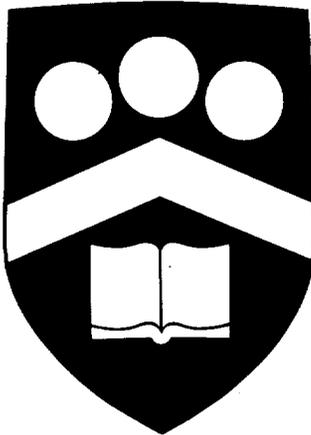


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UNIVERSITY OF TECHNOLOGY, SYDNEY

FACULTY OF LAW

HANDBOOK 1989



TO INQUIRE DILIGENTLY

"It is the policy of the University of Technology, Sydney to provide equal opportunity for all persons regardless of race, sex, marital status, physical disability or homosexuality."

UNIVERSITY OF TECHNOLOGY, SYDNEY

FACULTY OF LAW

HANDBOOK 1989

Enquiries

Official correspondence should be addressed to:

The Registrar,
University of Technology, Sydney
P.O. Box 123,
BROADWAY NSW 2007.
FAX (281 2498)
Telephone: 20930

The Faculty of Law is situated at:

The Markets 3 Campus,
(Building 5),
Corners of Hay, Quay Streets
and Ultimo Road,
ULTIMO. N.S.W. 2007

Personal enquiries should be made either by telephoning:

The Law Faculty Office
Telephone: 218 9700
FAX (281 5385)

OR

The Administrative Officer:

Mrs Philippa Williams
Telephone: 218 9712

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Message from the Dean

It is a distinct pleasure to be able to welcome both new students and re-enrolling students at the beginning of another academic year.

The Faculty of Law of the University of Technology, Sydney was established in 1975. In 1976 Geoffrey Bartholomew, then a Professor of Law at the University of Singapore, was appointed Foundation Dean of the Faculty and Head of School. This proved to be a wise choice, for Professor Bartholomew's stewardship of the Faculty for the following ten years proved to be wise and successful, both in terms of the attainment of the academic objectives, and in building a strong corps of teachers, students, and in due course, graduates. He presided over the introduction of a new and complete proposal for the LL.B., which is substantially the degree we know today. That degree was reviewed in 1987, and re-accredited without condition. At the same time, the LL.B and indeed the various activities of the Faculty were investigated in depth by a committee, appointed by the Commonwealth Tertiary Education Committee, chaired by Professor Dennis Pearce.

The report created considerable controversy. It is undoubtedly true to say that the University's Law School, and its LL.B Programme, emerged most creditably from that review.

In 1989, the Faculty will introduce two new graduate programmes, a coursework Master of Laws Degree, the LL.M., as well as the Doctorate of Legal Sciences, the SJD. The coursework LL.M. will offer the opportunity to students to major in areas of specialisation, and also to obtain a credit for work undertaken in overseas law schools or institutes of advanced legal research. This will be through the subject International and Comparative Law Project; the first overseas course to be credited towards this subject is that of the Hague Academy of International Law. This will permit Australian graduate students to taste some of the advantages of study overseas, an option usually denied to young practitioners who are locked into the career path of solicitors, barristers and corporate counsel and cannot easily give up the time necessary to undertake a graduate degree overseas. Some of the other subjects to be offered in the LL.M. will not have been offered elsewhere, for example that of Computerised Legal Information Systems. Others will present an alternative approach to graduate studies available elsewhere. In addition, candidates will be permitted to choose programmes from other law schools and have them credited to the LL.M. The Faculty's doctoral programme, the SJD, is the first such programme in Australia, although it is well known in the United States. It seeks to avoid the narrowness of the traditional Ph.D. programme by allowing for a substantial ingredient of course work at the graduate level. In addition, the Faculty will participate in the University's traditional Ph.D. programme, and in due course an LL.M. by thesis will be introduced.

In reviewing its LL.B. programme, and in introducing its new graduate programmes, the Faculty is advised by a strong Course Advisory Committee on which there is representation of the Chief Justice, Attorneys General, the Bar, Law Society, Corporate Lawyers Association, College of Law, the UTS Law Graduates Association and other eminent practitioners. The combination of the teaching faculty and this essentially professional body ensures the highest quality control of our courses.

In conclusion I think I should incorporate in my message an excellent outline of the objectives of this Faculty which came from the pen of the Foundation Dean. I can find no better statement of our objectives and accordingly I commend these words to you.

Objectives of the Faculty of Law

In an academic context the objective of the Faculty is to provide a professional education in law a professional education as opposed to vocational training, the latter being the function of the College of Law (replacing the system of articles in New South Wales). The assumption that the course is professional does not involve the assumption that it is "merely practical" as opposed to academic or theoretical. The distinction between the academic and the practical is at best tenuous and at worst misleading, for today's practical problems tend to become tomorrow's academic problems and sometimes vice versa. The phrase "merely practical" may, in some contexts, be used as a term of approbrium, but so equally, in other contexts, is the phrase "purely theoretical". Any attempt to teach law divorced from practical realities is to teach either metaphysics or moral philosophy: any attempt to teach purely the practice of law, eschewing any conceptual or functional analysis is merely to pass on a mystery.

The justification for the distinction between professional education and vocational training was provided over 200 years ago by Sir William Blackstone and has never been bettered.

"If practice be the whole that he is taught practice must also be the whole that he will ever know; if he be uninstructed in the elements and first principles upon which the rule of practice is founded, the least variation for established precedents will totally distract and bewilder him: *Ita lex scripta est* is the utmost his knowledge will arrive at, he must never aspire to form and seldom to comprehend, any arguments drawn *a priori* from the spirit of the laws and the natural foundations of justice.

The first basis of a professional education in law is thus education in the principles on which rules of practice are founded. The law, however, cannot be taught in a vacuum. It exists for and as part of society as a whole, and a professional education in law needs to stress both sides of the coin, as it were . . .

The objectives should be assessed against the background provided by the above principles.

In law, as in all other disciplines, there has been a general proliferation of knowledge, which raises the same kind of problems for law teachers as it does for teachers in other disciplines. Since it is manifestly impossible to teach all the law, any course of professional legal education must necessarily involve a compromise in the material to be taught. This involves problems of selection, and in seeking relevant selection criteria, the Faculty has borne in mind that in law, as in other disciplines, knowledge is of two kinds, knowledge that something is the

case (knowledge as information) and knowledge of how to do something (knowledge as skill). Knowledge as information manifestly cannot be taught *in toto*, the student, nevertheless needs some sort of map, as it were, of the legal system as a whole comprising some knowledge of its main features, of the principal concepts and classifications and of the criteria by which they are distinguished. For the rest it is sufficient for him to rely on his ability to "look the law up".

Knowledge as skill cannot be so acquired. It can only be developed by practice. To this end it is necessary to select some subjects which are dealt with in depth, not solely because the significance of the knowledge (as information) that the student will acquire, but because of their exemplary value. Knowledge (as skill) can only be acquired by practice and practice requires that the student have some material on which to practise.

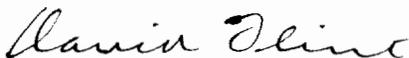
It is crucial however to distinguish, when speaking of knowledge as skill, between the purely practical skills which form part of legal vocational training, which is concerned with administrative and clerical details of day-to-day practice, and the basic legal skills is that of handling primary source material in a professional way. Other such skills are those of the ability to communicate orally or in writing legal arguments and conclusions. It is to this end that the Faculty has included within the professional educational programme a so-called skills component.

On graduating the graduate should have acquired sufficient information and skill to have attained the level of elementary creativity; the ability to seek and to communicate solutions to legal problems the solutions of which they can justify in legal terms by using legal materials in a professional way, and the ability adequately to communicate the results of their analysis.

It may well be the case that a professional education in law is found to have a value of its own right by providing a valuable educational foundation for careers other than that of law and it may be therefore that students who do not wish or more likely for whom the opportunity will not arise to enter the legal profession. This may constitute a justification for not requiring such a person becoming bogged down in the *minutiae* involved in vocational training which is incumbent on those who wish or are able to enter the legal profession, but it provides no justification for altering the requirements of professional legal education.

Thus far the answer to the question has been couched in academic terms. From the point of view of the student intake the objective of the Faculty is to provide a part-time course in law, which although part-time will satisfy the requirements of a rigorous professional legal education, and which will provide the opportunity for those who, for whatever reason, did not proceed directly from secondary education to tertiary; to those of mature age who, being employed and, in many cases with families to support, would not be able to contemplate full-time study.

It think it is true to say that the faculty continues to strive to teach and develop its academic programme according to these objectives.



David Flint

IMPORTANT DATES FOR 1989

Autumn Semester 1989

| | |
|---|---|
| Last day for application of progression variation forms | Monday, 30 January 1989 |
| Enrolment for Stage 1 students | Wednesday, 1 February 1989 |
| Enrolment for continuing students | Thursday, 9 February 1989 |
| Classes commence for continuing students | Monday, 13 February 1989 |
| Classes commence for Stage 1 Students | Monday, 20 February 1989 |
| Last day for variation of programme | Friday, 10 March 1989 |
| Tutorial week commences | Monday, 20 March 1989 |
| Easter Recess | Friday, 24 March 1989 to Monday, 27 March 1989 |
| Last day for withdrawal from a course or subject | Thursday, 30 March 1989 |
| Tutorial Week commences | Monday, 1 May 1989 |
| Graduation Ceremony | Wednesday, 26 April 1989 |
| Closing date for applications for Spring Semester 1989 (Admissions Broadway) | Friday, 26 May 1989 |
| Examinations Commence | Friday, 9 June 1989 |
| Recess | Monday, 3 July 1989 to Friday, 21 July 1989 |

Spring Semester 1989

| | |
|--|---------------------------|
| Last day for application of progression variation forms | Friday, 14 July 1989 |
| Enrolment for continuing students | Wednesday, 19 July 1989 |
| Enrolment for Stage 1 students | Friday, 21 July 1989 |
| Classes commence for continuing students | Monday, 24 July 1989 |
| Classes commence for Stage 1 students | Monday, 31 July 1989 |
| Last day for variation of programme | Friday, 11 August 1989 |
| Tutorial Week commences | Monday, 28 August 1989 |
| Last day for withdrawal from a course or subject | Wednesday, 30 August 1989 |
| Closing date for application for Autumn Semester 1989 (U.C.A.C.) | Friday, 29 September 1989 |
| Tutorial week commences | Monday, 9th October 1989 |
| Last day for enrolment in Summer programme | Friday, 20 October 1989 |
| Examinations commence | Friday, 17 November 1989 |
| Examination Review Committee meets | Friday, 8 December 1989 |
| Summer Programme commences | Tuesday, 12 December 1989 |
| Last day of academic year | Friday, 15 December 1989 |

STAFF OF THE FACULTY OF LAW

Dean of Law and Head of School

Professor D. E. Flint LL.M. (Syd.), B.Sc., (Ec.) (Lond.), D.S.U. (Paris)
Solicitor of the Supreme Courts of N.S.W. and England

Professors

G.W. Bartholomew B.Sc., LL.B. (Lond.), LL.M. (Tas.), of Gray's Inn and the
Supreme Court of N.S.W., Barrister at Law

D.E. Flint

Sub-Dean; Director, Undergraduate Programmes

A.L.Y. Goh LL.B. (Hons.) (Sing.), LL.M. (Syd.),
Advocate and Solicitor of the High Court, Malaysia

Sub-Dean; Director, Postgraduate Programmes

E.E. Beerworth B.A. (R.MWC), M.A. (U.Va), LL.B. (ANU), Ph.D (Macq.)
Solicitor of the Supreme Court of N.S.W.

Senior Lecturer and Law Collection Consultant

R.J. Watt B.Comm., Dip.Lib. (N.S.W.), LL.B. (Syd.),
Solicitor of the Supreme Court of N.S.W.

Senior Lecturers

M.B. Evans B.A., LL.M. (Syd.), LL.M. (Cantab.)
Solicitor of the Supreme Court of N.S.W.
Barrister of the Supreme Court of N.S.W.

P.B.C. Griffith LL.B., B. Juris. (Monash), LL.M. (Lond.)

G.A. Moore B.A., LL.M. (Syd.),
Barrister of the Supreme Court of N.S.W.

N.F.K. O'Neill LL.B (Melb.), LL.M. (Lond.), Barrister and Solicitor of the
Supreme Court of Victoria and of the National Court of
Papua New Guinea
Solicitor of the Supreme Court of N.S.W.

L.M. Pearson B.A., (Syd.), LL.B. (N.S.W.), LL.M. (Syd.), Solicitor of the
Supreme Court of N.S.W.

C.A. Ying B.A. (Manit.), LL.M. (Lond.), of Lincoln's Inn and the
Supreme Court of N.S.W., Barrister at Law

Lecturer and Computer Law Consultant

A. Mowbray B.Sc., LL.B. (N.S.W.)
Solicitor of the Supreme Court of N.S.W.

Lecturers

R.C. Daw B.A., LL.B. (Adel.), D. Phil. (Oxon.),
Barrister of the Supreme Court of N.S.W.

A.S. Glass B.A., LL.B. (Syd.),
Barrister of the Supreme Court of N.S.W.

J.M. Housego B.A., LL.B. (Syd.) L.H.B. (N.E.)
Solicitor of the Supreme Court of N.S.W. and Queensland;
Barrister and Solicitor of the ACT.

G.S. Payne M.A. (Hons), LL.B. (Syd.)
Barrister of the Supreme Court of N.S.W.

D.J. Robinson B.A., LL.B. (Hons.) (Syd.),
Solicitor of the Supreme Court of N.S.W.

Visiting Lecturers

| | |
|----------------|--|
| M. Allen | B.Juris. LL. B. (UNSW) Solicitor of the Supreme Court of N.S.W. |
| S. Bishop | B.A. (Syd.), LL.B. (N.S.W.), Solicitor of the Supreme Court of N.S.W. |
| S. Finch | B.Ecs (Hons.) LL. B. (Syd.), Barrister of the Supreme Court of N.S.W. |
| J. Fitzgerald | Barrister of the Supreme Court of N.S.W. |
| J. Gilbert | B.A. (Hons.) (Syd.), LL. B. (N.S.W.), Solicitor of the Supreme Court of N.S.W. |
| J. Gleeson | B.A., LL.B. (Hons.) (Syd.) B.C.L. (Oxon) Solicitor of the Supreme Court of N.S.W. |
| R. Gowenlock | LL.B. (Syd.), Barrister of the Supreme Court of N.S.W. |
| I. McDonell | B.A., LL.B. (Syd.), Solicitor of the Supreme Court of N.S.W. |
| M. Mobbs | LL.B. (ANU), Solicitor of the Supreme Court of N.S.W. |
| P. Nash | LL.B. (Syd.), Barrister of the Supreme Court of N.S.W. |
| D.B. Robertson | B. Ecs. (Hons.) LL. B. (Hons.) (Syd.) LL.M. (Columbia) Solicitor of the Supreme Court of N.S.W. |
| H.L. Raiche | B.A., M.A., (G. Wash. Uni.) (USA), LL.B. (UNSW), Solicitor of the Supreme Court of N.S.W. |
| G. Segal | LL.M. (Syd) Barrister of the Supreme Court of N.S.W. |
| B. Swebeck | LL.B. (Hons.) (NSWIT) Barrister of the Supreme Court of N.S.W. |
| R. Yeo | Solicitor of the Supreme Court of N.S.W. |

Administrative Staff

| | |
|--|---|
| Administrative Officer | Mrs. Philippa Williams, B.A. (Syd.) |
| Secretary to the Dean and Head of School | Mrs. Gwenda Dwyer |
| Secretary to Professor Bartholomew | Ms. Valerie Lock |
| Faculty Clerk | Ms. Sylvia Tropiano, B.A., Dip.Ed. (Syd.) |
| Senior Word Processor Operator | Miss Debbie Margaritis |
| Word Processor Operator | Mrs. Nola Grierson |
| Clerical Assistant | Mrs. Diane Fuller (records) |

THE FACULTY OF LAW

The Faculty of Law was formally established in 1975 and commenced teaching in 1977. The Faculty consists of the School of Law which offers an undergraduate course leading to the degree of Bachelor of Laws (LL.B.). The course provides opportunities for part-time study for those wishing to obtain professional qualifications in Law and who are not able to undertake full-time studies. The course is structured to ensure that graduates will satisfy the basic academic requirements of the Supreme Court of N.S.W. for admission as a solicitor or barrister.

1. THE COURSE

Course Objectives

The objective of the course is to enable students to reach a stage of creativity at which they have sufficient knowledge and sufficient ability to seek their own solutions to legal problems: solutions which they can justify in legal terms by using the legal materials at their disposal in a professional way.

Australia has a highly complex legal system, and as society has developed, so has the role of the lawyer. The range of knowledge and skill which lawyers now require is extensive. Today lawyers are increasingly called upon to act as negotiators to settle matters, to advise and counsel parties. The function of the lawyer also includes foreseeing problems and preventing the incident of disputation as well as resolving disputes when they cannot be avoided. The course is concerned with the total range of functions of lawyers in the community. A preventative emphasis will also be apparent in the teaching of the various subjects throughout the course. Consideration will be given to how a person can organise his or her affairs so as to anticipate and avoid potential disputes. In this regard, consideration will be given to the application of more than one and sometimes conflicting rules to a particular set of facts.

The primary object is not to produce specialists in any particular field of law. Although a degree of specialisation is allowed for in the provision of elective subjects, the view taken is that specialisation is something which comes later. The aim of the law course is to provide a basis upon which subsequent specialisation is something which comes later. The aim of the law course is to provide a basis upon which subsequent specialisation can be built.

The subjects have been selected on the basis of two criteria: to provide (a) an overview of the legal system as a whole, and (b) an opportunity for the student to practise legal skills in differing contexts. The subjects are introductions, not to the law as a whole, but to the relevant branch of the law. They are designed to provide an understanding of the conceptual framework involved, its development and a consideration of areas of current controversy. It is in the latter area that the opportunity will be provided for students to develop their skill in the handling of legal material and thus reach the stage of independent legal creativity.

Course Structure

The Faculty offers a part-time course of six years duration. The course is arranged on a semester basis. The Autumn Semester commences in February and the Spring Semester commences in July each year.

Students must complete sixteen compulsory subjects (64 semester hours), twelve skills seminars (12 semester hours) and eight optional subjects (32 semester hours). Progression for the compulsory subjects is by stage. A stage is defined as one semester's academic work as prescribed in the course programme.

Course Review

The Faculty is currently conducting a review of the course. Students are asked to take notice that course changes could be introduced in 1989.

Skills Seminars

A compulsory skills seminar is included at each stage of the course. These subjects are designed to develop the ability of students to apply their theoretical knowledge in practical situations. They are not concerned with the teaching of the skills of practice, but rather with providing the student with an opportunity to learn the law in a realistic context. The skills seminars will cover a variety of topics including research and opinion writing, legal interpretation and drafting, office management, meetings procedure, computerised legal research, as well as a mootng programme, simulated trials and practice in negotiation and settlement.

Optional Subjects

Students are required to complete eight optional subjects. The Faculty offers a wide variety of optional subjects, the aim of which is to allow students to pursue specific interests and to develop a degree of specialisation.

Non-Law Options

It is possible for students to study up to 16 semester hours of non-law options. Students must obtain the permission of the Head of School if they wish to enrol in non-law subjects, as offered by other Faculties of the University, or by U.G.1. Institutions.

In addition to seeking the Head of School's approval it is necessary to approach the Faculty in which the non-law subjects are to be studied to obtain approval and also to ensure that all necessary pre-requisites or co-requisites are satisfied.

Subjects open to other Faculties

Students enrolled in other Faculties in the University may apply for approval to enrol in law Subjects. This approval will be subject to the meeting of pre-requisites and class sizes. Applications are to be made prior to enrolment to the Sub-Dean of Law.

Extension Students

Application may be made by persons not enrolled in the University to enrol in Law Subjects as extension students. Applications should be directed to the Student Information Office of the Tower.

Miscellaneous Students

Law students who have completed the course may enrol as miscellaneous students in subjects they were not able to complete while enrolled. Applications should be directed to the Students Information Office of the Tower.

The Summer Programme in Law

The Faculty offers a summer programme which enables students to undertake an optional subject during the period December/February. Students must apply to enrol by the end of the second tutorial week of the Spring Semester prior to the Summer Programme. Approval for enrolment is at the discretion of the Head of School; *however students with failures in the preceding semester, who are on probation, or who obtained a W.A.M. of less than 55, will not be eligible for acceptance into the Programme.*

Students should refer to the Rules for the Summer Programme reprinted in this handbook.

Computer Laboratory Within the Faculty

Computers are available for student use. Enquiries for booking the use of these machines should be directed to Mr. A. Mowbray, the Faculty's Computer Law Consultant.

Course Programme

| | | Hours/Week |
|----------|--|------------|
| STAGE 1 | | |
| 70111 | Legal & Constitutional History | 4 |
| 70112 | Introduction to the Legal System | 4 |
| 70100 | Skills Seminar 1 | 1 |
| STAGE 2 | | |
| 70211 | Elements of Contract | 4 |
| 70212 | Criminal Law | 4 |
| 70200 | Skills Seminar 2 | 1 |
| STAGE 3 | | |
| 70311 | Law of Tort | 4 |
| 70312 | Land Law (including Elementary Conveyancing) | 4 |
| 70300 | Skills Seminar 3 | 1 |
| STAGE 4 | | |
| 70411 | Commercial Transactions | 4 |
| 70412 | Law of Associations | 4 |
| 70401 | Skills Seminar 4 | 1 |
| STAGE 5 | | |
| 70511 | Equity and Trusts | 4 |
| 70512 | Family Law (including Succession) | 4 |
| 70501 | Skills Seminar 5 | 1 |
| STAGE 6 | | |
| 70611 | Constitutional Law | 4 |
| 70612 | Administrative Law | 4 |
| 70601 | Skills Seminar 6 | 1 |
| STAGE 7 | | |
| | Options | 8 |
| 70701 | Skills Seminar 7 | 1 |
| STAGE 8 | | |
| | Options | 8 |
| 70801 | Skills Seminar 8 | 1 |
| STAGE 9 | | |
| | Options | 8 |
| 70902 | Skills Seminar 9 | 1 |
| STAGE 10 | | |
| | Options | 8 |
| 71001 | Skills Seminar 10 | 1 |
| STAGE 11 | | |
| 71111 | Law of Remedies | 4 |
| 71112 | Conflict of Laws | 4 |
| Optional | Skills Seminar 11 | 1 |
| STAGE 12 | | |
| 71211 | Law of Evidence | 4 |
| 71212 | Revenue Law | 4 |
| Optional | Skills Seminar 12 | 1 |

2. ATTENDANCE PATTERN

The normal attendance pattern is one afternoon and two evenings per week. If possible the afternoon lectures are repeated in the evenings, making attendance three evenings a week possible for some students. Final examinations, in June and November, are usually held on a Saturday.

