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135 YEARS: REFLECTIONS ON THE PAST, PRESENT AND FUTURE OF ADELAIDE LAW SCHOOL†

At 8:45am on Tuesday 3 April 1883, the University of Adelaide's first law students made their way to the first floor of the Mitchell Building to begin their Bachelor of Laws degree.¹

The establishment of the Adelaide Law School 135 years ago makes it the second oldest in the country — after the University of Melbourne and seven years before the University of Sydney. It was early South Australian pioneering at its best, in many ways a bold and innovative decision. Before then, aspiring lawyers served a five-year apprenticeship with a legal practitioner, with examinations in a small core of legal subjects.

Although there were plenty of firm adherents to the traditional view that universities were not appropriate places for the study of the common law, the Chief Justice at the time, Sir Samuel Way, and others believed that the broader educational experiences offered at universities were necessary for proper training in practising law. Sir Samuel Way was obviously not completely impartial. In addition to his position as Chief Justice, he was also the University's Vice-Chancellor from 1876 to 1883, and then Chancellor from 1883 until 1916.

The formation of the Adelaide Law School was something of a miracle in modern university terms.

From the time of the agreement of the Supreme Court of South Australia and the University Council on the structure of the degree in late 1882, teaching was already underway in April 1883. It took just four months to appoint the lecturers, design and approve the curriculum, set the timetables, make purchases for the law library, and enrol the students. Today's universities have much to aspire to.

Ever since those early days, the Adelaide Law School has been closely entwined with the legal profession in South Australia, and with the State of South Australia

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† Based on the address delivered at the University of Adelaide Law School's 135th Anniversary Dinner, 24 November 2018.

¹ See also Paul Babie, '125 Years of Legal Education in South Australia' (2010) 31(2) *Adelaide Law Review* 107. Paul Babie — Professor of Adelaide Law School, Associate Dean of Law (International), Associate Dean of Law (Research), and Director of the Law and Religion Research Project for the University of Adelaide Research Unit for the Study of Society, Ethics and Law — presents a stimulating discussion on the Adelaide Law School's history in the 125th Anniversary Special Issue of the *Review*.

itself. Teaching in the early decades was heavily dependent on the local profession. Until 1950 there was only one full-time academic on the roll. The first full-time University-appointed lecturer, Walter Philips, did not arrive in that first year until September, nearly six months after the course had started. And on five occasions in the early decades, the teaching was completely in the hands of the legal profession with no academics in place at all. One of the early great names in the profession led by example. In 1891, Sir George Murray, as he later became, was just establishing his practice in Adelaide. He generously agreed to teach six subjects and examine in eight. Sir George Murray went on to become South Australia's fourth Chief Justice and the Chancellor of the University, holding both offices from 1916 to 1942.

It is quite remarkable that for 88 of the 100 years between 1883 and 1983, the University's Chancellor was also the serving Chief Justice: Sir Samuel Way from 1883 to 1916, Sir George Murray from 1916 to 1942, Sir Thomas John Mellis Napier from 1948 to 1961, and the legendary Dr John Jefferson Bray from 1968 to 1983.²

The foundations of the Law School were built on early pioneers who believed that lawyers should have more than just practical expertise. In the words of the late Sir Robert Menzies, they believed a law school should exist not only to teach municipal law, but to 'lay a foundation upon which can be based a true conception of jurisprudence as a social force'.³ That is the spirit that has been at the heart of the foundation, vision and development of the Adelaide Law School.

Assessing the Law School's impact over the years reveals a spectacular measure of success.

More than 90% of South Australian judges and Adelaide-based Federal and Family Court judges have been Adelaide Law School graduates. Eighty-four percent of the sitting judges in South Australia are Adelaide graduates, and then there are interstate and overseas judges. Examples from the international judiciary include James Crawford, a current member of the International Court of Justice; and Ivan Shearer, who has represented Australia on the United Nations Human Rights Committee and as a member of the Permanent Court of Arbitration.

Within South Australia, the Law School has produced the last five Chief Justices, including the current Chief Justice. Before those five was Sir George Murray, who trained in the years before the Law School was established. All of South Australia's Chief Justices who could have been trained at Adelaide Law School were trained there.

² For a discussion on the life and career of Dr John Jefferson Bray, see: Dame Roma Mitchell and Peter Kelly, 'John Bray: The Man and The Judge' (1980) 7(1) *Adelaide Law Review* 1.

