research students, and generally immersed themselves in the life of the University.

Dr Halliday was appointed to the Katzenbach Research Fellowship in 2000, after having completed his doctorate at Strathclyde University. He was the first holder of the Katzenbach Fellowship, which was created to mark the contribution Mr Nicholas Katzenbach made to American public life, from the Kennedy Administration onwards. Dr Halliday lived up to the expectations of the many friends and colleagues of Mr Katzenbach who funded the position. His research interests are centred around public law and public administration, and more recently in human rights. In line with the historic mission of the CSLS, Dr Halliday's method of approach was to engage in empirical research within a well-considered theoretical framework.

The fruits of his doctorate were gathered with the publication in 2004 of *Judicial Review and Compliance with Administrative Law*, which is a penetrating study of the influence of judicial review on administrative bodies. Publication followed hard on the heels of an earlier study, published as *The Appeal of Internal Review* (with David Cowan), which examines internal appeal procedures relating to the housing of homeless people. These two books were added to by a number of excellent articles and essays, and an edited volume with Dr Patrick Schmidt, a former research fellow of the CSLS, entitled *Human Rights Brought Home*. In a notable collection of essays, attention is drawn to the lack of empirical research into human rights issues, while the result is to take a notable step forward. Dr Halliday's time at the CSLS was one of considerable development and productivity, and it is hardly surprising that his former university made efforts to attract him back.

Dr Morgan came to the CSLS as holder of the Harold Woods Research Fellowship, after a period as Tutorial Fellow at St Hilda's College. Sydney University gave her an interest in law, which Berkeley converted into law and society. After several years of intense study in the Centre for Jurisprudence and Public Policy, during which time she acquired an unrivalled knowledge of the discipline, Dr Morgan completed her doctorate and migrated to Oxford. It soon became apparent that the CSLS was her natural home in Oxford, and, after a part-time link, she became a full-time Research Fellow in 2001.

From there her research and publications took-off. After publication of her doctorate as 'Social Citizenship in the Shadow of Competition: the Bureaucratic Politics of Regulatory Justification' (Aldershot: Ashgate Press, 2003), she was soon awarded a major research grant by the ESRC and AHRB jointly, to conduct a comparative study of access to water as part of a wider initiative on 'Cultures of Consumption'. Various articles and essays resulted from this research and a substantial book will eventually result. Dr Morgan's major contribution to the study of law and society in just a few years was soon recognized, culminating in the award last year of two prestigious prizes by the Socio-Legal Studies Association. Dr Morgan's research took several directions: at one level it was concerned with administrative law and administration, at another it tackled the role of law at national and global levels, while at all times being informed by a deep understanding of the theoretical issues of law in modern societies. The Woods Fellowship was created specifically to support research into issues of contemporary importance; Dr Morgan both benefited from that far-sighted concern of Kenneth Woods, while more than fulfilling our expectations. Apart from her research, she devoted time and energy to the training of new research students, and (with Dr Karen Yeung) developed a new course for graduates in Law and Regulation.

We extend our congratulations to Drs Halliday and Morgan, both of whom will remain closely associated with the CSLS and Oxford as Associate Fellows.

D.J.Galligan

Professor of Socio-Legal Studies

Dr Richard Young Reader in Criminal Justice, leaves the Centre for Criminology at the end of December 2005 to take up the post of Professor of Law and Policy Research at the University of Bristol. He has played a leading role in research (notably on restorative justice, legal aid, and the role of the media) and in teaching at the Centre, and his work as Assistant Director has been invaluable in the last two years. We will very much miss Richard and wish him well in his new post at Bristol

Retirement

John Eekelaar has retired from his position as tutorial Fellow in Law at Pembroke College and from his CUF lecturership in the Faculty and has assumed the role of Senior Tutor at Pembroke. John was appointed back in 1965 and has made an immense contribution to Pembroke, the Faculty and the University over the last 40 years.