Students are expected to be regular and punctual in attendance at all classes in the subjects in which they are enrolled.

3. ASSESSMENT

There is no uniformity in the method of assessment used in the LL.B course. A student's final mark may be based on his or her performance in a final examination. In some subjects no final examinations are held and students are assessed on the basis of their written assignments and participation in class discussions.

While assessment varies from subject to subject students can be required to do any of the following:– final examinations, informal examinations, assignments, research work, class participation, presentation of seminar papers, vivas or oral examinations.

Students should obtain information on assessment for particular subjects from the lecturer involved at the beginning of the semester in which they enrol in that subject.

Lodgement of Assignments

Students who are handing in written work must place it in the Assignment Box located in General Papers on level 1. The Assignment Box is cleared daily at 9.00 a.m. and in normal circumstances assignments are stamped as arriving on the previous day.

4. FACULTY POLICY ON WRITTEN ASSIGNMENTS

All written work submitted for assessment in this degree should comply with the following requirements unless otherwise stated by the lecturer responsible for the subject.

Assignments are not to be submitted through the use of the Law Faculty Fax machine. This machine is not available for students use and correspondence.

Formal Requirements

1. Essays and other written work should be prepared in accordance with the guidelines laid down in the Faculty's GUILD TO ESSAY WRITING which may be obtained from the General Papers Office.
2. All work submitted for assessment should bear a title sheet or cover showing on the face of the document:
 - a) the name of the subject for which the work is submitted;
 - b) the name of the lecturer for whom it is submitted;
 - c) the title of the assignment;
 - d) the name of the student submitting the assignment, (the family name is to be underlined).
 - e) the date on which the assignment is due.
3. If required by the lecturer concerned, the work must be typed.

4. The work must be properly written with due regard for spelling, punctuation, grammar and syntax.
5. Unless otherwise instructed by the lecturer concerned, all written work should include footnotes or endnotes and a bibliography in the manner set out in the GUIDE TO ESSAY WRITING.

Any piece of written work which does not comply with these requirements may be:

- a) required to be re-written in proper form; or
- b) penalised in marks; or
- c) rejected without assessment.

Late Work

Any work submitted after the date for submission may be penalised in marks or rejected without assessment.

Plagiarism

Any acts of plagiarism, will be penalised. Such penalties may include, depending upon the seriousness and nature of the offence:

- a) a requirement that the assignment be re-written de novo;
- b) a penalty in the reduction of marks awarded to the work, which may include a reduction to zero, or a sharing of the mark awarded to the document amongst its apparent authors;
- c) a fail result in the subject concerned;
- d) a reference of the matter to the Head of School or other appropriate body.

5. THE LIBRARY

The Markets Library is located in the same building as the Faculty and occupies Levels 2 to 5 of Block A.

The Law Collection is located on Level 3. It consists of approximately 45,000 volumes and occupies the whole of Level 3 of the Library. There is seating for 168 users on this Level and 74 of these seats are individual carrels.

The Library produces a large number of brochures which explain the use of various legal indexes. At the beginning of each semester there are guided tours of the Library. As well, pamphlets describing the Library's catalogues and other general information are distributed to users. These brochures and pamphlets are available from the Law Librarian or the Information Desk on Level 2. Hours of opening of the Library are posted near the Library entrance.

General Bookstack

The major categories of the bookstack are listed below:

- | | |
|--------|--|
| 340 | General & Comparative Law |
| 340.05 | Journals, shelved in alphabetical order by title |
| 341 | International Law |
| 342 | Religious Legal Systems |
| 343 | Ancient and Medieval Legal Systems |
| 344 | Common Law Jurisdictions (U.K., Canada, U.S.A., New Zealand, Australia) – Primary Materials |

| | |
|-----|--|
| 345 | Common Law Jurisdictions – General Texts |
| 346 | Common Law Jurisdictions – Public Law |
| 347 | Common Law Jurisdictions – Private Law |
| 349 | Other Jurisdictions |

Study & Research Areas

On one side of the staircase leading into the Law Collection is a group study area. On the other side of the staircase is the Law Seminar Room. This Law Seminar Room is used for teaching Legal Research and when it is not being used for classes is available for group study. It contains basic sets of Australian and English primary and secondary materials. Next to the Law Seminar Room is a reference area housing digests, encyclopaedias and other indexes. The Law Librarian's desk is adjacent to this area.

6. COURSE APPLICATION PROCEDURE

AUTUMN SEMESTER

The intake of students for the Autumn Semester each year is conducted by the Universities and Colleges Admission Centre (UCAC). The opening date for applications is 1st August and the closing date for applications is 30th September, 1988. Late applications are accepted with a late fee applicable.

All enquiries should be directed to: –
 Universities and Colleges Admission Centre
 Cumberland College
 East Street, LIDCOMBE 2141
 Telephone: 646 3083

SPRING SEMESTER

The intake of students for the Spring Semester, which begins mid-year, is conducted by the Admissions Centre, University of Technology, Sydney at Broadway.

The opening date for applications is 1st April and the closing date for applications is the last Friday in May of each year. All enquiries should be directed to the Administrative Officer, Faculty of Law.

Applicants who are not sitting for the H.S.C. examination in the current year are required to support their applications with a letter setting out their employment background, future ambitions, and the reasons they are attracted to a part-time course in law otherwise their application will not be considered. A statement of support from the applicant's employer is desirable as are any references concerning relevant abilities and interests. Students currently enrolled in the University who wish to transfer to the Faculty of Law must also follow the procedures outlined above.

7. ENROLMENT

Enrolment generally takes place in the Great Hall at the beginning of the Autumn Semester each year. Students are required to register in course programmes (subjects) and pay fees as indicated in the University Calendar.

New students are also required to have a photograph taken at the enrolment centre for the purposes of identification.

New students will be issued with a Student Identification Card on enrolment. Continuing students must present their Student Identification Card at enrolment each year so it can be "punched" to verify current enrolment. Students should carry this card with them at all times as it is required for use of library facilities, admission to formal examinations and collection of assignments from the General Papers.

At the beginning of the Spring Semester continuing students are required to confirm their Spring Programme by attending the Law Faculty and registering in their course programme (subjects) for Spring Semester. New Students enrolling in the Spring Semester must attend the Great Hall for registration and payment of fees, as must students returning from leave of absence.

Deferment of Enrolment

The Faculty of Law does not permit deferment of enrolment. If an offer of enrolment is not accepted it is forfeited and applicants must re-apply at a later date.

Late Enrolment

One day is set aside for late enrolments. In 1989 students will be able to complete a late enrolment between the hours of 10.00 a.m. and 11.00 a.m. on Friday, 10th February. A late fee will be required after this date.

Student Enrolment Information Lists

These lists, displaying students programmes, are placed on the Faculty's notice boards three times each semester – in weeks 5, 10 and 15. Students are requested to check these lists carefully.

If subjects in your programme are correctly entered then you need only check all future lists to ensure that they stay that way.

If your name or your subjects are incorrect or missing you must notify the Administrative Officer immediately and complete a Variation of Enrolment form.

It is the responsibility of each student to monitor his or her programme by checking these lists throughout each semester.

8. VARIATION OF APPROVED PROGRAMME

Students who wish to vary their approved programme by undertaking additional or new subjects must make an application to the Sub-Dean before the end of the fourth week of semester. Application forms for Variation of Enrolment are available from the General Papers.

9. WITHDRAWAL FROM SUBJECT

Students can withdraw from a subject within the first eight weeks of semester, subject to the approval of the Sub-Dean. (Students are referred to the Faculty's policy on Progression Variation reprinted in this handbook). Students must complete a Variation of Enrolment form which is available from the General Papers.

After the eighth week of semester, withdrawal from a subject is not generally permitted. However if a student can establish that there are special circumstances which warrant his or her withdrawal from a subject then the Head of School may exercise discretion to allow withdrawal out of time. Students should write to the Sub-Dean setting out their reasons for seeking late withdrawal and should include a medical certificate if relevant. Approval or non approval of the application is placed in the student's assignment folder for collection from General Papers or students are asked to contact the Administrative officer, to ascertain if their application has been approved. Notification by letter from Student Records is not immediate.

When students are enrolled in only one subject, withdrawal from that subject will result in withdrawal from the course, and re-admission to the course must then be sought.

10. LEAVE OF ABSENCE

A student who wishes to withdraw temporarily from the course must make application in writing to the Registrar for leave of absence. Leave of absence shall not normally be granted for a period exceeding two years and shall not normally be granted to a student who has not completed the academic programme set down for the first year of his or her enrolment at the University.

A student resuming a course after leave of absence shall be subject to the course requirements in operation at the time of resumption. Students should direct enquiries about leave of absence to the Sub-Dean, or Administrative Officer.

11. EXAMINATIONS

Examinations are held at the end of each semester i.e. June/July and November/December.

Final examination timetables indicating the dates and times of examinations are posted on the Faculty Notice Board two weeks before the end of semester. Students are requested to write down their own individual time table on the papers supplied by the examinations branch.

Misreading of the timetable is not an acceptable excuse for failure to attend any examination.

Examination front pages are also displayed in the glass fronted cupboard three weeks prior to the commencement of the examinations.

Clashing Examinations

Candidates who have clashing examinations or other difficulties arising from the scheduling of examinations should complete an "Advice of Clash of Examination" form, available from General Papers, and submit it immediately to Student Administration, Level 3A, Tower Building, Broadway.

Medical Considerations

Some students are ill during the semester or during the examination period. In order that your illness can be taken into account, a student is required to provide to the Registrar appropriate notification within specified times. The following rules indicate what is required of students:-

Illness or Misadventure

A candidate who attempts an examination yet claims that his or her performance was prejudiced by illness or misadventure on the day of the examination shall notify the Registrar, before, during or immediately after the examination, and submit an appropriate medical certificate.

A candidate prevented by illness or other reasons from working continually during a paper shall not be allowed an extension of time at the end of the session to compensate for any time lost.

Absence from Entire Examination

Candidates who, through illness or other cause beyond their control, are unable to attend an examination, shall bring the circumstances (supported by a medical certificate or other evidence) to the notice of the Registrar within 24 hours of the examination(s) concerned. Please telephone Ext. 9071/2 for immediate advice should this occur.

When the Registrar and Secretary decides that a candidate is genuinely in this category, an *alternative* to the final examination shall be arranged by the Examinations Branch (in consultation with the appropriate School).

Absence During Semester

Candidates who believe that their performance at an examination might be affected by a serious illness during the semester or by some other cause beyond their control, and who desire these circumstances to be taken into consideration in determining their standing, shall bring the circumstances (supported by a medical certificate or other evidence) to the notice of the Registrar, in writing, before the date of the examination; or submit a letter for consideration to the Examination Review Committee which meets three weeks from the day Examinations commence (as indicated on page 2 of the Handbook.)

Physical Disability

Candidates suffering from a physical disability which might put them at a disadvantage in written examinations, may apply to the Registrar at least thirty (30) days prior to the examination period for special arrangements. Special provisions may be made by the Registrar in consultation with the student, the Head of School, and the Co-ordinating Examiner. Candidates may be required to support their request with medical evidence.

Medical Certificates

All medical certificates should specify the severity and duration of the complaint and its effect on the student's ability to take the examination(s). A receipt for medical or hospital fees cannot be accepted in lieu of a medical certificate.

When forwarding applications concerning the above, candidates are required to furnish:-

Address; student registration number; course; subject number; title; date of examination(s) affected.

Student Identity Cards

Candidates must bring their I.D. cards with them into the examination room as they will be required to show proof of identification before entering the examination room and during the course of each examination. Students who do not possess an I.D. card should immediately contact Student Records, Tower Building, Level 3A.

Materials in the Examination Room

No material other than specified on the examination paper may be brought into the examination room by candidates. You may bring in the usual writing implements. Any material brought into an examination room must be available for inspection during the examination. Copies of the front pages of examinations are placed in the glass fronted cupboard on Level 1 of the Faculty three weeks prior to the examination(s) so that students may know what materials can be taken by them to the examination room. Students should note that the University does not allow any writing during designated reading time in formal examinations.

Examination Results

Passes are graded as follows:-

| | | |
|------------------|-----------------|-----|
| High Distinction | – 85% and above | – H |
| Distinction | – 75% – 84% | – D |
| Credit | – 65% – 74% | – C |
| Pass | – 50% – 64% | – P |
| Fail | – 0% – 49% | – Z |

Availability of Results

The only official assessments shall be those issued by the Registrar's Office.

No assessment results shall be given to students by telephone. Please do not enquire by telephone regarding the release of results as these will be mailed to students as soon as they are available.

Supplementary Examinations

The University does not conduct supplementary examinations.

Review of Results

A student may make application to the Registrar for the review of a result. The application form, together with the necessary fee, must be submitted to the Registrar by the date indicated on the notification of results.

This review shall not normally mean a complete remark of a candidate's examination paper, it is rather a check to ensure that no part of the student's performance has been overlooked.

In the event of a revised assessment the application fee shall be refunded.

(The Faculty has a policy that a paper requested to be re-marked shall be reviewed by both the co-ordinating examiner and the assessor of the subjects).

12. PROGRESSION VARIATION

Normal progression within the Faculty is by stage. However, students sometimes wish to vary their programme. For instance, if they fail one subject in a stage, they may wish to study an option as well as repeating the subject failed. Another possibility is that students may wish to "accelerate" and undertake a programme exceeding nine semester hours. A third possibility is that for some good reason students may wish to lighten their load in a particular semester and attempt subjects totalling less than nine semester hours.

A student who wishes to attempt other than the nine semester hours of a particular stage must have his or her proposed programme approved by the Sub-Dean. Students should complete a "Progression Variation" form and submit it to General Papers at least one week before enrolment. **No approval will be given while enrolment is in progress.** If the student's application to vary progression is approved then a copy of the approved application form must be produced at enrolment. Such copies can be obtained from General Papers before enrolment.

Any student who wishes to vary normal progression by "accelerating" may be permitted to do so if the student can satisfy the Sub-Dean that by reason of the stage reached in the course, available time, academic record and other significant reasons such acceleration should be allowed. No student will be permitted to undertake a programme of study exceeding eighteen semester hours.

Any student who wishes to vary normal progression by withdrawing from any core subject within the first eight weeks of semester will also be required to withdraw from all optional subjects in which he or she is enrolled. Furthermore students must sign an undertaking to this effect at the time of making the application to vary normal progression.

13. WEIGHTED AVERAGE MARK

A student's performance in any assessment period (semester) is measured by a Weighted Average Mark. (W.A.M.). This mark is calculated as follows:-

$$\text{W.A.M.} = \frac{\sum (\text{W.F.} \times \text{Mark})}{\sum \text{W.F.}}$$

Where W.F. = subject weighting factor as determined by the Academic Board and Mark = subject assessment (%).

14. PROBATION

In respect of students whose scholastic performance is unsatisfactory, there is a system of academic probation. Students may be placed on probation if during an assessment period (semester) –

- their W.A.M. is less than 40%
- they fail all subjects in which they are enrolled
- a subject is failed for the second time (regardless of their W.A.M.)

Students placed on probation will continue on probation if –

- their W.A.M. at the end of the next assessment period is less than 50%.
- subject is failed for a second time while on probation
- until a subject failed twice previously is attempted and passed.

15. EXCLUSION

Exclusion from a course may occur if –

- a student placed on probation does not obtain a W.A.M. greater than 40% in his/her next assessment period (semester)
- a student on probation for two consecutive assessment periods (semesters) has a W.A.M. for the second assessment period (semester) of less than 50%.
- a student fails a subject for the third time regardless of their W.A.M.

A student may appeal against exclusion. Any such appeal must be in writing, addressed to the Registrar and should be accompanied by such information as the student believes will be of assistance in the appeal.

Notwithstanding any of the above, a student may be placed on probation or continuing probation or be excluded for generally unsatisfactory academic performance. A student may also be excluded from a course if he or she will not complete the course within the maximum time.

16. MAXIMUM TIME TO COMPLETE THE COURSE

The time allowed to complete the course shall not be greater than 50% in excess of the minimum number of semester hours in the course nor shall the elapsed time exceed by 50% the number of years laid down for that course.

This shall not include periods of approved leave of absence or periods of exclusion from the course.

17. PROVISIONAL STATUS

Certain applicants (generally those who have not completed the New South Wales Higher School Certificate or an approved certificate course of the New South Wales Department of Technical and Further Education) may be admitted to the course as a student with provisional status.

The progress of a student admitted with provisional status will be reviewed after two semesters of enrolment. This will not include an approved period of leave of absence for one semester, or withdrawal from the course. If the student's performance is considered inadequate, further enrolment will be refused.

18. EXEMPTIONS

Subject to the approval of the Faculty Board in Law it is possible for students to obtain exemptions for both law and non-law subjects.

Law Subjects

A student may be able to obtain an exemption for a law subject if he or she is able to satisfy the Faculty Board that a comparable course of study has been successfully undertaken elsewhere. As a general rule, exemptions will not be given if the subject was studied more than six years ago. Indeed in subjects where there has been significant recent changes in the law, an exemption may not be granted even though the subject was studied less than six years ago.

The Faculty Board must be satisfied that the student has successfully completed a comparable subject elsewhere. To verify this the student must produce a transcript of his or her academic record and a copy of the relevant

institution's handbook containing a detailed description of the subject at the time it was studied.

Exemption for law subjects will only be granted to students who have studied law in a recognised law school. Students who have studied law through the Law Extension Committee, will not be granted exemptions.

Non-Law Subjects

It is possible to obtain exemptions for non-law options if students have completed a degree, diploma or associate diploma course from a recognised tertiary institution.

The maximum exemptions which can be granted on the basis of having completed a course are as follows:-

a degree course (3 years full-time) – 16 semester hours

a diploma course (3 years full-time) – 12 semester hours

an associate diploma course (2 years full-time) – 8 semester hours

Part-completed courses

No exemptions can be sought for a part-completed diploma or associate diploma course.

Students entering with a part-completed degree, either as transfer students from another Faculty of the University or from another U.G.I. Institution may be granted up to a maximum of 8 semester hours of non-law options. These are determined on the basis of 3 semester hours for a completed semester subject, 4 semester hours for a completed year-long subject.

Students wishing to study non-law optional subjects within their law degree, in either other faculties of the University or within a degree course at an outside U.G.I. Institution, can be granted between 8 and 16 semester hours. These will be granted on the basis of 3 semester hours for a semester subject or 4 semester hours for a year-long subject.

In addition exemption is also granted to holders of the following –

Diploma in Criminology (Dip. Crim. S.U.)

Exemption granted – 77012 – Criminology + 4 semester hours of non-law options

Diploma in Jurisprudence (Dip.Juris. S.U.)

Exemption granted – 77008 – Jurisprudence + 4 semester hours of non-law options

Diploma in Labour Relations & The Law (S.U.)

Exemption granted – 77015 – Labour Law + 4 semester hours of non-law options

Students who are seeking exemptions should complete an "Application for Exemptions" form, which is available from General Papers.

It is recommended that all students seeking an exemption should make an application early in the course. Any enquiries should be directed to the Administrative Officer, Faculty of Law.

19. AWARD

The degree is designated Bachelor of Laws (LL.B.) and is awarded as follows:

- (i) LL.B. (with First Class Honours)
- (ii) LL.B. (with Second Class Honours) or
- (iii) LL.B.

The degree with honours will be awarded to those students who successfully complete the whole course at a sufficiently meritorious level.

The award for honours is calculated on the marks of the student's best fourteen subjects which must include a Research project. A student failing in other than Stage 1 subjects shall not be eligible. Students should refer to the Honours Rules which are reprinted in this handbook.

The University Medal

The University may award a medal to students who have achieved highly distinguished merit throughout their undergraduate degree course.

20. GRADUATION

Students whose current programme will enable them to complete all requirements for the LL.B. degree should complete an "Application for Award" form, which is available from General Papers. This form must be submitted to the Registrar by the 1st October preceding the year of graduation. Completed forms can be handed to the Administrative Officer who will forward them to the Registrar.

The Graduation ceremony is held in May each year in the Great Hall. Students can hire academic dress from the University and should enquire at the Student Enquiry Centre.

21. ADMISSION TO PRACTICE

The Supreme Court of New South Wales controls the admission of barristers and solicitors to practice in New South Wales. A person may gain entry to the profession by satisfying the requirements of The University of Technology Law Course and fulfilling certain other conditions prescribed by the Admission Rules of the Supreme Court.

A student wishing to become a solicitor must enrol as a student-at-law, at the Barristers and Solicitors Admission Board, within six months of commencing the course. Further, after successful completion of the LL.B. course a student must undertake a course of practical legal training at the College of Law, and meet specific requirements before being admitted as a solicitor.

A student wishing to become a barrister must register as a student-at-law at least two years prior to application for admission to the Bar. The student must also complete a course in Legal Ethics prescribed by the Barristers and Solicitors Admission Board. This latter requirement can also be met as at 1988 by Students successfully completing with their degree Skills 70601 – The Legal Profession & Optional Skills 71102 Legal Ethics; or by successful completion of the practical legal training course at the College of Law. Most students will also "read in chambers" with an experienced barrister. This allows a newly admitted member of the Bar to acquire essential practical knowledge by observing and assisting an experienced barrister in his or her daily work.

Whether students intend to practise as a barrister or solicitor it is recommended that you register as a student-at-law as soon as they commence legal studies. Students are required to furnish two character references upon regist-

ration. Students may also be required to produce a letter from the Faculty certifying their enrolment.

Further information can be obtained by contacting –

The Director
The College of Law
2 Chandos Street
ST. LEONARDS 2065
Telephone: 439 2099

The Secretary
Barristers & Solicitors Admission Board
Supreme Court of N.S.W.
QUEENS SQUARE, SYDNEY 2000
Telephone: 230 8111.

Completing students are asked to note that a letter stating they have successfully completed all the requirements of the course will be available for collection from the student Information Office, Level 3A, Tower Building, Broadway at 4 p.m. on the day the Examination Review committee meets.

SYNOPSIS OF SUBJECTS

(Note: In 1989 the subject numbers will change when the new student records computer is installed by the University. The number will remain the same but it will be preceded by the letters LL.)

70111 Legal and Constitutional History

This subject is divided into two parts: the study of the origins of the legal system, principally of the courts and origins of the common law, and the examination of the constitutional history of England and Australia.

