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# *Marine & Shipping Law Unit Newsletter*

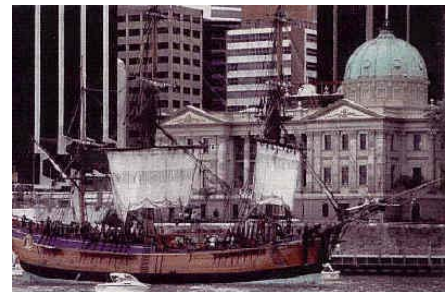
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*News from the Marine & Shipping Law Unit at the University of Queensland's TC Beirne School of Law.  
Issue 10, JANUARY 2006*

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## **Introduction**

2005 was a defining year for those of us involved in maritime law at the T C Beirne School of Law. This year marked the transition from the Centre for Maritime Law to the Marine & Shipping Law Unit, a change which reflects the breadth of expertise within the Law School consequent upon the arrival of several new academics and scholars. We welcomed Dr Rachel Baird and Mr Vincent Bantz at the commencement of the academic year. Dr Baird has expertise in environmental law, both domestic and international, the law relating to fisheries, and military law, particularly naval operations. Mr Bantz's particular expertise is in the area of law of the sea but he also brings to the Law School more generally talents in European Union law, comparative law and cooking.



We were privileged to be selected by the UN-Nippon Foundation to host one of their scholars in 2005 and we were delighted to welcome Mr Dong Nguyen in March.

In September, Dr Michael White formally stepped down as Executive Director of MASLU. Those of us involved in maritime and shipping law at the T C Beirne School of Law owe Michael a tremendous debt of gratitude for his tireless efforts in establishing the Centre for Maritime Law and for embedding the teaching of maritime law within the Law School. Michael's vision for the Centre for Maritime Law, and now MASLU, was that it become a focus for the research and teaching of all aspects of maritime law and that it be recognised as a centre for excellence within the Australian region. In his remarks at the function to mark the transition to MASLU, Justice Allsop recognised that this vision had been achieved when he said that the Marine and Shipping Law Unit "is without question the pre-eminent place in Australia for the study of maritime law. Its academic staff and critical mass of scholarship are unrivalled in this country." Dr White remains in the Law School as an Adjunct Professor and we will be grateful for his on-going involvement in MASLU activities in the years to come.

*Sarah Derrington  
MASLU Director*

## Recent MASLU Papers and Publications

Derrington, Sarah, "JI Macwilliam Company Inc v Mediterranean Shipping Company SA 'The Rafaela S'" (2005) 24 *University of Queensland Law Journal* 191

Derrington, Sarah, "The Hague Rules - A Lost Opportunity" (2005) 121 *Law Quarterly Review* 209

Derrington, Sarah, "The UNCITRAL Draft Instrument – Does Australia Need It?" (2005) 33 *Australian Business Law Review* 70

Derrington, Sarah, "A Piece – Neither a Package nor a Unit: El Greco v Mediterranean Shipping Co (Aust) Ltd" (2005) 68 *Modern Law Review* 111

Derrington, Sarah "Digest of Australian Maritime Cases July 2000 to 30 June 2004" (2005) *Il Diritto Marittimo* 1

Derrington, Sarah, "Better the Devil You Know?" (2005) 5 *Shipping and Transport Lawyer International* 24

Derrington, Sarah, "The Admiralty jurisdiction in Australia and South Africa: too far or not far enough?" The 2005 Andrew M Jackson Annual Shipping Law Lecture, University of Hull

Forrest, C., 'Liability for Pure Economic Loss in Maritime Torts' (2005) 11(3) *Journal of International Maritime Law*, 177

Gold, E. "From Privilege to Peril: The Shipmaster's Current Legal Rights and Responsibilities" (2004) *WMU Journal of Maritime Affairs* 51

White M & Goss R "Australian Maritime Law Update 2004" (2005) 36 *Journal of Maritime Law and Commerce* 253

White, M, & Knight, S, "Illegal Fishing in Australian Waters - the Use of UNCLOS by Australian Courts" (2005) 11 *Journal of International Maritime Law* 110

White, M & Knight, S, 'Australian Maritime Law Update 2003' (2004) 35 *Journal of Maritime Law and Commerce* 313

White, M, 'Tampa Incident: Shipping, international and maritime legal issues' (2004) 78 *Australian Law Journal* 101

White, M, 'Tampa Incident: Some subsequent legal issues' (2004) 78 *Australian Law Journal* 249

White, M, 'Illegal Fishing in the Southern Ocean', Paper delivered at the University of Wales Swansea, May 2004

White M 'Background to the RAN Submarine AE2', Paper delivered at the AE2 Workshop, Istanbul, Turkey, May 2004

White, M, 'The Collision between Profit and Ethics', Paper delivered at the Greek Conference, Rythamon, Greece, May 2004

## Recent Events & Courses

### MASLU Celebrates Achievements of Staff & Students

On Thursday 29 September, The University of Queensland's Marine and Shipping Law Unit (MASLU) held a celebration of the achievements of staff and students involved in the Unit's activities. The evening was well-attended by staff, students and representatives of the legal and marine professions, all of whom enjoyed an address by the special guest, Justice James Allsop of the Federal Court of Australia.