In particular, John has made an enormous contribution to the teaching of Family Law in Oxford. He introduced Family Law into the law curriculum and his research output has been outstanding. John has made a major contribution to the study of Family Law both in the UK and internationally. He was a founding member of the International Society of Family Law and has served as its President. He is currently the editor of the *International Journal of Law, Policy and the Family* and a co-director of the Oxford Centre for Family Law and Policy. His scholarship has been recognised both here and abroad. He was appointed as a Reader in 1991 and was elected a Fellow of the British Academy in 2001.

John has also served with distinction as the editor of the *Oxford Journal of Legal Studies*, a role which he assumed in 1992 and will complete in December 2005. In addition John has made a significant contribution to the administration of the Faculty, particularly during his period as Chair of the Law Board and in the part which he has played in the administration of our Course 2 programme. We wish him well in his new role.

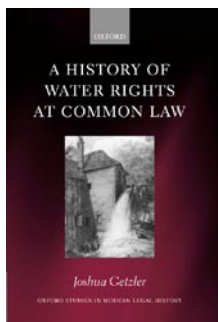
A History of Water Rights at Common Law

(Oxford Studies in Modern Legal History, OUP, 2004)

by **Dr Joshua Getzler**

Dr Joshua Getzler's *A History of Water Rights at Common Law* (Oxford Studies in Modern Legal History, OUP, 2004) was this year's winner of the Society of Legal Scholars Peter Birks Prize for Outstanding Legal Scholarship. Dr Getzler accepted the prize at the Society's Annual Conference held at the University of Strathclyde in September 2005.

While this monograph is not exactly mainstream law in this country, where people complain more of an excess of water than a scarcity, it is otherwise in the dry states of the western United States, and in other water-scarce climes; and also in international law where cross-boundary disputes over water resources are becoming a new flashpoint of conflict. Dr Getzler's study broaches three main themes: how the common law developed new forms of property and tort claims, building on its complex inheritance of writs of action for possession, and for trespass, nuisance and actions on the case; how intimately the English common law related to Roman and civilian ideas of natural property rights and communal rights; and how we can best understand the role of the English common law in governing economic development. Max Weber was puzzled as to how a country with so irrational a legal system as England's could outgun Germany in commercial and industrial development, whose codified law was so clearly superior to the common law in terms of rationality and orderliness. Dr Getzler's book attempts to give a mixture of historical and theoretical answers to Weber's "England Problem", and along the way he takes a hard look at the ambitious claims of American economic theories of property.



International Organizations and Their Exercise of Sovereign Powers

(Oxford University Press: Oxford Monographs in International Law) (2005)

by **Dan Sarooshi**

International organizations such as the United Nations, the World Trade Organization, and the European Union are today exercising far-reaching executive, legislative, and judicial powers. This book draws on diverse literatures such as political theory, philosophy, and international law in order to construct a conceptual and normative framework that is used to examine and evaluate the exercise of sovereign powers by international organizations. The book pays particular attention to conceptual precision, refining and elaborating core legal concepts such as responsibility and agency, and distinguishing between the different types of conferrals of powers by States to international organizations in order to understand more precisely the differing legal consequences that result from these conferrals for States and their peoples. The book also tackles the fundamental question of what values should constrain international organizations in their exercise of sovereign powers.

TORT LAW 2/e (Longman, 2005)

by **Roderick Bagshaw and Nicholas McBride**

Roderick Bagshaw (Magdalen) and Nicholas McBride (formerly of Brasenose and All Souls, currently a Fellow at Pembroke, Cambridge) have published a second edition of their student textbook on 'Tort Law' (Longman, 2005). The authors have attempted to write the book in a lively and friendly style, whilst offering a clear framework for understanding the subject as well as detailed analysis of hundreds of leading cases. The style of the work is captured in the Preface: "in the first edition of this book we tried to restore some order to a subject that was fast in danger of becoming an intellectual shambles. In this edition we have set our sights a bit higher, and attempted to produce the best student textbook on English tort law ever written". The second edition contains new chapters on invasion of privacy and loss compensation schemes, and all of the other chapters were extensively rewritten to deal with new cases and make more reference to academic insights. The book is supplemented by a popular free access website (www.pearsoned.co.uk/mcbride) which offers commentary on recent decisions and a range of other resources to assist law students, such as tips on writing essays and model answers to problem questions.