In the legal history component, special emphasis will be given to the reasons for the development of the common law; the Royal courts and Chancery; the early development of land law, contract, tort and equity; and methods of procedure, including proof, from the medieval period up until the major reforms of the 19th century.

In the constitutional history component, the examination will commence with Magna Carta and proceed through the Tudor and Stuart periods to the emergence of the modern constitution in the 18th and 19th centuries. The development of responsible government and civil liberties will also be examined in the Australian colonial context with special emphasis on the emergence of Australia as a constitutionally independent nation.

Principal Texts

Evans, M.B. and Jack. R. Ian, Sources of English Legal and Constitutional History, Butterworths

Baker, J.H. An Introduction to English Legal History. Butterworths

OR

Radcliffe, G.R.Y. & Cross, G. The English Legal System, Butterworths.

Bennett, J.M. & Castles, A.C. A Sourcebook of Australian Legal History. Law Book Company.

Additional General Reading

Milsom, S.F.C. Historical Foundations of the Common Law, Butterworths.

Pollock, F. & Maitland, F.W. The History of English Law before the Time of Edward I, Cambridge University Press.

Pluckett, T.F.T. A Concise History of the Common Law. Butterworths.

70112 Introduction to the Legal System

The subject deals generally with the nature of law, the sources of law and the system of law governing New South Wales as part of the Commonwealth of Australia.

Students are also instructed in case analysis, the doctrine of precedent, statutory interpretation and legal reasoning.

Subject content:

The Nature of Law:

- Law, custom and morality
- Positive law and the sovereignty of parliament
- The rule of law concept
- Branches of Law

The British Legal System:

- Responsible government
- Separation of powers

Sources of Law:

- Inherited English law
- Imposed English law
- Autonomy and limitations on sovereignty
- Federation, divided sovereignty and the Statute of Westminster

Common Law:

- Judgments as a source of law
- Common law and statute law
- Common law and equity
- Characteristics of common law systems

State Courts:

- Supreme Court
- District Court
- Local Court
- Other tribunals, courts and commissions

Federal Courts:

- Judicial power of the Commonwealth
- High Court of Australia
- Federal Court of Australia
- Family Court of Australia
- Federal jurisdiction in State Courts

Appeals:

- General principles
- Appeal structures and the hierarchies of courts, federal and state
- Prerogative writs

The judicial process:

- Pre-trial procedure
- Trial procedure
- Judge and jury

The legal profession:

- Structure and roles in a divided profession
- Discipline and professional standards

Preliminary Reading

Derham, D.P. et al., An Introduction to Law, Law Book Co., Sydney, 4th Ed.

Prescribed Texts

Morris, G. et al Laying down The Law, Butterworths

Recommended Texts

MacAdam, A.J. and Smith, T.M. Statutes, Butterworths

Maher, K.F. et al. Cases and Materials on the Legal Process, Law Book Co.

Morison, W.L. The System of Law and Courts Governing New South Wales, Butterworths, 2nd Ed.

Pearce, D.C. Statutory Interpretation in Australia, Butterworths. 2nd Ed.

Commonwealth of Australia Constitution Act
Acts Interpretation Act 1901 (Commonwealth)
Interpretation Act, 1897 (New South Wales)

Reference Books

de Smith, S.A. Constitutional and Administrative Law

Disney et al. Lawyers

Enright, C. Studying Law

Gifford, K.H. How to understand an Act of Parliament

Lane, P.H. An Introduction to the Australian Constitution

Lane, P.H. A Student's Manual of Australian Constitutional Law.

Lloyd, D. The Idea of Law

Lumb, R.D. The Constitutions of the Australian States

Lumb, R.D. & Ryan, K.W. The Constitution of the Commonwealth of Australia

70100 Skills Seminar 1

The aim of this first skills seminar is to teach the basic skills of effective legal research, to aid the student, initially while studying and ultimately while practising.

The student is taught to recognize the separation of legal material into primary source material, and secondary source material. The student is taught to appreciate that there can be no single method of research for all problems. The desired result and the initial information known will determine the types of materials used and the order in which they are used. Necessarily, however the search must inevitably return for an authority to one of the primary sources of law, viz., an Act, a regulation or a judicial pronouncement, and no statement of law can be made by a student without reference to one of the primary sources.

The student is consequently taught

- (i) to find quickly all relevant legislation pertinent to a problem using the various legislative indexes;
- (ii) to be able to effectively use the various digest services that exist as well as the subject indexes that cover certain report series;

complicity, and the criminal defences. Finally, some aspects of the law of criminal investigation and the criminal prosecution are studied.

Texts and legislation

Crimes Act 1900 (NSW)

Gillies, P.

Criminal Law, Law Book Co., 1985

70201 Skills Seminar 2

(Pre-requisite: Completion of Stage One)

The aim of this course is to:

- (a) introduce students to the drafting of simple forms of legal documents; and
- (b) develop the student's skills of interpreting Statutes.

Since legal documents are a fabrication of the facts, the law and the language form, the student shall be introduced to the skill of analysis and communication in a simple and effective manner, and to the use of precedents.

The syllabus includes the following:

- (a) Theory of Drafting –
 - (i) analysis of the facts and instructions
 - (ii) analysis of the applicable law
 - (iii) analysis of the language form.
- (b) Form of documents, eg. deed; contract.
- (c) Advisory writing, eg. letters written for the client.
- (d) Statutory interpretation – here students will be given a series of problems to develop their skill of interpreting statutes.

Texts and References

Piesse, E.L.

The Elements of Drafting, Law Book Co.

Dick, R.C.

Legal Drafting, Carswell.

Gifford, K.I.T. &

How to Understand an Act of

Gifford, D.J.

Parliament. Law Book Co., 6th Ed., 1987

Australian Encyclopaedia of Terms and Precedents

Law Book Co.'s Practical Forms and Precedents.

70311 Law of Tort

The subject begins with a discussion of the function and aims of the law of tort, with special reference to its role in the distribution of losses in society, before examining the nature of tortious liability in the light of a selection of specific torts, namely, trespass to the person, goods and land; the action on the case for wilful injuries; conversion; negligence; breach of statutory duty; the rule in *Rylands v. Fletcher*; nuisance; occupier's liability. Reference is also made to defences, vicarious liability and contribution between tortfeasors. Throughout the course, attention is drawn to the relevance of the type of conduct complained of (intentional, reckless, careless), the nature of the various interests protected (personal security, chattels, land, reputation, economic interests, domestic relations), the adaptability of tort law to the changing needs and values of society (thus, the introduction, dominance, and current perceived limitations of the fault concept) and the element of policy expressed or implied in judicial decisions.

Prescribed Texts

Luntz, H., et al., Cases & Commentary on Torts, Butterworths.
Trindade, F. & Cane, P. The Law of Torts in Australia,
O.U.P. Melb., 1st Ed., 1985

Casebooks

Morison, W.L., Sharwood, R.L., Cases on Torts, Law Book Co.
and Phegan C.S.
Luntz, H., Hambly A.D. and Torts, Cases and Commentary, Butterworths.
Hayes, R.A. Syd., 2nd Ed., plus supplement

Reference Books

Fleming, J.G. The Law of Torts, Law Book Co. 6th Ed.
Street, H. The Law of Torts,
Butterworths, 6th Ed., 1976.
Winfield, P.H. and Tort, Sweet & Maxwell, 10th Ed. 1976.
Jolovicz, J.A.
Prosser, W.L. Law of Torts, West Publishing Co.,
4th Ed., 1971
Clerk, J.F. Torts, Sweet & Maxwell (Common Law Series)
Lindsell, W.H.B. and Accidents, Compensation and the Law,
Atiyah, P.S. Weidenfeld and Nicholson, 1975.
Australia: National Compensation and Rehabilitation in
Rehabilitation and Australia, A.G.P.S. (3 volumes), 1974
Compensation Scheme
Committee Inquiry.

70312 Land Law (including Elementary Conveyancing)

The major topics covered in the course are as follows:-

1. Torrens Title and Priorities.
2. Old System Title.
3. Adverse possession and possessory title.
4. Legal definition of land including Fixtures.
5. The Doctrine of Waste.
6. Concurrent ownership.
7. Easements.
8. Covenants.
9. Mortgages.
10. Leases.

Course Objectives

At the conclusion of the course, students should have developed an understanding of the legal principles and the major aspects of the legislation relevant to the above topics.

Students should also have developed an ability to analyse factual problems by recognising the legal issues in them, applying the law to them and proposing legal solutions to them.

The Land Law course is taught in conjunction with the Skills 3 course which concentrates on the contract for the sale of land. Students will gain a certain amount of practical knowledge about current conveyancing practices. However the emphasis in the Land Law course is on the law behind the current conveyancing practices and is not intended to be a study of the practices themselves.

Prescribed Texts

- Certoma, G.L., Sappideen, C.M. Cases and Materials on Real Property,
Stein, R.T.J. & Butt, F.J. Law Book Company, Sydney, 2nd Ed., 1985.
Butt, F.J. Introduction to Land Law, Law Book
Co., Sydney, 1980.

Recommended References

- Woodman, R.A. The Law of Real Property in New South Wales,
Volume One, Law Book Company,
Sydney 1980.
- Sackville, R. & Neave, M.A. Property Law, 3rd Ed.,
Butterworths, Sydney, 1981.
- Bradbrook A.J., & Neave, M. Easements and Restrictive Covenants
in Australia, Butterworths, 1981.
- Baalman, J. The Torrens System in N.S.W.
(Woodman & Grimes eds). 2nd Ed. Law Book Company,
Sydney, 1974.
- Lang, A.G. Leases & Tenancies in N.S.W., Law Book
Co., Sydney, 1976.
- Moses, N.J. & Tzannes, R. Strata Titles, Law Book Co., Sydney, 1978.
- Brown, D. Land Acquisition, Butterworths,
Sydney, 1972.
- Francis, E.A. Torrens Title in Australia, (two vols.),
Butterworths, Sydney, 1972.

Legislation

- Real Property Act, 1900
Conveyancing Act, 1919.

70300 Skills Seminar 3

(Pre-requisite: completion of Stage Two)

This course considers the steps in a typical Conveyancing transaction for land and a dwelling house erected thereon in New South Wales and the examination of the 1988 edition of Agreement for Sale of Land.

The matters covered include:-

Aspects of Contracts for Sale and Purchase

Consideration of examples of Certificate of Title, Folio Identifier, Deposited Plan, S.88B Instrument Transfer and Drainage Diagram.

Formalities for an enforceable contract for the sale of Real Property; S.54A Conveyancing Act, 1919.

Consideration of open contracts i.e. where parties have bound themselves without having exchanged a standard form contract.

Exchange of a standard form contract.

Employment of Real Estate Agents to sell land.

Survey Certificate and Building Certificate.

Example of Survey considered.

Consideration of Agreement for Sale of Land – 1988 Edition

| | |
|--|--|
| Particulars | A to M. |
| Condition 1 | Auction sales. |
| Condition 2,3,9 & First schedule | Price, payment of deposit, stakeholder, default in payment and default provisions. |
| Condition 4 | Passing of title/risk and position of Vendor and Purchaser prior to and at completion. |
| Condition 5(a) & 6 | Statement of title, requisitions, time for objections and Transfer. Consideration of Transfer and copy Requisitions. |
| Condition 7 & 8 | Cavaet emptor, distinction between Title and physical condition, subject matter of sale, errors and misdescriptions and Vendor's right to rescind. |
| Condition 10,11 & Second Schedule | Outstanding notices, disclosure of defects. |
| Condition 12, Fourth & Fifth Schedules | Purchaser's right of rescission S.52A Conveyancing Act, Conveyancing (Vendor disclosure and Warranty) Regulation. |
| Condition 13 | Consideration of rates, taxes, outgoings and Land Tax for adjustment and as a charge upon the land. |
| Condition 16 | Dividing fences and fencing covenant. |
| Condition 17,18 & Third Schedule | Vacant possession, tenancies and possession under licence. |
| Condition 19 | Rescission. |
| Condition 20,21,22 & 23 | Miscellaneous provisions. |

Sale of Residential Property

Conveyancing (Sale of Land) Amendment Act 1987 – Division 8 of Conveyancing Act.

Preliminary Agreement for the Sale of Residential Property.

Steps in a Conveyancing Transaction

Time provision in relation to settlement.

Prescribed Material

Text

Young, P.W.

Contract for Sale of Land
in New South Wales 3rd Ed., Butterworths.

Statutes

Conveyancing Act, 1919.
 Conveyancing (Vendor Disclosure and Warranty) Regulation, 1986.
 Conveyancing (Sale of Land) regulation 1988.

Other Material

Agreement for Sale of Land – 1988 Edition.
 Preliminary Agreement for the Sale of Residential Property.

70411 Commercial Transactions

After an introduction dealing with the nature and classification of interests in personal property (ownership, possession, bailment, etc.), the subject deals with the law relating to the sale of goods, with special reference to the passing of title and risk, and the implied terms of such contracts (including the law relating to banking, negotiable instruments and commercial letter of credit), the law relating to the carriage of goods by land, sea and air (with special reference to CIF and FOB contracts) and the insurance of goods during transit.

Prescribed Texts

Peden, J.R. Teaching Materials and Cases on
 Commercial Transactions, 2nd Ed.,
 Butterworths, 1984.

Reference Books

Helmore, B.A. Helmore's Personal Property and Mercantile
 (ed. Chappenden & Carter) Law in New South Wales,
 9th Ed., Law Book Co., 1985.

Sutton, K.C.T. Sales and Consumer Law in Australia and
 New Zealand, 3rd Ed., Law Book Co., 1983.

Greig, D.W. and Cunningham, N. Commercial Law, 3rd Ed.,
 Butterworths, 1988.

Schmitthoff, C.M. Export Trade Stevens, 1980

Sykes, E.I. The Law of Securities 4th Ed., LBC 1986

Riley's Bills of Exchange in Australia (3rd Ed., Chappenden and Bilinsky) LBC,
 1976

Weerasooria, W.S. Banking Law and Practice in Australia
 and Coops, F.W. Butterworth, 1976

Morgan, R.J. Guide to Australian Cheque Law CCH, 1987

Sutton, K.C.T. Insurance Law in Australia and New Zealand
 LBC, 1980

Kelly D.St.L. and Ball, M.J. Insurance Legislation Manual,
 Butterworths, 1986.

Statutes

Sale of Goods Act, 1923 (NSW)
 Factor (Mercantile Agents) Act, 1923 (NSW)
 Trade Practices Act 1974 (Cth)
 Bills of Sale Act, 1898 (NSW)
 Companies Code, 1981 (NSW)

Bills of Exchange Act 1909 (Cth)
 Cheques and Payments Orders Act 1986 (Cth)
 Insurance (Agents & Brokers) Act, 1984 (Cth)
 Insurance Contracts Act, 1984 (Cth).

70412 Law of Associations

The subject is concerned with the response of the law to group activity, and deals with associations formed for both profit and non-profit purposes. Approximately half of the course involves a study of company law, covering the history of company law, the process of formation of companies, the nature of interests in companies, the duties of promoters, the legal position of members, the rights, powers and duties of directors, and other officers, legal proceedings, company contracts, liability of companies in crime and tort, and protection of minority shareholders. Other forms of association covered in detail are partnership, unincorporated voluntary association, and joint venture. Brief reference is made to incorporated associations, public corporations, trade unions, co-operatives, credit unions and building societies.

Recommended Texts

| | |
|----------------------------------|--|
| Fletcher, K. | The Law relating to Non-Profit Associations in Australia and New Zealand, Law Book Co. |
| Higgins, P.F.P. and Fletcher, K. | The Law of Partnership in Australia & New Zealand, Law Book Co. |
| Ford, H.A.J. | Principles of Company Law, Butterworths. |
| Baxt, R. and Sappideen, R. | Afterman and Baxt's Cases & Materials on Corporations & Associations, Butterworths. |
| Redmond, P. | Companies and Securities Law, Law Book Co. |

70401 Skills Seminar 4

(Pre-requisite: Completion of Stage Three)

The subject aims to familiarise students with

- (a) the basic procedure, law and practice of meetings; and
- (b) the basic tools available to engage in computer legal research

The syllabus includes the following:

- (a) **Law of Meetings**
 1. Order at Public Meetings
 2. Role of the Chair
 3. Pre-meeting procedures
 4. Motions and Amendments
 5. Resolutions and Rescission
 6. Formal and Procedural Motions
 7. Points of Order
 8. Quorum
 9. Voting (including Proxies)
 10. Company meetings
 11. Constitution and Standing Orders
 12. Committees

(b) Computer Legal Research

1. Introduction to the concept of computerised researching and Boolean logic.
2. Examination of a number of databanks and their contents including CLIRS, LEXIS, CANLAW, WESTLAW, EUROLEX and the legal contents of DIALOG.
3. Examination of the development of software for the legal environment, including the keeping of precedents, etc.
4. Practical Work.

Texts and References**Prescribed Text**

- | | |
|---|--|
| Horsley, M.G. | Meetings: Procedure, Law and Practice 2nd Ed., (ed. Taggart), Butterworths, 1983. |
| Greenleaf, G., Lewis, D. and Mowbray, A. | Australasian Computerised Legal Information Handbook, Butterworths, 1988 |

Reference Books

- | | |
|--------------|--|
| Joske, P.E. | Law and Procedure at Meetings in Australia, 7th Ed., (ed. Chappenden), LBC., 1982. |
| Renton, N.G. | Guide for Meetings and Organisations, 3rd Ed., Law Book Co., 1979. |

70511 Equity and Trusts

This subject basically covers the law of trusts and those principles of equity not dealt with in other subjects.

1. The Nature of Equity
2. Equitable Estates and Interests
3. Equitable Priorities
4. Assignments in Equity
5. Fiduciary Obligations
6. Confidential Information
7. The Nature of Trusts
8. Express Trusts
9. Charitable Trusts
10. Implied Trusts
11. Constructive Trusts
12. Powers, Rights and Duties of Trustees
13. Rights of Beneficiaries.

Reading List

- | | |
|---|--|
| Meagher, R.P., Gummow, W.M.C. & Lehane, J.R.F. | Equity, Doctrines and Remedies 2nd Ed., Butterworths |
| Meagher, R.P. & Gummow, W.M.C. | Jacobs' The Law of Trusts in Australia 5th Ed., Butterworths |
| Heydon, J.D. Gummow, W.M.C., and Austin R.P. | Cases and Materials on Equity & Trusts 2nd Ed., Butterworths. |

70512 Family Law (including Succession)

The subject consists of two parts. The first part deals with the general law of Succession including jurisdiction of the Supreme Court and Grants of Representation, the law relating to Wills, Grants of Probate and Letters of Administration, Administration of Assets in a deceased estate. The Testators Family Maintenance and Guardianship of Infants Act and the Family Provisions Act are also dealt with.

Prescribed Texts

| | |
|--|--|
| Huntley, F.C. and Woodman, R.A., and Wood, O. Woodman, R.A. | Cases and Materials on Succession Methuen LBC Administration of Estates, Methuen LBC. |
| Hardingham, I.J. Neave, M.A. and Ford, H.A.J. | Wills & Intestacy in Australia and New Zealand, Law Book Co. |

Reference Books

| | |
|----------------|--|
| Huntley, F.C. | Australian Wills Precedents, Butterworths. |
| Wright, R.J.D. | Testator's Family Maintenance in Australia and New Zealand, Methuen LBC |

The second part of the course deals with the substantive Law affecting the family unit including the general law relating to the creation of a valid marriage, the jurisdiction of the Family Court of Australia, the Supreme Court of New South Wales and the Courts of Petty Sessions, dissolution of marriage, rights and duties of spouses inter se, custody of children, maintenance of parties to a marriage adjustment of property rights, maintenance agreements, and injunctions. The law of de-facto partners is also addressed.

Prescribed Texts

| | |
|------------|---|
| Nygh, P.E. | Guide to the Family Law Act 1975, 3rd Ed., Butterworths. |
| Dickey, A. | Cases in Family Law 1976-85, CCH. |

Reference Books

| | |
|---|--|
| Finlay, H.A. Bradbrook, A.J. & Bailey-Harris, R.J. | Family Law Cases and Commentary, Butterworths, 1986 |
| Dickey, A. | Family Law, Law Book Co., |

70501 Skills Seminar 5

(Pre-requisite: Completion of Stage Four)

The main aim of this skills subject is the development of the skill in the drafting of legal documents. The theory and problems associated with this skill will also be discussed and analysed.

Before a legal document can be reduced into written form, the drafts-person must fully understand the facts and law relevant to a given situation. The comprehension, appreciation and analysis of the factual and legal situation are skills which this subject aims to develop in students.

The course will be by way of a series of seminars involving both critical analysis and the written form, always bearing in mind the applicable theoretical rules.

Exercises shall be drawn from examples such as: --

Statutory declaration
 Power of attorney
 An agreement
 Deed
 Will
 Memorandum and Articles of Association

Text and References:

| | |
|--|---|
| Piesse, E.L., | The Elements of Drafting (Law Book Co) |
| Robinson, S. | Drafting (Butterworths) |
| Dick, R.C. | Legal Drafting (Carswell) |
| Australian Encyclopaedia of Forms and Precedents | |
| Law Book Co's Practical Forms and Precedents. | |

70611 Constitutional Law

This subject is divided into two parts. The first is concerned with the foundation concepts of constitutional law, in the three kinds of power, legislative, executive and judicial, parliamentary sovereignty and the separation of powers.

The second and major part of the course is the study of the Commonwealth of Australia Constitution Act and related legislation, together with an examination of the legal and financial implications of federalism and the constitutional aspects of the cross-vesting of judicial powers.