³ Alex Castles, Andrew Ligertwood and Peter Kelly, *Law on North Terrace* (Faculty of Law, University of Adelaide, 1983) 9.

The five Chief Justices also include John Doyle, Chief Justice from 1995 to 2012. The Doyle family is one of those magnificent South Australian families with many connections to the University of Adelaide. Four out of five of John and Marie Doyle's children graduated from Adelaide Law School. Marie, herself, completed her Diploma in Social Studies at the University.

Among other Law School alumni are Premiers Henry Barwell, Don Dunstan, John Bannon and Jay Weatherill; Australia's only female Prime Minister, Julia Gillard; and numerous federal and state ministers.

As with so much in South Australia and this University, the Law School has also led the way for women in the legal profession: it was the first law school in Australia to admit women, right from the founding date of the school. The great Dame Roma Mitchell graduated in 1934 and went on to become Australia's first female Queen's Counsel, first female Supreme Court judge, founding chair of the Australian Human Rights Commission, first female Chancellor of the University, and Governor of South Australia.⁴ She is one of three University of Adelaide graduates who have led the Human Rights Commission — Catherine Branson and John von Doussa (another Chancellor of the University) being the other two.

Another prominent female graduate is Margaret Nyland, the second woman to be appointed to the Supreme Court of South Australia, after Dame Roma Mitchell. Margaret Nyland's stellar career includes being the inaugural Chairperson of the Commonwealth Social Security Appeals Tribunal (for South Australia), Chair of the South Australian Sex Discrimination Board, and most recently Commissioner of the South Australian Child Protection Systems Royal Commission. She is also the first female club chairman in the South Australian National Football League's 140-year history, taking the position at South Adelaide Football Club in 2017. At the University, her family law lecturer was Dame Roma Mitchell — a pertinent example of how great universities transcend generations.

The University of Adelaide has looked for a way of showcasing its history and future through its campus infrastructure. The campus banners have been changed, with new ones that speak of the people of the University of Adelaide. The banners represent both the University's legacy and future, portraying famous alumni alongside future students. The series of banners is called 'Making History'.

Last year, Vickie Chapman, another University of Adelaide graduate, became South Australia's first female Attorney-General and the first female Deputy Premier of the State. Vickie Chapman's banner now sits outside the Law School, between a banner featuring Julia Gillard and a banner featuring Dame Roma Mitchell. Vickie was invited to a special congratulatory event at the Law School and presented with a copy of the banner, in recognition of the University's pride in her achievements. The

⁴ For an overview of the judicial career and achievements of Dame Roma Mitchell, see: Len King, 'The Judicial Career of Dame Roma Mitchell: A Valedictory Tribute' (2000) 22(1) *Adelaide Law Review* 1.

University is making history in real time. Vickie Chapman's banner between Julia Gillard and Dame Roma Mitchell says much about the impact of the Law School on the profession, on the University, on South Australia, on the country, and on women in general.

The Law School does not just produce lawyers. The Law School has had a very significant impact on the development of law within South Australia. Arthur Rogerson came from Oxford in 1963 as Professor of Law. He led a committee which included two young staff members, Michael Trebilcock and Michael Detmold, who recommended reforms to consumer law. The state government took up the report, and the *Consumer Transactions Act 1972* (SA) was a pioneering piece of reform, ahead of anything else at that time in Australia and the United Kingdom.

Arthur Rogerson negotiated with the Attorney-General of the time for a member of the Law School to be included on the new state Law Reform Committee — those being over the years David St Leger Kelly, John Keeler and Andrew Ligertwood. These law academics were instrumental in bringing about many changes to the law including the State's first organ donations Act.⁵ David Kelly and Alex Castles were founding members of the Australian Law Reform Commission when it was established in the early 1970s and had a particular influence on reforms to Commonwealth defamation and insurance law.

Law School members also worked over the years on committees looking at criminal law reform. Today, the Law School houses the South Australian Law Reform Institute ('SALRI') under the leadership of John Williams and David Plater. Established in December 2010, the SALRI has made major contributions to law reform in South Australia, mainly in the area of LGBTIQ discrimination through a series of reports,⁶ which have been largely accepted by the state government.

⁵ *Transplantation and Anatomy Act 1983* (SA).