Contract Law by Mindy Chen-Wishart

Students sometimes expect contract law to be dry, rule based, technical and confusing; not to be understood but to be learnt by rote for the examination. This exciting textbook provides an antidote. It conveys the accessibility and everyday importance of contract law by giving a clear textual description accompanied by 80 colour diagrams, flow charts and tables which explain difficult concepts or provide overview 'maps' to orientate students. The 'Pause for reflection' and 'Counterpoint' boxes provoke students to think honestly and critically about the balances that have to be struck, and encourage constructive engagement with questions of law reform. These and other features such as 'This chapter in essence' (a summary of the key points), exam-type 'Questions to consider' supported by 'hints' on the Companion Website (not model answers but help with breaking down the question into more manageable sub-questions), 'Weblinks' to free sites for selected primary materials, a challenging 'Test bank' to let students check their understanding of the law and 'Updates' will help students to lift their game while making the subject more accessible and fun.

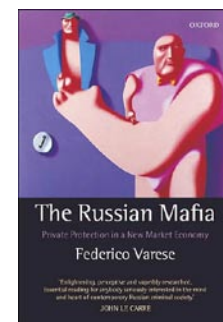


The Russian Mafia: Private Protection in a New Market Economy

(Oxford University Press)

by **Federico Varese**

Federico Varese's *The Russian Mafia: Private Protection in a New Market Economy* (Oxford University Press), which was published in paperback in 2005 and was the winner of the Ed A Hewett Book Prize 2002, uses property rights theory and interviews with actual participants in the 'market for private protection' to explain the emergence and persistence of mafia-like organizations in the new Russian market economy. The author uses the New Institutional Economics and innovative research material drawn from in-depth interviews with victims of the Russian mafia, mafia members and from Gulag archives to describe the institutional working arrangements of the Russian mafia. The author provides novel comparisons between the Russian, Sicilian, and Japanese mafias in the context of private protection of property rights in a system of weakly defined property rights. Dr Varese analyses actual contracts for the supply of mafia services and the institutional arrangements used in such transactions. Dr Varese's analysis is an innovative blend of theory and facts drawn from unusual data sources, such as in-depth interviews with actual participants.



Properties of Law

(Oxford University Press)

Three Oxford fellows, Timothy Endicott, Edwin Peel and Joshua Getzler, have just completed editing a volume in tribute to Professor James Harris, entitled 'Properties of Law', due to be published by Oxford University Press in the near future. Jim Harris was pleased to know that a book of essays was being prepared in his honour, and it is a matter of sadness for all concerned that the book cannot be presented to him as a festschrift. The book celebrates the main aspects of Jim's broad legal and jurisprudential interests, and includes contributions on legal philosophy, property, precedent, and human rights, the last topic being the focus of Jim's work in his last years. Essayists from Oxford include Julie Dickson, John Eekelaar, Tony Honoré, Jeremy Horder, Bernard Rudden, and the editors. From Jim's many admirers outside Oxford (including many of his past students) there are contributions from Brian Bix, Jes Bjarup, Hugh Corder, Richard Epstein, David Lametti, Stephen Munzer, Stanley Paulson, James Penner, Isabelle Rorive, and Lionel Smith. The book's preface was contributed by the Honourable Justice Edwin Cameron, and offers a multifaceted reflection of the great influence of Jim Harris' work and of the esteem and affection felt for him.

Peter Birks Memorial Fund



Professor Peter Birks died of cancer at the age of 62 on 6 July 2004. Peter was one of the leading academic lawyers of the 20th century and was devoted to the Oxford Law Faculty and to its students. As was said in the obituary in *The Times*, "Peter Birks was a charismatic leader and a dynamic teacher, who inspired fellow-academics and generations of students with his passion for academic law. He had a deep sense of obligation to his college and the Oxford Law Faculty and worked tirelessly for them. He was generous to a fault with his time for students and colleagues alike. With his death, English academic law has lost its most dedicated scholar and its leading ambassador".