Preliminary Reading

| | |
|--------------|--|
| Galligan, B. | Politics of the High Court, U. Q. P. 1987. |
| Harr D. | Barwick, George, Allen to Unwin, 1980. |

Texts*

General Constitutional Law

| | |
|-----------|--|
| Hanks, P. | Australian Constitutional Law, 3rd Ed., Butterworths, 1985. |
|-----------|--|

Australian Constitutional Law

| | |
|----------|--|
| Lane, P. | A Student's Manual of Australian Constitutional Law, 3rd Ed., Law Book, 1984. |
|----------|--|

Casebooks*

| | |
|------------|---|
| Sawer's | Australian Constitutional Cases, Ed. by Zines & Lindell, Law Book, 1982. |
| Lane, P.H. | A Digest of Australian Constitutional Cases, 2nd Ed., Law Book, 1982 or |

Reference Books

| | |
|---|---|
| Australian Federal Constitution Annotated A.G.P.S., 1980. | |
| Zines, L. | The High Court and the Constitution, 2nd Ed., Butterworths, 1987 |

- Hotop, S.D. Principles of Australian Administrative Law, Sydney Law Book Co., 6th Ed., 1985
- Enright, C. Judicial Review of Administrative Action, Sydney, Branxton Press, 1985
- Tynne, I. & Goldring, J. Accountability and Control, Sydney Law Book Co. 1987
- Sykes, E.I., Lanham, D.J., & Tracey, R.R.S. General Principles of Administrative Law, Sydney, Butterworths, 2nd Ed., 1984.
- de Smith, S.A. Judicial Review of Administrative Action, London, Stevens, 4th Ed., 1980.
- Garner, J.F. & Jones, S.L. Administrative Law, Butterworths, 6th Ed., 1985, London.
- Craig, P.P. Administrative Law, London, Sweet & Maxwell, 1983.
- Flick, G.A. Natural Justice, Sydney, Law Book Co., 1979.
- Flick, G.A. Federal Administrative Law, Sydney, Law Book Co., 1983.
- Pearce, D.C. Delegated Legislation, Sydney, Butterworths, 1977.
- Whitmore, H. & Aronson, M. Public Torts and Contracts, Sydney, Law Book Co., 1982.
- Hogg, P.W. Liability of the Crown, Sydney, Law Book Co., 1971.
- Stein, L.A. (ed.) Locus Standi, Sydney, Law Book Co., 1979.
- Wade, H.W.R. Administrative Law, Oxford, Clarendon Press, 5th Ed., 1982

5. Negotiations
6. Advocacy
7. Drafting index to counsel's brief

Text and References:

- | | |
|-----------------------------|---|
| Cairns, B.C. | Australian Civil Procedure, L.B.C. 1981 |
| O'Leary, K.F. & Hogan, A.E. | Principles of Practice and Procedures, Butterworths, 1976 |
| Aronson, M.I. | Litigation, 2nd, Ed., Butterworths |

71001 Skills Seminar 10

(Pre-requisite: Completion of 70902 – Skills Nine)

The skills unit requires the students to participate in one moot, or mock trial on a point of law arising from a set of agreed facts before a judge or barrister. The aim of the unit is to instruct the students in techniques, skills and basic etiquette involved in arguing cases, particularly on points of law, in court.

Attendance is required at two seminars, each of one hour, at the beginning of the semester and thereafter at a moot before a judge or senior barrister. Most of the work in this unit involves unsupervised preparation in the library.

A Faculty Guide to Mooting has been prepared and this is used as the basis of instruction for the mooters. They are divided into groups of four, within which there are two teams each of two mooters, and allocated a moot. That involves being given a set of facts, in which they are arguing one side or the other, and a date on which they must present argument on those facts to a designated moot judge. They are required to present the moot judge with written submissions, including a list of authorities, at least three days before the moot.

71111 Law of Remedies

For historical reasons the more common remedies are either those which are administered at common law or equity, and this is so despite the fusion of the courts of common law and equity. Thus this subject is to a large extent taken up with the study of the law of damages, as administered at common law, and equitable remedies, including money remedies. Bankruptcy, Remedies under the Trade Practices Act, Quasi Contract & Restitution will also be covered but administrative remedies, having been studied in Administrative Law, will not.

The objectives of the subject include the acquisition of a basic knowledge of the law of remedies and, in so far as they have been covered elsewhere in the Course, a reinforcement of that knowledge.

They also include the development of the ability to use this knowledge and apply the law to relatively complex facts, in the form of legal problems. This assumes a general knowledge of the subjects already covered in the Course and the ability to research other areas of law not so covered.

The ability to apply case law in the solving of problems will be further developed.

Text Books

- | | |
|-------------------------|----------------------------------|
| Tilbury, M. Noone, M. | Remedies, Law Book Company, 1983 |
| Kercher, B. & Noone, M. | Remedies, Law Book Company, 1983 |

- Rose, D.J. Lewis's Australian Bankruptcy Law,
Law Book Co., 7th Ed., 1986
- Meagher, R.P. Gummow, W.M.C. Equity: Doctrine & Remedies,
& Lehane, J.R.F. Latest edition, Butterworths
- Heydon, J.D., Gummow, W.M.C. Cases and Materials on Equity & Trusts,
& Austin, R.P. Latest edition, Butterworths.

71101 Optional Skill – Office Management

(Pre-requisite: Completion of 70501-Skills 5)

This skill introduces students to management techniques. Students are encouraged to consider how they as lawyers might most effectively apply their legal skills for their own and the public benefit.

Part of the course is conducted by lecture, part by student seminar papers with directed discussion. There is an emphasis on the conduct of practice by solicitors (either in private practice or for public or private institutions). Students are encouraged to make contact with practitioners to obtain the source material for their papers. Materials include documentation from practitioners' offices covering practice management and include representative financial accounts from profitable and unprofitable practices.

References

- Altman, M.A. How to Manage your Law Office,
N.Y., Bender, 1973
- Anstey, C.E. Australian Business Principles & Practice,
3rd Ed., Sydney, McGraw-Hill, 1976.
- Burke, W.J. Accounting Systems for Law Offices,
N.Y., Bender, 1978
- Cecil, P. B. Word Processing in the Modern Office,
2nd Ed., Menlo Park, California,
Benjamin Cummings, 1980
- Hutchinson, H.H. & Dyer, L.S. Interpretating of Balance Sheets, London,
The Institute of Bankers, 1981
- English, J.W. How to organize and operate a
Small Business in Australia, 3rd Ed., Syd.,
Allen & Unwin 1986
- Law of Institute Victoria Law Office Management: A guide for
Practitioners, Melbourne, Law Institute of
Victoria, 1985

71102 Optional Skill – Legal Ethics

(Pre-requisite: Completion of 70601 – Skills 6)

This skill prepares students for entry into the legal profession with an awareness of the ethical requirements of that profession, both by statute and by custom.

Students will be expected to achieve a thorough knowledge and understanding of the laws, regulations and ethical conduct relevant to practice as barristers or solicitors in New South Wales. In addition particular consideration will be given to contemporary issues facing the legal profession including the various matters arising out of the current enquiry into the legal profession in New South Wales.

5. Selected primary and secondary material of Canada and New Zealand
6. International law.
 - (a) Treaties
 - (b) International Court of Justice
 - (c) European Communities
 - (d) International Law Organisations

Reference Books

Price, M.O. & Bitner, H. Effective Legal Research (4th Ed.) Little
Brown 1979.

“Proceedings of the AALL. Institute of International Law and Business” in
76 Law Library Journal (1983).

71201 Optional Skill – Special Project

(approved by the Head of School)

(Pre-requisite: Completion of Stage 6)

The aim of the skills subjects is to develop the ability of students to apply their theoretical knowledge in practical situations. This is achieved by requiring students to study ten compulsory skills subjects and also two optional skills subjects. The “Special Project” enables students to develop their legal skills in an approved area of interest to them. The Project will require work equivalent to one semester hour. A member of Faculty will be appointed by the Head of School to supervise the students work. Students interested in attempting this subject should speak to the Head of School or Sub-Dean before enrolling to ensure that the proposed work is appropriate as a “Special Project”.

71211 Law of Evidence

The following topics will be considered:

1. Types of evidence
2. Relevance, admissibility, weight of evidence
3. The Course of the Trial
4. The Functions of the Judge and Jury
5. The Burden and Standard of proof
6. Competence and compellability of witnesses
7. Privilege
8. Character evidence
9. The rule against Hearsay Evidence and the Common Law and Statutory Exceptions.
10. Confessions and Illegally Obtained Evidence
11. Presumptions
12. Corroboration

Texts

Byrne, D., & Cross on Evidence, 3rd Australian Ed.,
Heydon, J.D. Butterworths, Sydney, 1986

Casebooks

Waight, P.K. & Cases & Materials on Evidence, 2nd Ed.,
Williams, C.R. Law Book Company, Sydney, 1985

Aronson, M.I., Reaburn, N.S., Litigation, 3rd Edition, Butterworths,
Weinberg, M.S. Sydney, 1982

Recommended Reading

- Glasbeek, H.J. Cases and Materials on Evidence, Butterworths, Sydney, 1974
- Glass, H.H. (ed.) Seminars on Evidence, Law Book Company, Sydney, 1970
- Cowen, Z. & Carter, P.B. Essays on the Law of Evidence, Greenwood Press, Conn., U.S.A. 1973
- Eggleston, R. Evidence, Proof and Probability, Weidenfeld & Nicholson, London 1983
- Brown, R.A. Documentary Evidence in Australia, Law Book Co.
- Lyertwood, A.T.C. Australian Evidence, Butterworths, Sydney, 1988

Legislation

- Crimes Act, 1900 (N.S.W.)
Evidence Act, 1898 (N.S.W.)

71212 Revenue Law

The main objective of the course is a practical understanding of the law as it relates to the revenue areas, including an awareness of many of the unsolved problems in the revenue law area.

Greater depth is given to the income tax areas. The course covers the following:

The Federal and State Taxation Systems, the Scheme of the Income Tax Assessment Act, Concepts of Income and Capital, the Concept of Assessable Income, the Treatment of Trading Stock, Dividends, Allowable Deductions and Tax Accounting, the Taxation of Different Types of Taxpayers, Tax Avoidance, Objections Appeals and Other Administrative Procedures, and the questions of Source and Residence, Capital Gains Tax, Imputation and Fringe Benefits Tax.

Statute

Income Tax Assessment Act 1936 consolidated for all amendments (CCH and Butterworths both publish versions of this Act suitable for the course).

Text Books

CCH 1989 Master Tax Guide

Reference Books

- Cooper, G., Krever, R. & Vann, R. Income Taxation Commentary and Materials, The Law Book Co., 1989
- O'Grady, G. & O'Rourke, K. Manual of the Law of Income Tax 7th Ed., The Law Book Co., 1989
- Woellner, R., Vella, T. & Chippendale, R. Australian Taxation Law CCH, 1987

Special Events

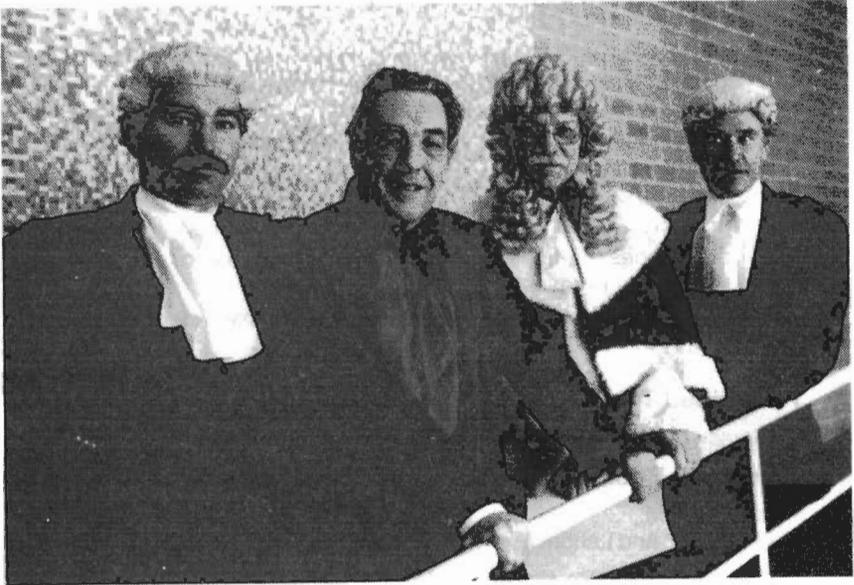
The Law Library Collection in the University Library has received a major boost to its international law collection. Approximately 600 books have been donated to the existing collection by Professor David Johnson, Emeritus Professor in International Law, The University of Sydney. Professor Johnson who was formerly Professor of International and Air Law at the London School of Economics, retired as Challis Professor of International Law in 1985 and has kindly donated a considerable part of his private collection to aid law students at UTS. Commemorative bookplates were prepared for the occasion of the official donation and a lunch was held at the Faculty. The collection is quite diverse and includes valuable material in diplomacy and treatise.



(L-R) Mrs Johnson, Professor David Johnson, Robert Watt, Alexis Goh and Professor David Flint.



(L-R) Professor Bartholomew, Roger Shore (Librarian), Dianne Robinson, Robert Watt, Nick O'Neill, Neil Desaily and Professor Flint.



OPEN DAY, 13TH AUGUST, 1988

A moot court was held at the Faculty where members of the Law Faculty Staff took part.

(L-R) Michael Evans, Professor Bartholomew, Neil Desaily, Professor Flint.

**THE FOLLOWING ARE DESCRIPTIONS OF OLD SKILLS
SUBJECTS OFFERED ONLY TO STUDENTS WHO ENTERED
THE COURSE PRIOR TO 1987**

70100 Skills Seminar 1

The aim of this first skills seminar is to teach the basic skills of effective legal research, to aid the student, initially while studying and ultimately while practising.

The student is taught to recognise the separation of legal material into primary source material, and secondary source material. The student is taught to appreciate that there can be no single method of research for all problems. The desired result and the initial information known will determine the types of materials used and the order in which they are used. Necessarily, however the search must inevitably return for an authority to one of the primary sources of law, viz., an Act, a regulation or a judicial pronouncement, and no statement of law can be made by a student without reference to one of the primary sources.

The student is consequently taught

- (i) to find quickly all relevant legislation pertinent to a problem using the various legislative indexes;
- (ii) to be able to effectively use the various digest services that exist as well as the subject indexes that cover certain report series;
- (iii) to use the available indexes to the appropriate rules and regulations that exist, both in official published form and in the current awareness publications;
- (iv) to update all information legislative, regulatory and case law, and to be confident that, subject to the resources of the library used, the law found has not been amended or overruled.

The student is also taught to initiate his research in one of the secondary sources that are available;

- (i) the legal encyclopaedia (Halsbury's Laws of England, American Jurisprudence, or Corpus Juris Secundum);
- (ii) dictionaries, particularly those that refer to case and legislative use (e.g. Words and Phrases);
- (iii) indexes to legal journals and the articles themselves; and
- (iv) textbooks

Prescribed Text

University of Technology, Sydney Research Notes

Reference Book

| | |
|------------------------------|--|
| Campbell, E.M., | Legal Research: Materials and Methods, |
| Galsson, E.J. and Lahore, A. | Law Book Co. |

70200 Skills Seminar 2

The emphasis in this seminar is on the drafting of documents (e.g. deed poll, will and especially contractual documents). It considers the law relating to the form of documents and special attention is paid to problems which may

result from bad drafting. Additionally, some aspects of courts and their procedures are discussed.

Subject Outline

Theory of drafting: taking instructions, interpretation of documents, structure of documents, structure of sentences, common examples of ambiguity, style and so forth. These topics are discussed in the contexts of various drafting exercises.

Exercises are held in the following:

- (1) analysis of client's instructions;
- (2) analysis of applicable law; and
- (3) drafting of simple documents (e.g. deed poll, will, lease, employment agreement, partnership agreement, agreement for the sale of goods).

Students are required to attend of the following courts:

- (1) a Local Court;
- (2) the District Court in its Criminal and special jurisdiction; and
- (3) the Court of Criminal Appeal.

The purpose of such attendance is to acquaint the students with the basic workings of the criminal court system. After court attendances, students are expected to submit observations on the following:

- what actually happened in court
- what appeared to be the important elements of the charge
- the decision of the court
- the reasons for the decision

Prescribed Texts

| | |
|--------------|--|
| Piesse, E.L. | The Elements of Drafting, Law Book Co. |
| Dick, R. | Legal Drafting, Carswell Co. Ltd. |

Reference Books

| | |
|---------------------|---|
| Butterworths | Australian Encyclopaedia of Forms and Precedents |
| Law Book Company | Law Book Company's Practical Forms and Precedents |
| Warren, O.L. & ors. | Warren's Forms of Agreements, Mathew Bender |

70300 Skills Seminar 3

This course considers the steps in a typical Conveyancing transaction for land and a dwelling house erected thereon in New South Wales and the examination of the 1986 edition of Agreement for Sale of Land.

The matters covered include:

Aspects of Contracts for Sale and Purchase

Formalities for an enforceable contract for the sale of Real Property; s.54A Conveyancing Act, 1919.

Consideration of open contracts i.e. where parties have bound themselves without having exchanged a standard form contract.

Exchange of a standard form contract.

Land Sales Act, 1964 – part II.

Employment of Real Estate Agents to sell land.

Survey Certificate and Certificate of Compliance. Photocopy of Survey considered.

Consideration of Agreement For Sale Of Land – 1986 Edition

Particulars – A to M.

| | |
|--|---|
| Condition 1 | Auction sales. |
| Condition 2,3,9 & | Price, payment of deposit, stakeholder, |
| First Schedule | default in payment and default provisions. |
| Condition 4 | Passing of title/risk and position of Vendor and Purchaser prior to and at completion. |
| Condition 5 (a) & 6 | Statement of title, regulations, time for objections and Transfer. Consideration of photostat copy Transfer and copy Requisitions. |
| Condition 7 & 8 | Subject matter of sale, errors and misdescriptions and Vendor's right to rescind. |
| Condition 10,11 & Second Schedule | Outstanding notices, disclosure of defects. |
| Condition 12, Fourth & Fifth Schedules | Purchaser's right of rescission s.52A Conveyancing Act, 1919. Consideration of photostat copies of Certificate of Title, Deposited Plan, s.88B Instrument and Drainage diagram. |
| Condition 13 | Consideration of rates, taxes, outgoing and Land Tax for adjustment and as a charge upon the land. |
| Condition 16 | Dividing fences and fencing covenant. |
| Condition 17,18 & Third Schedule | Vacant possession, tenancies and possessions under licence. |
| Condition 19 | Rescission. |
| Condition 20,21,22 & 23 | Miscellaneous provisions. |
| | Time provisions in relation to settlement. |

Prescribed Material:

Text

Young, P.W.

Contract for Sale of Land in New South Wales 2nd. Ed., Butterworths.

Statutes

Land Sales Act, 1964 – Part II.

Conveyancing Act, 1919.

Conveyancing (Vendor Disclosure and Warranty) Regulation, 1986.

Other Material

Agreement for Sale of Land – 1986 Edition.

70400 Skills Seminar 4

The objectives of the course are to familiarise students with the basic procedure, law and practice of meetings. The course deals with meetings of both unincorporated and incorporated associations. Students are required to participate in the conduct of meetings with a view to obtaining the basic skills necessary to organise and conduct meetings.

Prescribed Text

Horsley, M.G.

Meetings: Procedure, Law and Practice
2nd Ed., (Ed. Taggart), Butterworths, 1983.

Reference Books

Joske, P.E.

Law and Procedure at Meetings in Australia,
7th Ed., (Ed. Chappenden), Law Book Co.
1982.

Renton, N.G.

Guide for Meetings and Organisations, 3rd
Ed., Law Book Co. 1979

70500 Skills Seminar 5

This course has two parts.

1. American Legal Research. An introduction to the principal legal materials of the United States of America.

Assessment of this part is based on an assignment designed to test understanding of the material studies and ability to deal with research problems.

2. Introduction to Court Procedure and Advocacy.

The aim is to familiarise students with basic provisions governing some matters which may be dealt with before a trial, and to give instruction on advocacy and conduct in court. It is a precursor to mooting and includes a compulsory oral exercise in which students present short cases or make applications in an adversary context.

The oral exercises are designed for learning, but marks are awarded for advocacy and these form the main basis of assessment. Advocacy in this context refers to the ability to represent a client in a lawyer-like manner, with attention to the following:

- Clarity of presentation
- Understanding of the law
- Relevance of points made
- Courtroom etiquette
- Demeanour
- Verbal style

Also taken into account are written submission indicating the documents to be filed and served in such a matter, and participation in post-exercise discussions.

70600 Skills Seminar 6

70700 Skills Seminar 7

These seminars are devoted to a mooting program consisting of a number of moots, each involving four students grouped in teams of two, and each concerned primarily with a different area of the law. To complete the unit each student must satisfactorily participate in one moot for each seminar.

OPTIONAL SUBJECTS

There are currently 42 options available in the LL.B. course. In order to assist students to perceive the interrelationship of the various options and their general orientation, and to make a more informed choice, the options are classified into the groups indicated below. The various groups are not mutually exclusive, and many options can be found in more than one group. Students may prefer to broaden their knowledge by choosing options from as many groups as possible. Alternatively, they may wish to specialise by confining their choices to one group. Whatever the decision, the Faculty encourages students to take at least one subject from the group, Legal Theory and Perspective Subjects. Students should also note that all Research Projects can in principle be classified under any of the groups, since the subject-matter covered in a Research project is determined at the outset by the student.

Criminal Law

Admin. of Crim. Justice
Human Rights
Criminology
Advanced Criminal Law
Commercial Crime

Commercial Law

Shipping Law
Air Law
Indus. & Intell. Prop.
Commercial Arbitration
Law & Computers
Advanced Taxation Law
Law of Insurance
Consumer Protection
Trade Practices Law
Advanced Company Law
Intl. Business Trans.
European Community Law
Energy & Nat. Res. Law
Communications Law

Environmental Law

Environmental Law
Local Government
Energy & Nat. Res. Law

Technology

Indus. & Intell. Prop.
Law & Computers
Energy & Nat. Res. Law
Communications Law

International Law

Shipping Law
Public Intl. Law
Human Rights
Air Law
Environmental Law
Intl. Business Trans.
European Community Law
Energy & Nat. Res. Law

Labour and Industrial Relations

Labour Law
Conciliation & Arbitration
Law of Trade Unions

Land Law

Strata Titles
Environmental Law
Local Government
Land Dealings

Legal Theory and Perspective Subjects

Comparative Law A
Legal History
Comparative Law B
Human Rights
Jurisprudence
Law & Society

Research

Research Projects 1-5.

77001 Comparative Law A

(No prerequisite)

The subject will allow students interested in the comparative method of legal research to develop a deeper understanding of our own legal system. The subject also sharpens the student's awareness of the growing 'interdependence' and similarity of the civil law and the common law methods.

The subject consists of two sections. The first is concerned with an introduction to the major legal systems in the world. Emphasis will be placed on the study of the development of the Romano-Germanic system of law, the formation of the socialist legal system and the law of the United States of America. These legal systems will be compared with the common law system. Among the topics covered will be a detailed study of the meaning, the sources and the structure of law in the legal systems under consideration. The civil law method will be illustrated with cases dealing with liability for torts (articles 1382-1386 of the French Civil Code). Other topics which will be discussed include the legal profession and the legal education in civil law countries, an assessment of the adversary and inquisitorial criminal procedures as well as a discussion of the protection of human rights through the incorporation of customary law into domestic law. The second section is devoted to French Administrative Law and the jurisprudence of the Conseil d'Etat.