⁶ See generally: SALRI, *Discrimination on the Grounds of Sexual Orientation, Gender, Gender Identity, and Intersex Status in South Australian Legislation* (Audit Paper, September 2015); SALRI, *'Lawful Discrimination': The Effect of Exceptions Under the Equal Opportunities Act 1984 (SA) on Lesbian, Gay, Bisexual, Trans, Intersex and Queer (LGBTIQ) South Australians* (Issues Paper, December 2015); SALRI, *'Lawful Discrimination': Exceptions under the Equal Opportunities Act 1984 (SA) to Unlawful Discrimination on the Grounds of Gender Identity, Sexual Orientation and Intersex Status* (Report, June 2016); SALRI, *LGBTIQ Discrimination in Legislation: Legal Registration of Sex and Gender and Laws Relating to Sex and Gender Reassignment* (Report No 5, February 2016); SALRI, *Rainbow Families: Equal Recognition of Relationships and Access to Existing Laws Relating to Parentage, Assisted Reproductive Treatment and Surrogacy* (Report, May 2016). For recommendations of reforming the law of provocation and eliminating the 'Gay Panic' defence, see also: SALRI, *The Provoking Operation of Provocation: Stage 1* (Report, April 2017); SALRI, *The Provoking Operation of Provocation: Stage 2* (Report No 11, April 2018).

Just before the Law School's 135th anniversary dinner, the SALRI released its report on surrogacy.⁷ It is an example of an international trend that is seeing aspects of legislative and policy change being outsourced from bureaucracies to universities. In this way, the University of Adelaide is helping to craft the social future of South Australia.⁸ In conjunction, students also gain invaluable experience. The work of the SALRI is supported and informed by a law reform class of final-year law students.

Amongst the Law School's graduates are those who have influenced the law beyond our shores. Bill Cornish, who the University presented with an honorary doctorate last year, is a pioneer of intellectual property law. John Finnis, the jurisprudence specialist and legal theorist, is another honorary doctorate recipient.

Today, Adelaide Law School has built on 135 years of illustrious history to become a law school that is ranked in the top 100 law schools globally;⁹ a national leader in areas like insolvency, taxation, labour, and constitutional law.

It has an illustrious past, and it has had a global impact. But the Law School, like the University generally, has an eye firmly on the future. It continues to innovate and push boundaries in legal education and research, expanding its expertise and curriculum into the developing field of space law.

The Adelaide Law School is playing a significant role in the development of international law for military uses of outer space. Professor Melissa de Zwart and Professor Dale Stephens are world leaders in this field and among the founders of the *Woomera Manual*,¹⁰ working with collaborators in the United Kingdom and the United States to understand how terrestrial laws will be applied in times of armed conflict in outer space.

There is no simple way to measure the impact the Law School has had. But its proud record can be seen through different lenses and different groups of the University; local, national, global, young, old, history, future.

⁷ SALRI, *Surrogacy: A Legislative Framework: A Review of Part 2B of the Family Relationships Act 1975 (SA)* (Report No 12, October 2018). The Report can be accessed online at: <https://law.adelaide.edu.au/system/files/media/documents/2019-02/salri_surrogacy_report_oct_2018_0.pdf>.

⁸ One key aspect of SALRI's success in formulating effective reform has been its emphasis on community-based, consultative law reform initiatives. See generally: Sarah Moulds, 'Community Engagement in the Age of Modern Law Reform: Perspectives From Adelaide' (2017) 38(2) *Adelaide Law Review* 441.

⁹ The Adelaide Law School is ranked in the 51–100 bracket globally: see 'QS World University Rankings by Subject 2019 — Law', *Top Universities* (Web Page) <<https://www.topuniversities.com/university-rankings/university-subject-rankings/2019/law-legal-studies>>.

¹⁰ *Woomera Manual on the International Law of Military Space Operations*. The webpage for the Manual can be viewed at <<https://law.adelaide.edu.au/woomera/home>>.

There is no doubt there is a real energy about the Law School. Groups of students can be found in the corridors talking excitedly about the classes they have attended. Staff are thoughtful, committed, and enthused by the quality of the students. They are outstanding staff, and they make up a wonderful Law School.

At its anniversary dinner, the Law School came together to celebrate 135 years of history — but in the spirit of the future, which the School will continue to contribute to for generations to come.

The University recognises it has a special role to play in the transformation of society and the future of South Australia. It will continue to produce the graduates that are needed and, through its research programmes, innovate in a way that will give rise to new industries and jobs needed to keep people in the State. Its research and education will bring ideas, wisdom and knowledge from outside the State into the community, for the benefit of all.

The Adelaide Law School will play a significant part in that process and looks forward to working with the State for a brighter future for all of us.