On the first anniversary of his death, the Law Faculty marked his outstanding contribution to its work and reputation by creating the Peter Birks Memorial Fund to support the following two initiatives:

- the establishment of a Peter Birks Lecturership. For a five-year post, we need to raise £300,000. To endow a post, we need to raise £1,800,000; and
- the establishment of an endowed graduate scholarship for the BCL/MJur/DPhil in his name, ensuring an annual Peter Birks Graduate Scholarship of £5,000. For this, we need to secure an endowment of £125,000.

To make a donation to the Peter Birks Memorial Fund, please contact Maureen O'Neill (Maureen.oneill@law.ox.ac.uk)

New Initiative planned

Chair in Law and Finance

The Oxford Law Faculty is committed to deepening its understanding of financial change through imaginative new programmes for the study of law and finance. This plan is to draw in researchers and students from all over the world, from countries with the most sophisticated market and regulatory institutions and also from developing economies where financial and legal training may have a strong impact on the home society. The Faculty seeks to encourage the highest quality of research into financial institutions and to promote the intellectual leaders of the future, employing the full range of legal and interdisciplinary research available at the University.

This project is a continuation of Oxford's role as great school of business, government and law since its very inception. Law has been taught here for around 850 years. Across that span, the Oxford Law Faculty has long been a training ground for national and international leadership. The new law and finance project continues this tradition.

The key first step in the plans is for the Oxford Law Faculty to appoint a new Professor of Law and Finance to provide leadership in the Faculty in the entire field of finance. The Faculty's need here is urgent. There are 300 law graduate students in any one year, with at least half participating in taught courses. The law graduate admissions office receives applications from students around the world who want to study legal and economic aspects of the new global financial economy. The Faculty can cater for some but by no means all of this demand. Financial law is one of the most popular streams amongst law graduate students and a large and talented group of students run a lively seminar bringing speakers from the regulatory, academic and legal world to Oxford every month. This new Chair needs to provide the best possible academic leadership to nurture and train this elite international community.

Commercial Silks

The two first recipients of the Commercial Silks Scholarships are Alexandros Tsadiras and Murray Wesson.

Alexandros' area of research is European Administrative Law, more specifically focusing on the European Ombudsman, a European Union institution dealing with complaints concerning instances of maladministration on the part of Community institutions and bodies.

Murray's research focuses on the relationship between discrimination law and socio-economic rights. His argument is that both areas of law are underpinned by a shared commitment to substantive equality. He draws upon political philosophy and case-law from South Africa, Canada and the United States.

New York visit

In May, Davis Polk & Wardwell hosted a lunch, organised by Nick Segal and Genevieve Munizer, for a number of Oxford law alumni now working in US firms. Professor Ewan McKendrick spoke of the developments within the Law Faculty, the current profile of the undergraduate and graduate student bodies, the research work being carried out by members of the Faculty and the Faculty's future plans.

FORTHCOMING EVENTS

16th February 2006

In collaboration with the Oxford Society, The Faculty of Law is hosting a reception at the NSW Parliament House. For details check our website.

6th March 2006

The Commercial Bar Reception will take place at the Oxford-Cambridge Club, London

30th March to 1st April 2006.

The Faculty of Law will host a drinks reception as well as an Alumni Seminar in conjunction with the Oxford North American Alumni Reunion

Spring 2006

Alumni Lectures will be announced on our website.

The Law Faculty would like to take this opportunity to thank all its major benefactors

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We update our news and events page on the Oxford Law website regularly. For current news and events, visit: <http://www.law.ox.ac.uk> and click on the "News and Events" link. However, if you would like to be contacted about special events during the academic year, please email maureen.oneill@law.ox.ac.uk to be added to the email distribution list.

For further information on any item in the Law News (or to make a donation to the Peter Birks Memorial Fund), please contact Maureen O'Neill (Maureen.oneill@law.ox.ac.uk). We also welcome any comments you may have on this publication.

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