Prescribed Texts

- | | |
|--------------------------------|--|
| David, R. and Brierley, J.E.C. | Major Legal Systems in the World Today, London, Stevens and Sons, 1987 |
| Certoma, C.L. | The Italian Legal System, Sydney, Butterworths, 1985 |
| Bartholomew, G.W. | "Comparative Law", 5 Indian Law Review 86 (1951) pp. 86-94 |
| Brouwer, G.E.P. | "Inquisitorial and Adversary Procedures – A Comparative Analysis" 55 The Australian Law Journal 207 (1981) pp., 207-223 |
| Brown, L.N. and Garner, J.F. | French Administrative Law, London, Butterworths, 1973 |
| Chloros, A.G. | "Principle, Reason and Policy in the Development of European Law", 17 International and Comparative Law Quarterly 849 (1968) pp. 849-877 |
| Crabb, J.H. | The French Civil Code, South Hackensack, New Jersey, Fred B. Rothman and Co. 1976 |
| Devries, H.P. | Civil Law and the Anglo-American Lawyer, Dobbs Ferry New York, Oceana Publications, Inc., 1976 |
| Hall, J. | Comparative Law and Social Theory, Louisiana State University Press, 1963. |
| Harris, J.W. | Legal Philosophies, London, Butterworths, 1980 pp. 219-231 |
| Lepaulle, P. | "The Function of Comparative Law with a Critique of Sociological Jurisprudence", 35 Harvard Law Review 838 (1922), pp. 838-885 |

- Sawer, G. "The Western Conception of Law", 2 International Encyclopaedia of Comparative Law 14 (1975) pp. 14-48
- Sharma, K.M. and Moens, G.A. "Book Review of Le Droit et la Croissance de la Population en Roumanie". 28 The American Journal of Comparative Law 135 (1980) pp. 135-142
- Stagno, L.A. "The Application of International Human Rights Arguments in United States Courts: Customary International Law Incorporated Into American Domestic Law", 8 Brooklyn Journal of International Law 207 (1982) pp. 207-238
- Stoljar, S.J. Problems of Codification, Canberra, The Australian National University, 1977 pp. 1-15
- Zweigert, K. and Kotz, H. An Introduction to Comparative Law (2 vols) Amsterdam, North-Holland Publishing Co., 1977
- Szabo, I. "The Socialist Conception of Law" 2 International Encyclopaedia of Comparative Law 49 (1975) pp. 49-83
- Watson, A. The making of the Civil Law, Cambridge, Massachusetts, Harvard University Press, 1981
- Winterton, G.G. "Comparative Law Teaching" 23 The American Journal of Comparative Law 69 (1975) pp. 69-118
- Winterton, G.G. "Comparative Law in the Non-Western Nations: A Brief Survey", 12 University of W.A. Australian Law Review 48 (1975) pp. 48-63.

77002 Legal History

(Not currently offered)

77003 Comparative Law B

(No prerequisite)

The course is designed to introduce students to the reception of legal systems in the countries of South and South-East Asia with special reference to the reception of English law and Islamic law.

Recommended Texts

- | | |
|-------------------|--|
| Lewis, B. | The Arabs in History |
| Coulson, N. | History of Islamic Law |
| Fyzee, A.A.A. | Introduction to Mohammedan Law |
| Setalvad, M.C. | The Common Law in India |
| Bartholomew, G.W. | The Commercial Law of Malaysia |
| Bartholomew, G.W. | "The Singapore Legal System" in Singapore Today Ed. Riaz Hasan |

| | |
|-------------------|---|
| Bartholomew, G.W. | "The Common Law in partibus infederlium" in the Common Law in Singapore and Malaysia Ed. A. Harding |
| Boxer, C.R. | The Portuguese Maritime Empire |
| Parry, J.H. | Europe and the Wider World. |

77004 Administration of Criminal Justice

(Pre-requisite: Stage 2)

This course deals with the law for a criminal procedure in New South Wales.

The administration of criminal justice is essentially controversial. The object of the course is to place the policy issues in context. Current Law reform proposals are examined.

The course covers:

- (a) **Criminal investigation:** police interrogation, arrest, detention, search, seizure, remedies against the police, reception of confessional evidence and discretion to exclude evidence.
- (b) **The criminal prosecution:** bail, summary proceedings, committal proceedings, jury trials, discretion to prosecute, indictment, joint trials, pleas, duties of prosecutor, duties of trial judge, course of evidence, verdict, sentencing, criminal compensation, appeals.

Texts and legislation: To be advised in the first class.

77005 Shipping Law

(Pre-requisite: 70411 Commercial Transactions)

The subject deals with i) certain elements of Admiralty law, and ii) the law pertaining to the carriage of goods by sea. Within the former category, topics dealt with include registration, nationality and ownership of ships; sale of ships, mortgages; maritime liens; Admiralty jurisdiction; collisions; limitation of liability; pilotage and towage. The latter category examines the rights and obligations of parties to a contract for the carriage of goods by sea (carrier and shipper), with special reference to charterparties and bills of lading. Topics here include the Hague Rules, seaworthiness and the duty to take care of cargo, demurrage, general average and freight. Problems associated with intermodal and combined transport operations will be discussed, and attention drawn to the Hamburg Rules 1978 which are to replace the Hague Rules. Other international conventions regulating the navigation and commerce of the sea will also be referred to.

Prescribed Material and Booklist

| | |
|----------------------------------|--|
| Chorley, R.S. & Giles, O.C. | Shipping Law, Pitman, 7th ed., 1980 |
| Grime, R.P. | Shipping Law, Sweet & Maxwell, 1978 |
| Abecassis, D. | The Law and Practice relating to Oil Pollution from Ships, Butterworths, 2nd Ed., 1985 |
| Australian & New Zealand | Commentary on Halsbury's Laws of England, 4th Ed., Chapter 2. (Admiralty) |
| Australian Law Reform Commission | Admiralty Jurisdiction, AGPS, 1986 |

| | |
|-----------------------------|---|
| Bes, D.G. | Chartering and Shipping Terms, Barker & Howard |
| Brice, G. | Maritime Law of Salvage, Stevens, 1983 |
| Benedicton | Admiralty, M. Bender, 7th Ed. |
| Butterworths | Australian Encyclopaedia of Forms and Precedents, 2nd Ed., 1978, Vol. 14 (Shipping Documents) |
| Carver, T.G. | Carriage by Sea, Stevens, 13th Ed., 1982 |
| Lowndes, R. & Rudolf, G.R. | The Law of General Average and the York-Antwerp Rules, Stevens, 10th Ed., 1975 |
| Gilmore, G. & Black, C. | The Law of Admiralty, Foundation Press, 2nd Ed., 1975 |
| Halsbury's | Laws of England, Vol. 43 (Shipping and Navigation) and Aust. Pilot. |
| Hill, C. | Maritime Law, Lloyd's, 2nd Ed., 1985 |
| Jackson, D. | World Shipping Laws, Oceana, Dobbs-Ferry |
| Jackson, D. | Enforcement of Maritime Claims, Lloyds, 1985 |
| Marsden, R. | Collisions at Sea, Stevens, 12th Ed., (in preparation) |
| Scrutton, T.E. | Charterparties and Bills of Lading, Sweet & Maxwell, 19th Ed., 1984 |
| Singh, N. & Colinvaux, R.P. | Shipowners, Stevens, 1967 |
| Temperley | Merchant Shipping Acts, Stevens, 7th Ed., 1976 |
| Tetley, W. | Marine Cargo Claims, Butterworths (Canada), 2nd Ed., 1978 |
| Thomas, D.R. | Maritime Liens, Stevens, 1980 |
| Tiberg, H. | The Law of Demurrage, Stevens, 3rd Ed., 1979 |
| Wiswall, F.L. | The Development of Admiralty Jurisdiction and Practice since 1800, Cambridge University Press, 1970 |

77006 Public International Law

(Pre-requisite: Stage 2)

The following topics are selected for study in this subject with particular attention being paid to the development of the law through the machinery of the United Nations in its relationship with the State, international organisations and even the individual. The topics are: nature, characteristics and function of International law; sources of international law (including the role and characteristics of the International Court of Justice); the law of treaties; concept of state sovereignty and domestic jurisdiction; the relationship between international law, municipal law and the individual (including the international protection of human rights); statehood and sovereignty; the personality, rights and duties of states; the recognition of states and governments; state succession, territorial

sovereignty of the land and the sea; (with emphasis on limits) the jurisdiction of states (including jurisdictional competence, immunity from jurisdiction, asylum and extradition); immunities and privileges in diplomatic and consular relations; international organisations (especially the United Nations), armed conflict and the settlement of international disputes.

Preliminary Reading

- | | |
|-----------------------------------|--|
| Akehurst, M. | A Modern Introduction to International Law, George, Allen & Unwin |
| Brierly, J.A. (Waldoc, H. Ed.) | The Law of Nations, Clarendon Press |
| Wallace, R.M.M. | International Law, Sweet and Maxwell |

Prescribed Text

- | | |
|--------------|---|
| Greig, D.A. | International Law, Butterworths |
| Starke, J.G. | An Introduction to International Law, Butterworths |

Reference Books

- | | |
|--------------------------------------|--|
| Brownlie, I. | Basic Documents in International Law, Oxford University Press |
| Brownlie, I. | Principles of Public International Law, Oxford University Press |
| O'Connell, D.P. | International Law, (2 vols.) Sweet & Maxwell |
| Ryan, K.W. | International Law in Australia, Law Book Co. |
| Openheim, P. | International Law, (vol. 1) Longmans |
| Schwarzenberger, G. & Brown, E.D. | A Manual of International Law, Professional Books |
| Sorenson, M. (Ed.) | Manual of Public International Law, Macmillan |

Casebooks

- | | |
|--------------|--|
| Green, L.C. | International Law through the Cases, Carswell |
| Harris, D.J. | Cases and Materials on International Law, Sweet & Maxwell |

77007 Human Rights

(Pre-requisite: 70212 Criminal Law)

This subject concentrates on the existing statute and case law in Australia relating to human rights. However some comparative material from Europe, U.S.A., and Canada is also considered as are aspects of the international human rights protection systems.

Topics covered in the course will be taken from the following in consultation with the students:

1. Establishment and enforcement of human rights Constitutional rights, common law rights, the Australian Bill of Rights.
2. Aborigines. Does our legal system, as it is operated, give proper recognition to the rights of minority groups? This question will be considered in

terms of the Aborigines but it is a question relevant to all minority groups. The aboriginal land rights question will also be considered.

3. Discrimination. This topic will deal with the legislation of N.S.W. and the Commonwealth dealing with discrimination and with the institutions set up under that legislation.
4. The right to protest. This topic encompasses many of the human rights questions which arise under Australia's democratic political system. The rights to free speech and assembly will be looked at in the context of the right of individuals to protest and the right of others to use public places without fear of obstruction. The legislation in New South Wales and other States will be considered as will the common law.
How freedom of speech is curtailed by contempt of court, contempt of Parliament, "D" notices, censorship, security and sedition will be considered. Defamation will also be studied in this context.
5. Security. This topic will deal with the impact of security organisations on human rights.
6. Privacy. How is privacy protected under the existing Australian law? Should there be a general right to privacy? What are the current proposals to reform the law of privacy in Australia?
7. International protection of human rights. Consideration will be given to international organisations such as the United Nations Human Rights Committee and to conventions, to which Australia is a party, which have impact on human rights.
8. Refugees. Consideration will be given to the role of the United Nations High Commissioner for Refugees and to the conventions, to which Australia is a party, which have impact on human rights.
9. Prisoners' Rights
10. Women's Rights
11. The jurisprudence of human rights.

Textbooks

- | | |
|-----------------------------|---|
| Campbell, E. & Whitmore, H. | Freedom in Australia, Sydney, University Press, 1973 |
| Flick, G.A. | Civil Liberties in Australia, Sydney, Law Book Co. 1981 |

77008 Jurisprudence

(Pre-requisite: Stage 4)

This course treats a number of topics including the relationship of law to such notions as freedom, justice, equality and fraternity, the nature of rights and the justification of punishment. The emphasis is upon what has become a central question for contemporary legal philosophy – the nature of legal reasoning. The problem is to give an account of the methods and procedures the impersonal procedures of logic or science which does not reduce the legal practices to nothing more than subjective beliefs or interests. The writings of J. Stone, C.L. Perelman, R. Dworkin, N. MacCormick and others are discussed and the interpretive and reasoning practices of law are contrasted with those of other disciplines, especially literary criticism.

Textbooks

To be advised in class.

77009 Air Law

(Pre-requisite: Stage 3)

This subject is divided into two parts – International air law and Australian air law. Every topic is discussed from these two aspects. The topics examined include the structure and organisation of the air regimes (and the relationship between the states and the Commonwealth in Australian air law); liability in the carriage of passenger, baggage, luggage and cargo; operational liability; environmental problems; security problems presented to carriers and airports; and insurance.

The international conventions which are discussed include the Chicago Convention 1944, the Warsaw Convention 1929 (and its amending Protocols), the Tokyo Convention 1963, the Hague (Hijacking) Convention 1970, and the Montreal Convention 1971. The Australian Legislation on the subject includes the Air Navigation Act 1920, the Civil Aviation Act 1988, the Air Navigation Regulations and the Civil Aviation Regulations. Relevant state legislation is also discussed.

Prescribed Text

Diederiks-Verschuur, I.H. An Introduction to Air Law, Kluwer

Reference Books

| | |
|---|---|
| Brogden, S.M. | Australia's Two Air Line Policy, Melbourne University Press. |
| Buergenthal, T. | Law Making in the International Civil Aviation Organisation, Syracuse University Press |
| Cheng, B. | The Law of International Air Transport, Stevens |
| Mankiewicz, R.H. | The Liability Regime of the International Air Carrier, Kluwer |
| McNair A.D. | The Law of the Air, Stevens |
| Poulton, H.W. | Law, History and Politics of the Australian Two Airline System, Poulton |
| Shawcross, C. and Beaumont, K.M. | Air Law, Butterworths, (update service) |
| Wassenbergh, H.A. & Van Fenema, H.P. | International Air Transport in the Eighties, Kluwer |

77011 Industrial and Intellectual Property

(Pre-requisite: Stage 4)

This subject is intended to introduce and provide an understanding of the ways in which the legal system recognises, protects and regulates the exploitation of exclusive rights in certain intangible industrial and intellectual "property". It covers selected aspects of the field in depth but the basic structure will be:

Confidential Information: trade secrets and the problem of "know how", scope of the present law, classification of type of protection, relation to patent systems and design systems.

Patents: history of patents for invention, and the present system: subject matter, right to apply, employee's inventions, form of application, patent office and third party objections, grounds of invalidity, infringement, argument, licences, Crown use, patents of addition, extensions, and the value of a patent system in the economy.

Designs: present system: subject matter, registration, invalidity, infringement (in outline only), relationship to the copyright system.

Trade Marks and Trade Names: protection at common law, passing off, slander of title, slander of goods, unfair competition; trade mark legislation and its relation to common law protection; right to apply, purpose of registration, distinctiveness, deception and confusion, division of the register, defensive regulations, certification marks, infringement, assignment, registered law agreement, the licensing and exploitation of marks, non-use and use by competitors.

Copyright: history of copyright protection, nature of copyright works in which copyright subsists, law of copyright, ownership, assignment, licensing, infringement in relation to different classes of works, relationship to breach of confidence and "protection of know how".

Recommended Reading

| | |
|---------------------------------------|--|
| Shanahan, M. | Australian Trade Mark Law and Practice, Law Book Co., 1982 |
| Blanco White, T.A. | Patents for Inventions and the Registration of Designs, Stevens |
| Heydon, J.D. | Economic Torts, 2nd Ed., Sweet & Maxwell |
| Kerly, D.M. | Trade Marks, Sweet & Maxwell |
| Copinger, W.A. & Skone, James E.P. | Copyright, Sweet & Maxwell |
| Lahore, J.C. & Griffith, P.B.C. | Copyright and the Arts in Australia, Melbourne University Press, 1974 |
| Blakeney, M.L. & McKeough, J. | Industrial Property, Commentary and Materials, Law Book Co., Syd, 1987 |
| Ricketson, S. | The Law of Intellectual Property, Law Book Co., Syd, 1984 |
| Lahore, J.C. | Intellectual Property in Australia, Butterworths |
| Laddie, H. Prescott, P. & Vitoria, M. | Modern Law of Copyright, Butterworths 1980 |
| Davison et al | Protection of Trade Secrets, Butterworths |
| Kearney, J. | The Action for Breach of Confidence in Australia, Legal Books, 1985 |

77012 Criminology

(Pre-requisite: 70212 Criminal Law)

The purpose of the course is to introduce students to a range of subjects, issues and theories within contemporary criminology. It is intended to be critical and skeptical. The course deals with the various theoretical explanations of crime, the role and effectiveness of prisons and alternatives to imprisonment and a number of selected topics of continuing importance in criminological debate. An attempt will be made to deal with particular theories in the context of a discussion of concrete issues and subjects. Teaching will be by way of seminar discussion of materials provided in advance. Everyone will be expected to take particular responsibility for preparing and introducing at least one class.

Reading

Unfortunately, there is no single text which satisfactorily covers the course. Below are some general texts which are in the library.

General Texts and Readers

- | | |
|-------------------------------------|--|
| Taylor, I.R. Walton, P. & Young J. | The New Criminology, 1973 |
| Fitzgerald, M. et al (eds.) | Crime and Society: Readings in History and Theory, 1981 |
| Downes, D. & Rock, P. | Understanding Deviance, 1982 |
| Vold, G. | Theoretical Criminology, 2nd Ed. 1979 |
| Chappell, D. & Wilson, P.(eds.) | The Australian Criminal Justice System, The Mid-1980's, Butterworths, 1986 |
| Wilson, P. | Delinquency in Australia, University of Queensland Press, 1977 |
| Wilson, P. & Braithwaite, J. (eds.) | Two Faces of Deviance, University of Queensland Press, 1978 |
| Bottomley A.K. | Criminology in Focus, Martin Robinson, 1979 |

77013 Commercial Arbitration

(Not currently offered)

77014 Law and Computers

(Pre-requisite: Stage 4.)

The course aims to introduce students to computers as they relate to the administration and practice of the law and to specific areas of the law as they relate to computers.

It is hoped that at the conclusion of the course students will be able to apply the law to computer related problems in a sensible manner and be able to make informed choices in relation to the adoption of computer technology into the practice of the law.

The primary materials to be used in the course are Christopher Miller's book "Legal Protection of Computer Programs and Data", Sweet and Maxwell, 1985 supplemented by issued materials covering the Australian jurisdictions. Materials are to contain excerpts from relevant legislation and cases as well as secondary material.

77015 Labour Law

(Pre-requisite: Stage 3)

The course is in two parts:

1. Individual aspects of the employment relationship: the formation, foundation and termination of the employment contract. Also examined is the intrusion into and the modification of the employment relationship by awards and various pieces of industrial welfare legislation.
2. Industrial health and safety: occupational health and safety legislation; the rights and liabilities of employers and employees under common law principles and legislation, together with a consideration of principles of workers compensation in New South Wales.

Texts

- Brooks, B. Contract of Employment, CCH, 3rd Ed., 1986
- Macken, J.J. et al The Law of Employment, 2nd. Ed.,
Law Book Co. 1984
- Davies, P. & Freedland, E. Labour Law: Text and Materials, London,
Wiedenield & Nicholson, 1979
- Freedland, M. The Contract of Employment,
Oxford, Clarendon Press, 1976
- Woods, G.D. & Stein, P.L. Harsh & Unconscionable Contracts of Work
in N.S.W. Law Book Co., 1972
- McCallum, R. & Tracey R. Cases and Materials on Industrial Law
Butterworths, 1980
- Thomson, D.C. Industrial Law Notes, 1983,
University of Sydney
- McCarry, G.J. A Digest of Industrial & Labour Law Cases,
Law Book Co., 1983
- CCH Australian Labour Law Reporter (looseleaf)
- CCH Australian Industrial Law Review (looseleaf)
- Creighton, W.B. et al Labour Law: Materials & Commentary,
Law Book Co., 1983
- Hall, P.M. Unconscionable Contracts & Economic
Duress, CCH, 1985
- Carroll J. Termination of Employment,
2nd Ed., CCH 1984
- Glass, H. et al The Liability of Employers in Damages for
Personal Injury, 2nd Ed., Law Book Co., 1978
- Gunningham, N. Safeguarding the Worker,
Law Book Company, 1984
- Merritt, A. Guidebook to Occupational Health and
Safety Laws, 2nd Ed., CCH
- Kaon-Cohen, B. et al Health & Safety at Work: A Review of
Current Issues, CCH 1980
- Marks, F. Workers Compensation Law and Practice in
N.S.W. 2nd Ed., 1987
- Mills, C.P. Workers Compensation (N.S.W.) 2nd Ed.,
Butterworths, 1979
- Munkman, J. Employers Liability at Common Law,
9th Ed., London, Butterworths, 1979
- Callaghan, R.W. Safety & Industry Laws, N.S.W. (looseleaf):
Factories & Shops Construction,
Butterworths
- CCH Torts Reporter (looseleaf)
- CCH Occupational Health & Safety Committees
Manual, 1984
- CCH Planning Occupational Safety & Health, 1983
- CCH Australasian Equal Opportunity Report
(looseleaf)

Legislation

Restraints of Trade Act, 1976
 Employment Protection Act, 1982
 Employee's Liability (Indemnification of Employers) Act, 1982
 Occupational Health & Safety Act, 1983
 Anti-Discrimination Act, 1977
 Workers Compensation Act, 1987
 Factories, Shops & Industries Act, 1962
 Construction Safety Act, 1912
 Contracts Review Act, 1980
 Industrial Arbitration Act, 1940
 Sex Discrimination Act (Comm) 1984

Commonwealth

Sex Discrimination Act, 1984

77016 Advanced Taxation Law

(not currently offered)

77017 Strata Titles

(Pre-requisite: Stage 4)

The objective of this subject is to introduce students to the law of Strata Titles – an area of the law which has undergone rapid expansion in recent years and which saw the introduction of new and complex legislation in New South Wales in 1973-74. Whilst the subject is principally designed to provide a general understanding of this area of the Law the intention is to present the subject in such a way as to maximise its relevance to the more common Strata Title areas of practice in particular to the sale and purchase of home units strata disputes and advice. The approach is intended to equip the students with the skills necessary to enable them to cope easily with Strata Title problems that may occur in general legal practice, whether such problems are directly related to conveyancing or to the broader spectrum of home unit living.

Subject Content

History of Flat Ownership

- General history
- Australian history
- Strata Titles distinguished from other titles

Development and title:

- various types of development
- local government requirements
- registration procedures
- lot and common property titles
- effect of strata on the principles of indefeasibility

Management:

- the body corporate, its corporate nature, powers, etc.
- application of ultra vires and other general law principles
- by laws
- rights and duties of proprietors and occupiers

- council members as fiduciaries
- managing agents

Disputes:

- Strata Titles Commissioner
- Strata Titles Boards
- jurisdiction of the Supreme Court
- offences and prosecutions

Conveyancing procedures:

- contractual and title aspects
- body corporate involvement
- rights of exclusive use and enjoyment

Comparative studies:

- other Australian legislation
- overseas legislation

Main Textbooks and References

- | | |
|---------------------------|---|
| Bugden, G.F. | New South Wales Strata Title Law and Practice, CCH Aust. Ltd. – Looseleaf. |
| Moses, N.J. & Tzannes, R. | Strata Titles, Law Book Co., 1978. |

In addition, students are required to work from up-to-date copies of the relevant legislation.

77019 Conciliation & Arbitration

(Pre-requisite: Stage 4)

This course aims to give students an understanding of our system of Industrial relations which is based on conciliation and arbitration. Topics for consideration include:-

- (a) the role of the High Court of Australia, Federal Court of Australia, Australian Conciliation and Arbitration Commission and the Industrial Commission of New South Wales in our industrial relations system;
- (b) limitations imposed by the Australian Constitution on Industrial relations;
- (c) the contents of, the parties to, the ambit of, and the enforcement of Federal Awards;
- (d) other ways of regulating industrial relations
- (e) proposals for reform

Textbooks

- | | |
|---------------------------|---|
| MacCallum & Tracey R.R.S. | Cases and Materials on Industrial Law in Australia, Butterworths, 1980 |
| CCH | Guidebook to Industrial Law, 4th Ed., CCH |

77021 Law of Trade Unions

(Pre-requisite: Stage 3)

This course treats the legal framework which regulates contemporary Australian unions – both their external activities and in their internal affairs. The topics discussed include the legal status of unions, the constitutional limits to

federal power, in this area the arbitration system and its controls over union activities, the rights of unionists, the protection of unions and the legal regulation of industrial conflict.

Texts

To be advised in class.

77022 Law of Insurance

(Pre-requisite: Stage 4)

This subject concentrates on a study of the general principles of insurance law, and it is not intended to examine the special rules governing each type of insurance contract. After the nature of the contract of insurance is noted, key concepts will be dealt with: insurable interest, indemnity and subrogation, risk, non-disclosure, misrepresentation, conditions, warranties, premium. Subsidiary matters, such as assignment of policies, liens and reinsurance, may be included. The role of intermediaries in the formation of contracts of insurance will be examined. The subject will thus focus on the legal rights and liabilities of parties to an insurance contract in the context of common law principles and statutory modification. In addition, consideration will be given to the regulatory framework within which the insurance industry operates.

Prescribed Material and Booklist

| | |
|---|--|
| Australian Law Reform Commission | Insurance Contracts, (Report No. 20), 1982 |
| Australian Law Reform Commission CCH | Insurance Agents & Brokers, (Report No. 16), 1980 Australian and New Zealand Insurance Reporter |
| Joske, P. | Insurance Law in Australia and New Zealand, Butterworths, 1975 |
| Sutton, K. | Insurance Law in Australia and New Zealand, Law Book Co., 1980 |
| Tarr, A.A. | Australian Insurance Law Law Book Co., 1987 |
| Marks and Balla | Insurance Law in Australia and New Zealand, CCH, 2nd Ed., 1987 |
| Colinvaux, R. | The Law of Insurance, Sweet & Maxwell, 5th Ed., 1984 |
| MacGillivray, E.J. & Parkington, M. | Insurance Law & Practice, Sweet & Maxwell, 7th Ed., 1981 |
| Appleman, J. | Insurance Law & Practice, West Publishing Co. |
| Keeton, R.E. | Insurance Law – Basic Text, West Publishing Co., 1971 |
| Vance, W.R. | Handbook on the Law of Insurance, West Publishing Co., 1952 |
| Baer, M.G. Rendall J.A. & Snow H. | Cases on the Canadian Law of Insurance, Carswell Co., 1978 |
| Wickens, P. | The Law of Life Insurance in Australia, Law Book Co., 5th Ed., 1979 |

77023 Consumer Protection Law

(Pre-requisite: Stage 4)

The following topics are considered:-

1. Consumerism
2. What is meant by "Consumer"
3. Constitutional Limitations
4. The Contract of Supply, including unjust contracts and the liability of the Supplier.
5. Product Liability including Manufacturer's Liability and the prescription of standards.
6. Deceptive Practices
7. Consumer Remedies and Misleading Advertising
8. Consumer Credit

Texts

Pengilley, W. and Ransom, A. Federal Deceptive Practices and Misleading Advertising Law, Legal Books 1987

Reference

- Goldring, J. & Maher, L.W. Consumer Protection Law in Australia, 3rd Ed., (1987) Butterworths, Sydney
- Miller, R.V. Annotated Trade Practices Act, latest edition, LBC.
- Tapperell, G.Q., & Vermeesch, R.B. & Harland, D.J. Trade Practices and Consumer Protection, 3rd Ed., Butterworths, Syd., 1983
- C.C.H. Australian Consumer Sales and Credit Law Reporter; Australian Trade Practices Reporter
- Sutton, K. Sales and Consumer Law in Australia and New Zealand LBC (3rd Ed.,) 1983

77024 Environmental Law

(Pre-requisite: Stage 4)

The environmental law course provides a comprehensive guide to the major statutory and common law controls over the use of land and of pollution. The aim of the course is to introduce students to those areas of law which are usually or occasionally encountered when development is proposed or opposed. Thus, students will be introduced to the environmental licenses and approvals required, and the procedures and problems which may be encountered for developments such as: aluminium smelters, coal mines, residential flats, forestry, industrial developments, uranium mining, developments on public land (say, by the Maritime Services Board, Elcom, State Rail Authority, etc) and so on. Heritage legislation will also be addressed.

In addition, the course covers the jurisdictions of the Supreme Court, Land and Environment Court and Magistrates Court. The choices between these courts **whether** for a developer, council, citizen or other body will be discussed and a brief glance will be given to the differing practices and procedures of these courts. These are matters with which legal practitioners and many other people in NSW are becoming increasingly involved.

Prescribed Material:

There is a recent text (1983), *Environmental Law in Australia* (Bates) which provides a new and useful foundation for study of this growing area of law. There is a detailed course outline with detailed references and a series of class notes.

77026 Local Government

(Pre-requisite: Stage 4)

This subject deals with the functions, powers and duties of local government authorities and covers the following topics:

1. Councils –
 - Members of Council
 - Council Servants
 - Council Meetings
 - Council powers
 - Enforcement of local government and planning laws
2. Control of local government authorities –
 - Administrative review
 - Judicial review
 - Common Law actions against councils and their employees
3. Finance –
 - Rates
 - Valuation of land
4. Acquisition of land
5. Land use control –
 - Land use planning
 - Development control
6. Building regulation
7. Subdivision

Reference material

- Whitmore, H. *Local Government and Environmental Planning Law in N.S.W.* Law Book Co. 1981
- Wilcox, M. *The Law of Land Development in New South Wales*, Law Book Co. 1967
- Butterworths, *Local Government Planning and Environment Service*.
 Law Book Co *Local Government Law and Practice*.
 Local Government Act, 1919
 Environmental Planning and Assessment Act, 1979.
 Land and Environment Court Act, 1979
 Valuation of Land Act, 1916

77027 Trade Practices Law

(Pre-requisite: Stage 4)

Topics covered in the course are as follows:-

1. Introduction
2. Constitutional Issues
3. Monopolisation
4. Mergers

5. Secondary Boycotts
6. Extraterritoriality
7. Protection of Industry And Competitive Agreements
8. Exclusive Dealing
9. Price Discrimination
10. Resale Price Maintenance

Texts and References

Australian Trade Practices Legislation, 6th Ed., m CCH 1982

Australian Trade Practices Reporter, Sydney, CCH, 1980*

Australian Trade Practices Reports, Sydney, CCH.

Donald, B.G. & Heydon, J.D. Trade Practices Law: Restrictive Trade Practices, Deceptive Conduct, and Consumer Protection. 2 volumes, Sydney, Law Book Co., latest edition.

CCH Guidebook to Australian Trade Practices Law, 2nd Ed., Sydney, CCH, 1979

Miller, R.V. Annotated Trade Practices Act, 1974, Sydney, LBC, latest edition.

Neale, A.D. & Goyder, D.G. The Antitrust Laws of the USA, 3rd Ed., Cambridge, Cambridge University Press, 1980

Tapperell, G.Q. & Vermeesch, R.B. & Harland, D.J. Trade Practices and Consumer Protection, Sydney, Butterworths, latest edition.

Trade Practices and Consumer Protection Service, Sydney, Butterworths, 1978*

Trade Practices Cases, and Commission Decisions, Sydney, Butterworths, 1977*

Trade Practices Reporting Service, Sydney, Law Book Company, 1976** (looseleaf)

77028 Advanced Company Law

(Pre-requisite: Stage 4)

This subject will cover the following topics.

- A. **Equity Finances** (8 Classes)
 1. Introduction: Purposive Interpretation
 2. Share Capital and Membership
 3. Altering Share Capital
 4. A Company's acquisition of its own shares
 5. Financial assistance by a Company in the acquisition of its own Shares
 6. Classes of Shares
 7. Dividends
 8. Public offerings
- B. **Debt Finance** (8 Classes)
 9. Debentures
 10. Secured indebtedness
 11. Priorities
 12. Remedies available to security holders

C. **Takeovers/Mergers and Acquisitions** (5 Classes)

13. Takeovers code/Defences/Foreign Takeovers Act
14. Corporate Disclosure

D. **Securities Market** (5 Classes)

15. The Regulator
16. The Regulated and the Means of Regulation
17. Futures

Text

Ford, H.A.J. Principles of the Company Law, 4th Ed.,
Butterworths 1988

Legislation

Australian National Companies and Securities Legislation (CCH)
or Butterworths

77029 Land Dealings

(Pre-requisite: Stage 5)

The subject "Land Law" concentrates on the law which underpins the practice of conveyancing. It also provides a substantial introduction to the major topics of modern Land Law.

Skills 3 provides an introduction to the procedures for the sale and purchase of Torrens System land. It also deals with some of the law underlying the standard contract for the sale of land.

Land Dealings will cover in greater depth the law relating to contracts, the practice of conveyancing and procedures for the sale of land principally under the Real Property Act.

It will also involve a detailed study of Leases and Tenancies, Mortgages and further study of a number of topics which are only generally dealt with in Land Law and Skills 3, including Options, Powers of Attorney, detailed consideration of the Conveyancing Act, 1919 etc.

Book List

Lang, A.G. & Everett, D. Land Dealings and Conveyancing Casebook
(N.S.W.) Butterworths, 1979

Updated notes to the above edition.

There are a number of recent publications applicable to this subject to which students will be referred in class.

77031 Law & Society

(Pre-requisite: Stage 3)

This course is an external view of our legal tradition that attempts to place some of this tradition within its historical/social context. The material discussed is of three types. First is the topic of the "Rule of Law" (what it means, its connection with 19th Century political theory and to such notions as "individualism" and "formalism"; developments within contract and tort law as examples of this model; criticisms of the "rule of Law" and whether there is a breakdown and crisis for the "Rule of Law" as a model for contemporary law.)

Second are some standard topics of the sociology of law such as the social limits of law, legal anthropology and courts. Third is a (brief) discussion of social theory and law as treated within Marxism and by Weber.

Texts

To be advised in class.

77032 Legal Ethics & Trust Accounts

(Not currently offered)

77033 Advanced Constitutional Law

(Not currently offered)

77034 International Business Transactions

(Pre-requisite: Stage 4)

77034 International Business Transactions

(Pre-requisite: Stage 4)

The aim of this subject is first, to present an overview of the legal environment affecting persons engaged in international business with some connection with Australia, and secondly, to examine in detail selected major aspects of international business transactions.

Topics

1. Introduction
2. International Trade Law
3. International Transport of Goods
4. Exchange Control and International Finance Law
5. Taxation of International Business Transactions
6. Foreign Investment Law, including Foreign Takeovers
7. Extraterritoriality
8. International Business Contracts
9. Dispute Settlement.

References and Texts

| | |
|------------------------|---|
| Flint, D. | Foreign Investment Law of Australia, Law Book Company of Australia, Sydney, 1983 |
| Nygh, P. | Conflict of Laws in Australia, Butterworths, Sydney (latest edition). |
| O'Keefe & Tedeschi, M. | The Law of International Business in Australia, Butterworths, Sydney, 1980 |
| Schmitthoff, C. | The Law and Practice of International Trade, Stevens. London (latest edition). |
| CCH | Australian International Tax Agents. Income Tax International Agents Act 1953 |

77035 European Community Law

(Not currently offered)

77036 Law & The Arts

Not currently offered)

77037 Advanced Criminal Law

(Not currently offered)

77038 Energy & Natural Resources Law

(Not currently offered)

77039 Jessup International Moot

(Pre-requisite: 70700 Skills 7; 71001 Skills 10)

The aim of this optional subject is to permit and encourage participation in the Jessup International Moot.

This moot was founded in the United States in 1962 by the American Society of International Law and is named in honour of Professor P.C. Jessup, Professor of International Law and Diplomacy at Columbia, and judge of the International Court of Justice 1960-1969. The moot is now organised by the Association of Student International Law Societies which operates under the auspices of the American Society of International Law in Washington. The competition is held annually in two divisions, one the U.S. domestic division in which more than 100 United States law schools participate and the International division in which regional eliminations are held in approximately twenty five to thirty countries. Winners of two divisions compete in a grand final held each year in Washington for the Jessup Cup. The moot is probably the most prestigious of International moots. Australia first entered the competition in 1977 and the University first entered a team in 1983.

The work load involved is particularly demanding; the problems circulated are on complex and current issues of International law. Detailed research into both International and Comparative law is essential to prepare complex pleadings for both sides with a maximum size prescribed. Equally arduous are the moots themselves, particularly where the bench interrogates the advocates, which is the custom. The work involved is certainly no less than that for a large research project. The form of assessment is arduous. The memorials are assessed by memorial judges, usually, distinguished teachers of International law who do not sit in the round, and there are at least two separate assessments by benches. The bench will typically consist of law teachers, practitioners and judges.

Assessment will be based on –

- (a) performance in preliminary moots held with the faculty
- (b) an oral examination of each candidate held within the faculty
- (c) an assessment of advocacy, if any, in the Jessup Moot, and
- (d) an assessment based on the assessment by the memorial judges of the team's written work.

Because of the rules of the Jessup Moot, no assessment will be available until after the conclusion of the Australian finals of the Jessup Moot in each and every year.

77041 Communications Law

(Prerequisite: Stage 6)

Communications Law calls on a range of practical legal skills and a basic understanding of telecommunications technology.

The skills are not only of immediate relevance to those interested in public, national or commercial broadcasting.

From the licensing of commercial broadcasters and telecasters the tracing provisions of the Broadcasting Act 1942 reach through the Australian commercial community. When they apply, commercial arrangements must be carefully structured. Much practical communications law, where it is not concerned with questions of public policy, accountability, and roles and functions of national and public bodies, is concerned with the legal construction and efficiency of commercial arrangements within the confines of a quite rigorous regulatory framework. Comparison will also be made with relevant aspects of print communications.

Communications Law is a valuable study in its own right because of its very eclecticism. In one sense it can be seen as an amalgam of administrative, commercial, company and trust law with a little leavening torts and contracts. However, it is in the successful amalgam of these disciplines – in the context of new technologies and often considerable investment – that the skill of a lawyer resides.

The syllabus includes the following:

1. Telecommunication – what it is and who has control over it.
2. Regulation of telecommunications between individuals.
3. Mass telecommunications, including Broadcasting and Television Act 1942, Australian Broadcasting Corporation Act, 1983: –
 - Regulatory framework and planning
 - Australian Broadcasting Tribunal
 - Commercial broadcasting and television
 - Ownership and control of commercial licensees.

Tracing and quantification of interests in and “control” over commercial licensees.

Effects of ownership and control provisions on proximate and remote commercial arrangements.

- Licences and Inquiries
 - Programming and advertising
 - New developments – e.g. satellite
 - Self regulation and codes of conduct
 - Australian Broadcasting Corporation
 - Special Broadcasting Service
 - Public broadcasting.
4. Print communications – Press Council.
 5. Journalism ethics – Australian Journalists’ Association Code of Ethics. Protection of journalist sources.
 6. Contempts – of Parliament, of Court.
 7. Defamation.

Legislation, etc.:

Broadcasting Act 1942
 Australian Broadcasting Corporation Act 1983
 Radio Communications Act 1983
 Overseas Telecommunications Act 1946
 Telecommunications Act 1975
 Telecommunications (General) By-laws
 Satellite Communications Act 1984

References

- | | |
|---|---|
| Armstrong, M. | Broadcasting Law & Policy in Australia, Butterworths, 1982 or 2nd Ed. if published |
| Armstrong, M., Blakeney, M. & Wattersson, R. | Media Law In Australia, Oxford, 1983 |
| Barnes, S. & Blakeney, M. | Advertising Regulation, Law Book Co., 1982 |
| Ford, H.A.J. | Principles of Company Law, 4th Ed., Butterworths, 1986 |
| Meagher, R.P., Gummow, W.M.C. & Lehane, J.R.F. | Equity, Doctrines and Remedies, 3rd Ed., 1984 |

77042 Commercial Crime

(Prerequisite: 71211 Law of Evidence)

The subject aims to provide a detailed knowledge of those aspects of the criminal law involved in the investigation of prosecution of commercial crime in New South Wales and other States. Commercial crime refers to what has become commonly known as white collar crime, its main characteristics being that it tends to be the preserve of higher income earners, and is committed against purely economic interests without any accompaniment of violence against the person. It includes corporate crime, i.e. crimes involving companies and their officers, which are generally investigated in the first instance by the Corporate Affairs Commission or the Fraud Squad. the student will be given a practical, information-oriented insight into the investigation and prosecution of offences in this area.

The syllabus includes the following:

1. Introduction to commercial crime. The nature of companies and corporate crime will be discussed, as well as the sources of criminal law most relevant to commercial crime.
2. Duties of a company director as fiduciary agent to the company; effect of section 229, Companies Code.
3. Selected provisions of the Crimes Act, 1900 (N.S.W.); sections 173, 174, 175, 176, 177, 178A, 178BA, 178BB, 178C, 179, 180. Forgery will also be dealt with.
4. Examination of the most common element in commercial criminal offences, the intent to defraud (a particular mens rea).
5. Documentary evidence. The technical rules governing the admissibility of bankers' and business records in criminal trials will be considered.
6. Special investigations and the privilege against self-incrimination. The provisions relating to special investigations under the Companies and Securities Industry codes, together with the privilege against self-incrimination, will be studied.
7. Offences under the Companies and Securities Industry Codes. As regards the Companies Code, the more serious offences thereunder will be analysed (together with prospectus offences), and where appropriate compared to their Crimes Act alternatives. As regards the Securities Industry Code, the trading offences will be examined.

8. Miscellaneous commercial crimes. Included here for study will be social security frauds, Medibank frauds, credit card frauds, bribery and secret commissions, insurance frauds, industrial espionage.
9. Current areas of controversy and reform.

Text and References

Teaching will proceed by examination of statutory and common law offences, essentially requiring the reading of statutes, cases and articles. While there is no adequate textbook as such, the following will be useful as reference materials:

Companies and Securities Codes

| | |
|---------------------------------|--|
| Archbold's | Pleading, Evidence and Practice in Criminal Cases, Sweet and Maxwell, 41st Ed., 1982 |
| Berquai, A. | Organised Crime: The Fifth Estate, Lexington Books, 1979 |
| Gillies, P. | The Law of Criminal Conspiracy, Law Book Co., 1981 |
| Meier, R.F. (with Geis, G.) | White Collar Crime: Offences in Business, Politics and the Professions, Free Press, 1977 |
| Harrison, W.R. | Suspect Documents: their Scientific Examination, Sweet and Maxwell, 1958 |
| Johnson, D.L. | Canadian Securities Regulation, Butterworths, 1977 |
| Lewis's | Australian Bankruptcy Law (with Supplement), Law Book Co., 7th Ed., 1978 |
| Purvis, R.N. | Corporate Crime: A Consideration of Crime, Corporations and Commercial Morality in Australia, Butterworths, 1979 |
| Rider, B.A.K. & French, H.L. | The Regulation of Insider Trading, Macmillan, 1979 |
| Watson, R. & Purnell, H. | Criminal Law in New South Wales, Law Book Co. (looseleaf) |
| Weinberg, M.S. & Williams, C.R. | The Australian Law of Theft, Law Book Co., 1977. |

Note: There is to be the introduction of the following options in 1989;

77043 Advanced Family Law

77044 Law and Medicine

77045 Women and the Law

THE RESEARCH PROJECT

Students may complete a Research project as an optional subject. There are five research project subjects to choose from, ranging from one to five semester hours in length. The Research Project subjects are –

- 77010 Research Project 1 – 1 semester hour
- 77020 Research Project 2 – 2 semester hours
- 77030 Research Project 3 – 3 semester hours
- 77040 Research Project 4 – 4 semester hours
- 77050 Research Project 5 – 5 semester hours

The aim of the research projects is to further develop the students research skills and students are required to demonstrate:

- (a) a high level of understanding of the law relevant to the topic
- (b) the capacity to research and analyse legal material
- (c) the ability to use research tools and skills
- (d) the ability to present the results of the research in a coherent and comprehensive form.

Students who hope to graduate with honours must complete either Research Project 4 or Research Project 5 and the results will be taken into account in calculating the “honour mark” (see the Honours Rules).

Experience shows that most students require two semesters to complete and research projects and are therefore advised to commence work and submit a proposal at least twelve (12) months before anticipated completion of the law course.

Students must obtain the co-ordinator’s signed approval of their research project topic before they may enrol in the subject.

The research project rules are reproduced in this handbook and students considering enrolment in a research project should obtain a copy of Research Projects guidelines from General Papers.

RULES OF THE FACULTY OF LAW

Research Project Rules

1. The rules apply to the following optional subjects:
 - 77010 Research Project 1 – 1 semester hour
 - 77020 Research Project 2 – 2 semester hours
 - 77030 Research Project 3 – 3 semester hours
 - 77040 Research Project 4 – 4 semester hours
 - 77050 Research Project 5 – 5 semester hours
2. A student undertaking a research project is required to demonstrate:
 - (a) a high level of understanding of the law relevant to the topic
 - (b) the capacity to research and analyse legal material
 - (c) the ability to use research tools and skills
 - (d) the ability to present the results of the research in a coherent and comprehensive form.
3. A student shall not complete more than one research project.

4. Assessment is based on a dissertation to be submitted by students which will normally be expected to lie within the following range:

| | |
|--------------------|-----------------------|
| Research Project 5 | 19,000 – 25,000 words |
| Research Project 4 | 15,000 – 20,000 words |
| Research Project 3 | 12,000 – 15,000 words |
| Research Project 2 | 8,000 – 10,000 words |
| Research Project 1 | 4,000 – 5,000 words |
5. Where research related to a research project has been done for an other purpose either in the Faculty of Law or elsewhere, full disclosure of that prior research must be made at the time the topic is submitted for approval. If the topic is approved notwithstanding such prior research then that research shall not form part of the work completed for the research project and shall be excluded from the final assessment. The student shall provide further information concerning that research as may be requested by the supervisor, the examiners or the Subject Co-ordinator.
6. The examiners of a Research Project may require the student to undergo a viva examination in which case the viva shall form part of the assessment of the subject.
7. The Faculty Board in Law has ultimate control over all aspects of research projects. Any student, the subject co-ordinator and the Head of School has the right to approach the Board on any issue arising out of these Rules, a research project or assessment.
8. There shall be a Subject Co-ordinator for Research Projects who shall be appointed at the first Faculty Board in Law each year and shall hold office until the first Faculty Board the following year. During the absence of the Subject Co-ordinator, the Sub-Dean or Head of School may act in his or her stead.
9. A student may enrol in a Research Project only if that student has
 - (a) successfully completed State 6; and
 - (b) successfully completed any core subjects or optional law subject relevant to the topic.
10. A student wishing to undertake a research project shall submit a written proposal to the Subject Co-ordinator on the form available from General Papers. The Proposal shall include the names of the topic of the proposed research project and of the supervisor. Copies of these proposals shall be circulated by the Subject Co-ordinator to all members of the Faculty's full time academic staff and, if no objections to the application is received by the Subject Co-ordinator within seven (7) days of such circulation, the Co-ordinator may approve the application, including the topic and the supervisor. Approval must be granted before enrolment can be made.
11. If the Subject Co-ordinator does not approve the application it shall be submitted to the next meeting of the Faculty Board which may approve the application on such terms as it thinks fit, or disapprove the application.
12. A student is required to enrol in the Research Project subject no later than the beginning of the semester following that in which the Subject Co-ordinator or the Faculty Board approved the proposed research project.
13. Supervisors have the day to day control and supervision of research projects and students are required to meet with their supervisors regularly.

14. A research project shall normally be taken over one semester and the dissertation shall be lodged with the Subject Co-ordinator not later than 5.00 p.m. on the Friday of the eighteenth (18) week of the semester.
15. The Head of School may, after consultation with a student's supervisor and the Subject Co-ordinator, grant the student an extension of time for the submission of the dissertation or permit the subject to extend over more than one semester.

The dissertation must comply with the following format rules:

 - (a) The two copies of the dissertation shall be presented. One of these copies will be returned to the student after examination.
 - (b) The dissertation shall be written in English in good quality typescript on one side of the paper only. In the body of the dissertation, one and one-half spacing is preferred, but double spacing is permissible. Single spacing may only be used for appendices, footnotes and quotations.
 - (c) The paper used shall be good quality medium weight white stock, sufficiently opaque for normal reading.
 - (d) the size of the paper shall be I.S.O. A4 (297mm x 210mm).
 - (e) The margins on each sheet shall be not less than 40mm on the left hand side, and 20mm on the right hand side, top and bottom.
 - (f) The dissertation shall be accompanied by an abstract of not more than 400 words.
 - (g) Both copies of the dissertation shall be presented in a permanent and legible form and if not bound, then suitable for future binding.
 - (h) Each copy of the dissertation shall be enclosed in a stiff cover.
16. There shall be two examiners of each research project, one of whom shall be the supervisor and the other shall be appointed by the Faculty Board in Law. If there are any unresolved differences of opinion on any matter relevant to a student's assessment such differences shall be resolved by an umpire appointed by the Head of School of Law.
17. Prior to final assessment of a research project the examiners may require the students to rewrite and resubmit the dissertation in whole or in part and in such a case the examiners shall provide details of the parts of the dissertation that require amendment, and their reasons for requiring such amendment. When a student is required to rewrite and resubmit the dissertation that student shall be permitted to extend the subject over two semesters and shall re-enrol in the subject for a second semester.

HONOURS RULES

1. Definitions

- 1.1 In these Rules:
'subject' means any Law subject other than a Skills course;
and 'course' means a Skills course.

2. Awards

- 2.1 Awards of the degree shall be classified as follows:
(a) degree (with First Class Honours);
(b) degree (with Second Class Honours); and
(c) degree.
- 2.2 Award of the degree with Second Class Honours shall not be graded.

3. Requirements of Honours

- 3.1 To qualify for an award of the degree with Honours a student shall:
- (a) successfully complete not less than 72 semester hours of subjects and courses (including not less than 8 hours of courses) within Faculty of Law;
 - (b) successfully complete either the subject 77040 Research Project 4 or 77050 Research Project 5;
 - (c) obtain an Honours mark calculated in accordance with Rule 5 hereof, of or above that prescribed herein, namely,
 - (i) for First Class Honours 75%
 - (ii) for Second Class Honours 67.5%
- 3.2 In exceptional circumstances the Faculty Board in Law may modify or dispense with the requirements of Rule 3.1(a).

4. Effect of Failure

- 4.1 Subject to Rules 4.2 and 6 hereof, a student shall not be awarded the degree with Honours if he or she fails any subject or course.
- 4.2 In exceptional circumstances, and in particular if failure in a subject or course is occasioned by a student's illness or other personal difficulties beyond the student's control, the Faculty Board in Law may award the degree with Honours notwithstanding any such failure.

5. Calculation of Honours Marks

- 5.1 No marks awarded in courses shall be taken into account when assessing a student's Honours mark.
- 5.2 In the calculation of Honours marks, "Total Subject Mark" means in relation to a student the sum of the 14 highest marks obtained by that student in subjects.
- 5.3 A student's Honours mark shall, subject to Rule 5.4, be obtained by application of the following formula, namely,

$$\frac{\text{Total Subject Mark}}{14} \%$$

14

- 5.4 A student's Total Subject Mark shall include the mark obtained by that student in the subject "Research Project" notwithstanding that such mark would not otherwise be included in the Total Subject Mark.

6. **Relation of State 1 to Honours**

- 6.1 Any failure or failures in subjects or courses prescribed for Stage 1 of the programme for the degree of Bachelor of Laws shall be disregarded for all purposes and shall in no way operate to preclude a student under Rule 4.1 from being awarded the degree with Honours.

RULES FOR SUMMER PROGRAMME IN LAW

1. **Time**

The Summer Programme in Law will consist of eight teaching weeks to be held over the nine week period terminating immediately prior to the commencement of teaching for re-enrolling students in Autumn Semester in each and every year, provided that no teaching will be offered during the week between Christmas Day and New Year's Day.

2. **Enrolment**

- 2.1 A student may make application by the end of the second tutorial week of the Spring Semester prior to the Summer Programme in Law to the Head of School for enrolment in no more than one subject in the Summer Programme in Law.

Provided that the Head of School may where a student is in the opinion of the Head of School performing at an exceptional level and appears to have sufficient time to undertake more than one subject permit that student to undertake no more than two subjects with a maximum equivalent of five semester hours.

- 2.2 The Head of School may approve an application for enrolment if the Head is satisfied that the student's previous academic performance is satisfactory. Without prejudice to the provisions of Rule 2.3, a student's previous academic performance will normally be regarded as not satisfactory where the student's WAM in the preceding Autumn Semester is less than 55.

- 2.2.1 A student may request and be granted a review of any refusal of enrolment by the Head of School. The review will be conducted by a committee nominated by the Head of School and approved by the Faculty Board.

- 2.3 Approval of enrolment shall be at the Head of School's discretion and shall be conditional upon the student passing any prerequisite prior to the commencement of the Summer Programme and upon there being sufficient places in the Summer Programme available and the student passing all subjects in which the student is enrolled in the Spring Semester immediately prior to the Summer Programme.

- 2.4 A student may withdraw from the Summer Programme by notice in writing to the Head of School by the end of the fourth week of the Summer Programme in each and every year or, with the approval of the Head of School, at a later date.

3. The Head of School may from time to time determine maximum and minimum sizes of classes for each subject offered in the Summer Programme. In the event that the minimum size is not reached in a subject the Head of School may cancel that subject.
 - 3.1 The Head of School shall forward all approved enrolments to the Registrar prior to the commencement of the Summer Programme.
 - 3.2 The Registrar shall treat applications and notices received under the preceding paragraph as well as examination results approved by the Faculty Board in Law as if they related to subjects taught and assessed in the Autumn Semester immediately following the Summer Programme.
 - 3.2.1 The Registrar shall provide normal administrative support for the Summer Programme.
 - 3.2.2 The Faculty of Law shall provide the teaching and assessment required for the Summer Programme.
 - 3.2.3 The Bursar shall arrange appropriate insurance if necessary and normal administrative support for the Summer Programme both in respect to staff and students.
 - 3.2.4 Library support as may be possible will be arranged by negotiation between the Dean of the Faculty of Law and the Head of the Information Resources Service.

4. **Subjects**

- 4.1 Only optional and skill subjects offered by the Faculty of Law may be included in the Summer Programme and then only upon application by the proposed lecturer in that subject to, and approval by, the Faculty Board in Law, provided that where the nature and content of the subject permits, the subject is also offered in the academic year preceding or following the Summer Programme.

The Faculty Board in Law, in granting approval for the inclusion of any subject in the Summer Programme may in accordance with this rule indicate that the subject has not been offered in the academic years preceding the Summer Programme and cannot be offered in the academic year following the Summer Programme.
- 4.2 The Dean or Head of School shall grant by agreement with the lecturer participating in any subject in the Summer Programme in Law full credit for such participation against his or her teaching commitment in a subsequent semester or semesters, but these credits may not be accumulated beyond four semesters. Such credit shall be confirmed in writing immediately after approval is granted for the inclusion of the Subject in the Summer Programme by the Faculty Board in Law. The commitment to teach the subject shall also be confirmed in writing.
- 4.3 The Faculty Board in Law may grant approval for the inclusion of any subject in the Summer Programme only on the application of the proposed lecturer with the support of his or her Head of School and only on being satisfied that there are adequate library facilities.
- 4.4 Upon a subject being approved by the Faculty Board in Law the Head of School shall give notice to the Registrar of the Faculty's requirements for the teaching of the subject.
- 4.5 The number of semester hours, of teaching hours, and the assessment given in a subject included in the Summer Programme in Law shall be equivalent to the offering of that subject in the Autumn or Spring Semesters of the University.

STUDENT INFORMATION

Student Information Office

The Student Information Office is located on Level 3A of the Tower Building at Broadway and should be used as the first point of contact for all enquiries regarding the University. Course information and student forms are available at the Office.

The Office is open from 8.30 a.m. – 6.00 p.m. Monday to Friday.
Telephone: 20930 Exts. 9071 or 9072.

Student Counselling

- (a) **Students with disabilities:** It is University policy to promote access for people with physical disabilities and to provide support to students throughout their time here. Such students are encouraged to contact the following staff members and to discuss any special needs they may have:
Mrs. Alexis Goh, Law Faculty Liaison Officer, Room B215, Markets Campus (Telephone 218 9700)
Ms. Marie Flood, Special Needs Co-ordinator, Student Services, Building 1, Level 3, Broadway Campus (Telephone 218 9262)
Ms. Philippa Davis, Library Services to Disabled Co-ordinator, Library, Markets Campus (Telephone 218 9825)
- (b) **INPUTS Special Admission Scheme:** All students accepted as part of the INPUTS Special Admission Scheme, on the basis of educational disadvantage are advised to contact Mrs. Alex Goh, Law Faculty Liaison Officer, Room B215, Markets Campus (Telephone 218 9700) or Ms. Marie Flood, Special Needs Co-ordinator, Student Services, Building 1, Level 3, Broadway Campus (Telephone 218 9262) and ensure they find out about services which are available to support them.
- (c) **Language, financial and other problems:** Generally, students may contact the Student Counsellors who are located at Building 1, Broadway Campus (Telephone 20930 ext 9147) if they have problems of a personal, study or administrative nature which are likely to affect a student's progress. Discussions are treated with complete confidentiality. More particularly, students with a language problem may contact Ms. Elizabeth Ginsberg, Studies Skills Counsellor, Student Services, Building 1, Level 3, Broadway Campus (Telephone 218 9147) and students with a financial problem may contact Ms. Geraldine Ray, Student Services, Building 1, Level 3, Broadway Campus (Telephone 218 9145).

Student Health Service

A free medical service is available to students of the University. Dr Lesley Peters has a surgery on Level 3A at the Tower Building, Broadway, which is open 9.00 a.m. – 5.30 p.m. Monday to Thursday and 9.00 a.m. – 12.30 p.m. Friday. Appointments can be made either by contacting the Student Information Office or by calling 20930 ext. 9554.

Notices

Official University notices are displayed on the notice boards, Level 1 of the Faculty and students are required to be acquainted with the contents of those announcements which concern them. Misreading or misunderstanding of official information will not be accepted as a reason for a student being unaware of matters so notified.

Parking

Parking arrangements at the new Markets 3 campus are yet to be finalised. The University Car Park in Quay Street opposite the Library, may have limited parking space available for students after 3.00 p.m. Kings car parks and the Apple car park offer discounted student parking.

Law Students' Society

The Law Students' Society is a voluntary association of law students. The Society's objectives, as stated in its Constitution, are as follows:

- (a) To represent its members in all matters affecting their interests;
- (b) To promote the social and intellectual life of the Society;
- (c) To promote and enhance the general well being of members;
- (d) To afford a recognised means of communication between the Society and other law associated bodies.

The Society is governed by a Council of twelve student members, elected at the Society's Annual General Meeting in the Autumn semester each year. The Council elects the executive. The Council meets on a monthly basis during each semester.

A primary function of the Society is to provide representation for its members in matters affecting their welfare as students. Membership is available to all students enrolled with the Faculty of Law, for a nominal membership fee. Membership fees are set annually by Council – currently \$7.00 p.a.

Social activities are organised on a regular basis, and admission at discounted prices is available to members. These functions provide a means whereby students can discuss the course and their problems in a relaxed atmosphere. A feeling of isolation is common among part-time students, and the society encourages its members to discuss their problems with their fellows or celebrate the successful finish of a semester at the Annual Law Students' Ball in June and the Law Harbour Cruise in December.

Workshops for new students have been conducted by the Society each Semester, and it is planned to continue this activity. Many students have found these workshops worthwhile.

The Society is often requested to provide students' views on matters related to the course. Any student wishing to discuss any matter, or who seeks the assistance of the Society, should contact a Council member. A list of Council Members and their telephone numbers appears on the Society's notice board on Level 1 of the Faculty on the wall outside the Law Students' Society room, B111.

Details of activities and functions, and other matters of interest to members, are displayed on the Society's notice board, and students should inspect the notice board on a regular basis.

From 1987 Justice Mary Gaudron of the High Court of Australia has agreed to be one of two patrons, the other being Professor David Flint, Dean and Head of School of the Faculty of Law. With their encouragement, the Society will endeavour to continue to serve its members and our Faculty.

All law students are encouraged to join the Law Students' Society, and to participate in its activities.

School Assembly

A School Assembly is called in each semester by the Law Faculty. All students are requested to attend the assembly where discussion of matters of student interest take place. The Law Students' Society president is normally in the chair.

Prizes

The following is a list of prizes awarded for the LL.B. degree. These prizes may be awarded each semester but will only be awarded if there is a candidate who reaches a level of academic achievement acceptable to the Faculty Board in Law.

| DONOR/NAME OF PRIZE | VALUE | AWARDED FOR |
|---|---------------------|---|
| The Dean's Prize | \$100 & Certificate | The highest WAM in Stages 1-6 of the course for each semester |
| The Law Society of New South Wales | \$100 | Proficiency in Skills Seminar 3 |
| Corporate Affairs Commission | \$100 & Certificate | Best performance in Law of Associations |
| *Freehill Hollingdale & Page | \$150 & Certificate | Best performance in Commercial Transactions |
| McCarthy Associates Pty Ltd Prize for Labour Law | \$50 & Certificate | Best performance in Labour Law |
| McCarthy Associates Pty Ltd Prize for Conciliation & Arbitration | \$50 & Certificate | Best performance in Conciliation & Arbitration |
| Gross Prize in Family Law | \$100 & Certificate | Best performance in Family Law |
| Gross Prize in Human Rights | \$100 & Certificate | Best performance in Human Rights |
| *Karen Morton Memorial Prize | \$100 & Certificate | Best performance in Industrial & Intellectual Property |
| McDonnel, Moffit, Dowling, Tayler Prize | \$100 & Certificate | Best performance in Local Government |
| *Veronica Pike Prize | \$100 | Best performance by a female student in Law of Evidence |

* Prize awarded annually.

Butterworths donate Book vouchers to the value of \$50 which are awarded at the prize ceremony held at the Faculty in May of the following year, to students attaining the second highest WAM's in Stages 1-6, in each semester.

UNIVERSITY OF TECHNOLOGY

FACULTY OF LAW

POSTGRADUATE PROGRAMMES

1989

POSTGRADUATE PROGRAMMES – LL.M & SJD

New Programmes LL.M. & SJD

The University of Technology, Sydney, will offer three new postgraduate programmes in law in 1989. These are the Master of Laws by Coursework, the LL.M, and a new doctoral programme leading to the award of Doctor of Legal Science, the SJD. In addition the University offers the traditional doctoral programme, the Ph.D.

The Faculty of Law of the University of Technology, Sydney was established in 1977 to provide legal education with a strong professional bias. Part-time places in particular were to be provided. Its undergraduate degree soon won widespread approval, including that of the report from the Commonwealth "Discipline Assessment" of all Australian law schools, the Pearce Report. The UTS law school was compared most favourably by both the assessment committee and in the accompanying graduate survey.

The Faculty is advised in all its academic programmes by a Course Advisory Committee composed of representatives of the Chief Justice, the Attorneys-General, the Bar, the Law Society, the Corporate Lawyers' Association, the College of Law and other eminent practitioners. The Faculty, together with the Course Advisory Committee, ensure that both new and existing programmes are of the highest academic and professional standard.

Applications to either programme should be made on the University's postgraduate form which may be obtained from

The Registrar
University of Technology, Sydney
Post Office Box 123
Broadway

or at the

Student Information Office
Level 3A
Tower Building
Broadway

or at the

Faculty of Law
University of Technology, Sydney
Markets Campus
Quay Street and Ultimo Road
Haymarket

Advice on matters relating to the library, and the seminars in Advanced Legal Research may be obtained from Mr. Robert Watt, Senior Lecturer, the Faculty's Law Library Consultant. Advice on matters relating to computerised legal information systems may be obtained from Mr. Andrew Mowbray, the Faculty's Computer Law Consultant.

No late fee is payable on applications received by 13 January, 1989. Completed applications should be posted or delivered to the Student Information Office at Broadway and not the Faculty.

General administrative information on either programme may be obtained from

Mrs. Philippa Williams
 Administrative Officer
 UTS Faculty of Law
 Room B209 Markets Campus
 Telephone: 20930 or 218 9712
 Fax: 281 5385

Academic information and advice may be obtained from

Dr Ellen Beerworth
 Sub-Dean and Director of Graduate Programmes

or

Professor David Flint
 Dean and Head of School

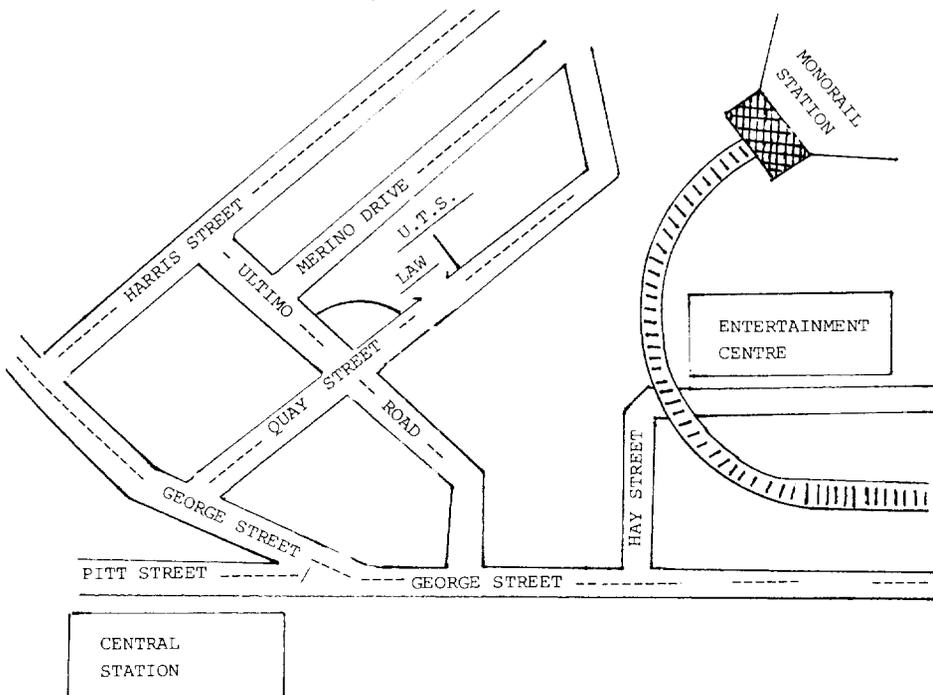
or

Professor Geoffrey Bartholomew

at

UTS Faculty of Law
 Telephone: 218 9700-9711
 Fax: 281 5385

The Registrar's Division is located on the Broadway campus on Broadway near Harris Street. The Faculty is located on the Markets campus in the city, on the corner of Quay Street and Ultimo Road, Haymarket. It is accessible by UTS George Street buses and trains (Central Station) and the Darling Harbour monorail (Haymarket station).



Academic Year

Lectures in the LL.M. and SJD will commence during the week beginning 27 February, 1989. There are no lectures in the four tutorial weeks in 1989, beginning 20 March, 1 May, 28 August, 9 October. Lectures for the Autumn semester end on 9 June and Lectures in the Spring semester begin on 31 July, 1989.

1. LL.M.

The LL.M. will be divided into four subjects each involving 2 hours of seminars over one year. Honours candidates will take a research project in lieu of one subject. The programme may be undertaken in a minimum of two years of part-time attendance, or one year full time.

Admission to the LL.M

There are two categories of admission. Those candidates who have an LL.B with honours, or high professional standing, may enter the programme without further requirements as Category A candidates. All other candidates, Category B candidates, will be assessed on the basis of qualifications and professional experience, and may be required to attend seminars in Advanced Research Skills and complete a research paper. As the UTS has an essentially professional law school, strong emphasis will be placed on professional standing and experience in assessing candidates. The number of places in each year is limited, and fulfillment of the minimum requirements for admission does not unfortunately guarantee a place in the course.

Concentrations in the LL.M

By choosing an appropriate mix of subjects it will be possible, but not obligatory, to major within the LL.M. The major, or concentration, will appear on the testamur and any transcript of subjects undertaken. In due course, it is anticipated that the following concentrations will be offered: –

- Commercial Law
- International Banking and Financial Law
- International Business Law
- International Transport Law
- Public Law
- Taxation Law

Under consideration are concentrations in Asian and Industrial Law. At least three subjects, (or for Honours candidates two subjects and a research project) must fall within the area of the concentration.

Subjects in the LL.M to be offered in 1989

It is anticipated that the following subjects will be offered in 1989 (subject to the availability of lecturers): –

- Advanced Company Law B
- Advanced Consumer Protection Law
- Advanced Taxation Law B
- Banking Law
- Computerised Legal Information Systems
- European Community Law
(classes will be offered in the Summer Term 1989/90)
- International & Comparative Law Project

In addition, subject to need, seminars may be offered in Advanced Legal Research.

Summer Term Subjects

For some time the Faculty has offered a Summer Term to its undergraduate students in a selected number of optional subjects. For the LL.M, the contact hours appropriate to a year long subject will be encapsulated into the Summer Term commencing in December. This will, of course, involve intensive work, but the assessment will be spread over the remainder of the year. In the summer of 1989/1990, EEC Law will be offered. the subject is scheduled to be given by Dr Gabriel Moens, a distinguished expert in the field of European Economic Community Law. From time to time other subjects may be offered in the Summer Term.

The Summer Term may be of particular convenience to those practitioners who enjoy a somewhat lighter working load in the summer months.

Subjects planned to be available within the LL.M

(The Faculty of course cannot undertake to offer all subjects in all years).

| | | | | |
|---|------|------|------|------|
| Advanced Administrative Law | (p) | | | |
| Advanced Company Law B | (c) | | | |
| Advanced Constitutional Law | (p) | | | |
| Advanced Consumer Protection Law | (c) | | | |
| Advanced Media Law | (c) | | | |
| Advanced Taxation B | (c) | (t) | | |
| Advanced Taxation C | (c) | (t) | | |
| Advanced Taxation D | (c) | (1t) | (1b) | (1f) |
| Advanced Trade Practices Law | (c) | | | |
| Banking Law | (c) | (1f) | | |
| Commercial Property Law | (c) | | | |
| Computerised Legal Information Systems | | | | |
| Current Problems of Public Intl Law | (1b) | | | |
| European Community Law | (c) | (1b) | | |
| International Banking and Finance Law | (c) | (1b) | | |
| International and Comparative Law Project | | | | |
| International Business Transactions | (c) | (1b) | (1) | |
| International Economic Law | (c) | (1b) | (1f) | (1t) |
| International Trade Law | (c) | (1b) | | |
| Japanese Law | (c) | (1b) | | |
| Law of Aviation | (c) | (1b) | (1t) | |
| Maritime Law | (c) | (1b) | (1t) | |
| Planning and Development Law | (p) | | | |
| Welfare Law | (p) | | | |

Key to concentrations appropriate to subjects:

| | | |
|----|---|--|
| p | = | public law concentration |
| c | = | commercial law concentration |
| t | = | taxation law concentration |
| ib | = | international business law concentration |
| if | = | international banking & financial law |
| it | = | international transport concentration |

Research Project

Honours candidates must choose a research project and consequently only undertake three subjects. The size of the project will normally be between 20,000 and 40,000 words. The research project will consist of a major article suitable for publication or any other type of research work approved by the Faculty Board. It will normally develop and extend work done in one or more of the subjects already undertaken but in appropriate circumstances a candidate may be permitted to undertake a new topic.

Studying Offshore – The International And Comparative Law Project

Because of career commitments, most young lawyers are unable to undertake postgraduate work overseas. They therefore miss the advantages of studying in a different culture and environment. In an endeavour to at least partially redress this, the Faculty will offer the subject International and Comparative Project. This will permit a candidate to undertake an approved course of study overseas of a limited duration, and credit this towards LL.M studies at UTS. On his or her return to Australia the candidate will complete written research work in relation to the course undertaken. The first such course to be approved are those offered by the prestigious Hague Academy of International Law. These are normally offered in the European summer for a period of approximately six weeks. The Faculty has under consideration possible arrangements with other universities and institutions of advanced legal research in several countries. The Faculty will also consider specific proposals from students in regard to overseas study.

Subjects in other Law Schools

Subject to appropriate approvals, credit may be given for a subject or subjects undertaken in other LL.M programmes, for example, those offered by other metropolitan universities. The subject may be assessed for the purposes of allocating it to an appropriate concentration. This facility is not, however, limited to those universities.

Assessment Method

Assessment will involve a variety of methods including continuous assessment. Participation in classes will be expected. The research writing requirement in each subject will be approximately 15,000 words.

Fees

Fees for Australian citizens and permanent residents have been prescribed for each LL.M subject at \$500. (In addition, part time postgraduate students are charged the usual University services fees. At UTS these are the Students Association University Union fees and Student Identification Card fees totalling \$155 for new students and \$140 for re-enrolling students). This will ensure an exemption from liability for the Higher Education Contribution (the "graduate tax"). The payment of fees in excess of \$250 may qualify for a deduction for income tax purposes. Information on scholarships and Commonwealth Postgraduate Awards may be obtained from the Registrar.

Overseas applicants are required to have an adequate proficiency in English, and may obtain details of fees and other requirements from the Director, International Programmes, UTS, PO Box 123, Broadway SYDNEY 2007, or from the Faculty's Director of Graduate Programmes at the same postal address.

2. SJD

The traditional Ph.D programme may not be suitable for all doctoral candidates, especially in disciplines such as law. The Ph.D requirement of a thesis on a single research subject is sometimes seen as too narrow. The SJD programme is well known in the United States, and is offered by most of the major law schools.

The SJD programme to be offered by UTS is the first in Australia.

A student enrolled in the SJD will undertake four subjects which constitutes four units of the course, together with a doctoral thesis, (normally not exceeding 100,000) words constituting six units of the course. A candidature may be approved in a concentration appropriate to the course where programmed e.g. in Commercial Law, Taxation Law, International Business Law, International Banking and Financial Law or Public Law. Other concentrations may be approved. Subjects will be normally selected from the LL.M programme or similar programmes in other law schools. On occasions, the course work may include a subject chosen from the LL.B programme or the programmes of other schools or institutions with additional prescribed research work. For example in an SJD to be undertaken in the field of Anti-Trust or Trade Practices Law, it may be appropriate to take a subject in economics. Fees are prescribed for each subject taken in the LL.M and service fees are also payable.

Admission

Briefly, the University's Doctoral regulations require an LL.M or an LL.B with honours for admission to this programme. This is subject to certain restrictions which are set out in paragraph 3.5.2.1 of the Regulations for the Doctoral Programme. Students who have satisfactorily completed two subjects in the LL.M at an appropriate standard may request a transfer to the SJD programme. The programme may be undertaken full-time or part-time and as regards the thesis, externally. For those holding a Bachelor's degree the minimum time for completion is six semesters full-time or eight semesters part-time. For those holding a Master's degree the normal period is four semesters full-time or six semesters part-time.

3. SUBJECTS IN GRADUATE PROGRAMMES

LL.M and SJD Subjects

The following are subjects proposed for both the LL.M and SJD. The Faculty cannot undertake to offer all subjects in all years. The summaries of the syllabus for each subject are an indication of the scope of the subject; the precise topics to be dealt with in each year will be determined in the light of recent developments and other relevant factors.

Advanced Administrative Law

Topics will include major developments in the common law and in Federal administrative law. Particular attention will be paid to developing forms of remedies, the alternative forms of review of administrative action through, for example, the Ombudsman and on current issues and prospective developments.

Advanced Company Law B

Topics will include equity and debt financing, and company mergers and takeovers.

Advanced Constitutional Law

A consideration of current issues in constitutional law – the three arms of government, and a consideration of recent developments in various aspects of Federal powers.

Advanced Consumer Protection Law

An examination of recent developments of common and statute law protecting consumers in Australia – including product liability and standards as well as the remedies available in this field.

Advanced Media Law

An examination of legal problems relating to both electronic and print communications. In the field of electronic communications the various aspects of establishment and regulation will be considered. In addition, there will be a consideration of the law applicable to all media – defamation, contempt – particularly in relation to recent developments.

Advanced Taxation B

Topics will normally include the taxation of exempt organisations, superannuation funds, primary production incentives, provisional tax, fringe benefits tax, capital gains tax, business deductions and the prescribed payment system. The precise allocation of topics between the three taxation subjects has not yet been finalised.

Advanced Taxation C

The topics of study in this course include company taxation, partnership, trustees, the mining industry, depreciation and the investment allowance and the recoupment of evaded company tax. A possible re-arrangement of topics within the taxation subject is being considered.

Advanced Taxation D

This subject deals with international aspects of taxation – residence of source, foreign tax credits, branch profits tax, foreign businesses, foreign tax treaties, withholding tax, common tax havens, etc.

Advanced Trade Practices Law

This is an advanced study of recent directions in trade practices law including monopolisation, mergers, secondary boycotts, exclusive dealing, prices examination and resale price maintenance.

Banking Law

Advanced study of the following topics will be undertaken: The banking system, regulatory framework, relationship between bank and the customer, bills of exchange and duties of responsibilities of paying and collecting banks.

Computerised Legal Information Systems

This involves the study of free text retrieval systems, knowledge based applications (expert systems). Although principally a practical subject, the implementation of programmes which are capable of legal reasoning will necessitate consideration of the nature and types of such reasoning.

Current Problems of Public International Law

This subject will permit students to develop an advanced understanding of the subject, including subjects such as recent development sources of public international law, dispute resolution, diplomatic immunity, the law of the sea, extradition or asylum, international protection and human rights, treaty practice and procedure, recognition of states and governments.

European Community Law

Topics include the activities of the European institutions especially the EEC, the political and economic origins of the EEC and its institutional structures with emphasis on the Court of Justice, and the laws of the member states and the free movement of goods, workers capital and service. It will concentrate on the emerging transnational protection of social and economic rights and the jurisprudence of the European Court of Justice.

International and Comparative Law Project

Details of this course are given above.

International Banking and Financial Law

The topics will include advanced study of monetary systems, monetary obligations, foreign money obligations, the problem of the governing law, sovereign risk, exchange control, covenants, default and types of finance.

International Business Transactions

Topics will include international trade law, transport of goods, taxation of international business transactions, financial aspects, foreign investment law, extraterritoriality, international business contracts and dispute settlement.

International Economic Law

The subject is designed to develop an understanding of the law governing the international economy and relations between participants in that economy. The concept of international economic law will be examined, and topics will include specific resource issues such as the common heritage, the deep sea bed, Antarctica, international legal regulation of investment, finance and trade, the institutions – IMF, GATT, IBRD, and the relationship between national and international economic law involving such concepts as extraterritoriality, sovereign immunity, etc.

International Trade Law

Topics will include the sale of goods, representation overseas, finance, export credits and insurance, carriage of goods, arbitration and litigation, customs law, international trade regulation.

Japanese Law

The subject involves an examination of the role of law in Japan, and includes aspects of contract and trade law and practice.

Law of Aviation

The subject is divided into two parts – international air law and Australian air law. Each topic will be discussed from these two aspects – organisation of air regimes and liability in the carriage of passengers, baggage, luggage and cargo, operational liability, environmental and security problems and insurance.

Maritime Law

This subject is divided into two main areas – admiralty law and the law pertaining to the carriage of goods by sea.

Planning and Development Law

Topics will include government involvement in the planning and development process as developer and as intervener, executory discretions in the development process, individual participation in the planning process, review of decisions, costs of environmental protection, a case study for the interaction between private rights and public interests, a case study for the interaction of planning law and environmental concerns, and recent developments.

Welfare Law

This examines legal developments from government policies to reduce inequalities on the distribution of resources and the provision of access to justice. There will be a consideration of Federal social security system, veterans' administration, international declarations and treaties relevant to children, with consideration of tenancy law and practice housing policy, etc. and access to justice through the provision of legal aid.

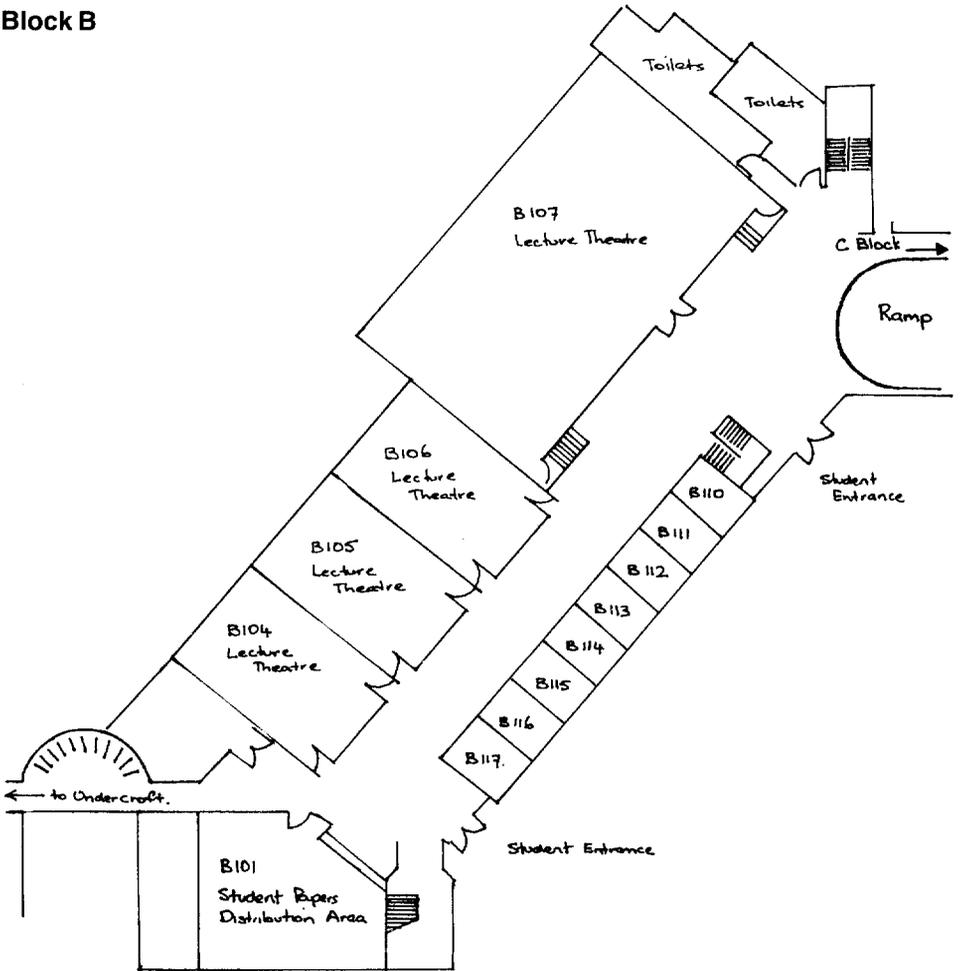
Seminars in Advanced Legal Research

These seminars are on the methodology and researching appropriate to graduate study involving the primary and principal secondary sources of law in NSW and the Commonwealth. In addition, the sources of law in a selected number of jurisdictions – England, United States, New Zealand and Canada will be considered. The sources of international law constitute a special topic.

FACULTY OF LAW

LEVEL 1

Block B

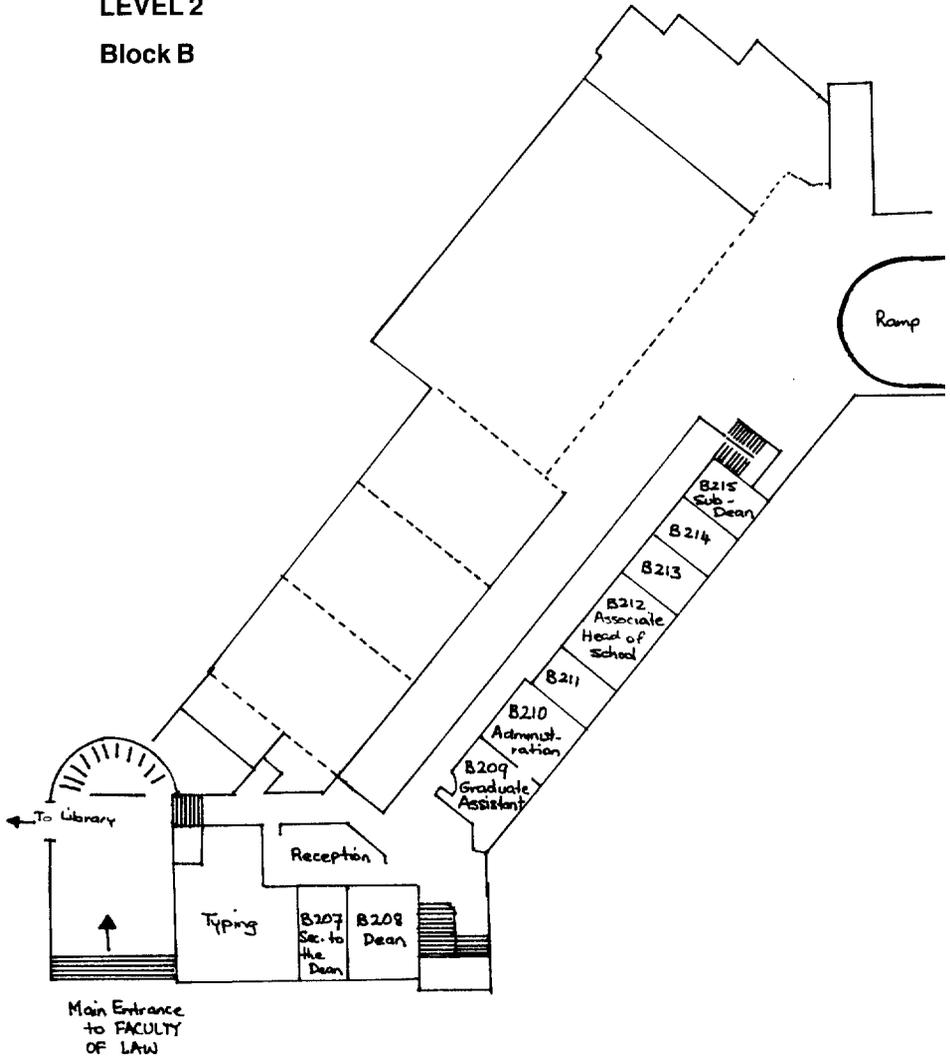


QUAY STREET

FACULTY OF LAW

LEVEL 2

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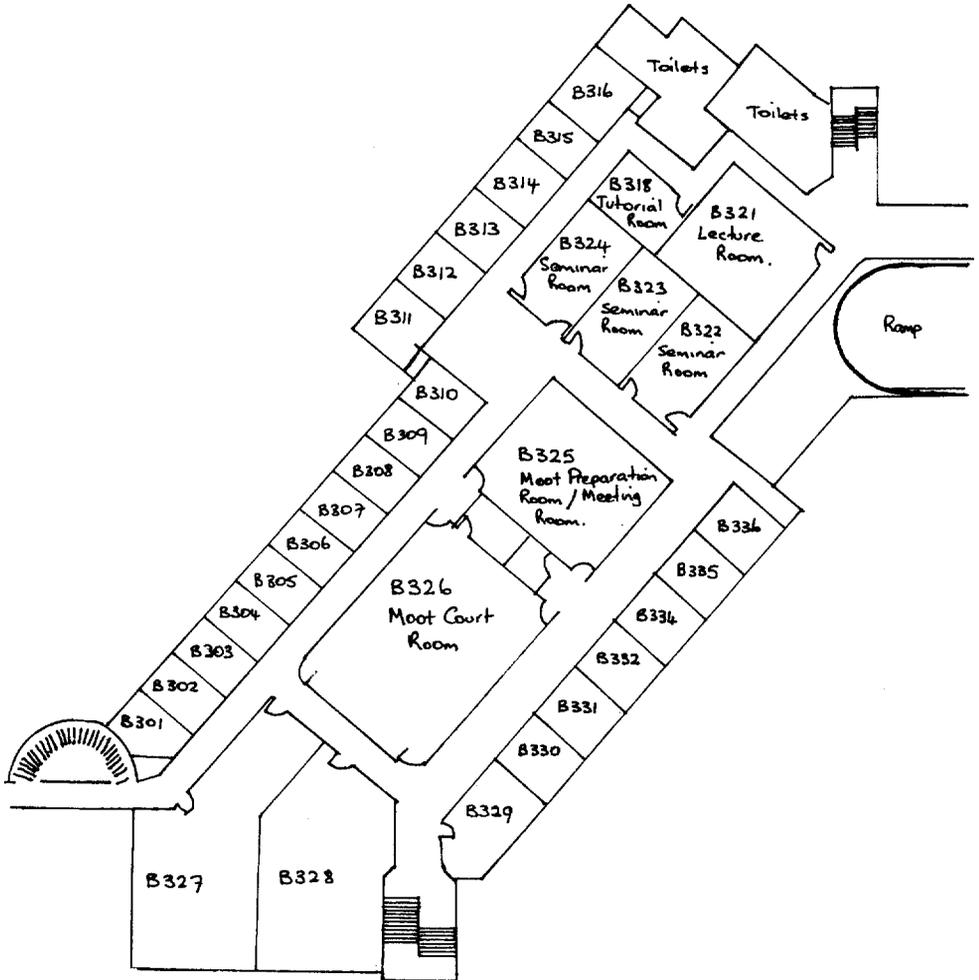


QUAY STREET

FACULTY OF LAW

LEVEL 3

Block B



NOTES