*Justice Allsop delivers his address*

One purpose of the evening was to celebrate the tremendous achievement of the UQ Maritime Moot Team, which won the Sixth Annual International Maritime Arbitration Law Moot Competition, held in Sydney in July this year. The team, which consisted of students Ngaire Ballment, Francis Burgess, Ryan Gawrych and Dioni Perera, and which was coached by law lecturer Russell Hinchy, continued the School's strong tradition of moot success. The team was congratulated by Justice Allsop, Professor Ross Grantham (Acting Head of the Law School) and by Dr Sarah Derrington.

The evening also celebrated the achievements and contributions, over many years, of Dr Michael White QC. Dr White, as the Executive Director of the Marine and Shipping Law Unit and, before that, the Centre for Maritime Law, has made a substantial contribution to the teaching of maritime law and the promotion of awareness about maritime law issues among students and among the broader community. In paying tribute to Dr White, Justice Allsop described his contribution as "magnificent." Dr White has now stepped down as Executive Director of the Unit, but will continue to actively participate in the life of the Law School as an Adjunct Professor. Dr Sarah Derrington continues as the Director of MASLU.

The evening marked a successful transition from the Centre for Maritime Law (CML) to the Marine and Shipping Law Unit. Moreover, as several speakers noted, the addition of a number of new marine and law of the sea experts to the Law School over recent months means that the Unit will continue to make a significant contribution to legal scholarship at The University of Queensland. As Justice Allsop said in his address, **the Marine and Shipping Law Unit "is without question the pre-eminent place in Australia for the study of maritime law. Its academic staff and critical mass of scholarship are unrivalled in this country."**

Justice Allsop's speech, and a selection of photos from the event, are available at [www.law.uq.edu.au/maslu](http://www.law.uq.edu.au/maslu)

### Richard Cooper Memorial Lecture

The Inaugural Richard Cooper Memorial Lecture was delivered by Dr Edgar Gold AM CM QC on Monday 8 August 2005. The lecture, entitled "Bloodhounds, Scapegoats and Fatcats: Criminal Action, Professional Duty and Corporate Responsibility in the Maritime Menagerie", provided the audience of almost 80 people with a fascinating insight in to the current state of maritime law around the world and the issues facing modern mariners and all those involved in the shipping industry.

The lecture was held in Court 1 of the Federal Court where Justice Cooper had presided on many occasions. It was chaired by the Chief Justice of the Federal Court, the Honourable Michael Black and was attended by Mrs Penny Cooper and other members of Justice Cooper's family.



*The late Justice Richard Cooper*

The text of the lecture will be published in a forthcoming edition of the *University of Queensland Law Journal*. The 2006 Richard Cooper Memorial Lecture will be delivered by Justice James Allsop of the Federal Court on 6 September 2006.

### **World Maritime Day**

On Friday 30 September 2005, The University of Queensland's Marine and Shipping Law Unit, together with the Nautical Institute (Qld), convened the annual **World Maritime Day Seminar** in Brisbane. This was the sixth such World Maritime Day Seminar organized by MASLU and the second in partnership with the Nautical Institute (Qld). This year's Seminar, supported by Blake Dawson Waldron Lawyers, included a variety of presentations focusing on the theme selected by the International Maritime Organization, "International Shipping - Carrier of



*Mr Bruce Wilson, Director-General,  
Department of Transport, Queensland  
Government, presents the Keynote Address*

World Trade: Australian Contributions and Interests." The Seminar was well attended by members of the legal and marine professions and by people from business, academic and government backgrounds.

The Seminar participants greatly benefited from the presentations made by expert contributors. The program had eight speakers, all of whom made a substantial contribution.

Their presentations, most of which are available in PowerPoint slideshow format on the MASLU website, included:

- Bruce Wilson's Keynote Address: 'The Importance of Shipping'
- Bruce Martin's presentation: 'Shipping & Trade: Australia's Role, A Shippers Perspective'
- Jeff Coleman's presentation: 'The Role of a Major Port in Trade Facilitation'
- Jeff Holden's presentation: 'Seafarer Qualifications'
- Llew Russell's presentation: 'Current Challenges Facing the International Liner Shipping Industry'
- Rowan Bullock's presentation: 'The Stevedores' Role in the Nation's Trade'
- Steve Pelecanos' presentation: 'Maritime Skills: Focus on Pilotage'
- Justice Allsop's presentation: 'Maritime Dispute Resolution In Australia: Some Suggestions For Development'

The Seminar was a great success, for which thanks and acknowledgments must go to all those who attended and gave presentations, to the Nautical Institute (Qld) and to sponsors, Blake Dawson Waldron, whose support is greatly appreciated.

### **Visiting Scholar**

On 19 March, MASLU had the pleasure to welcome Mr. Dong Nguyen within the framework of the trust fund project agreement concluded in April 2004 between the United Nations (Department of Oceans Affairs and Law of the Sea) and the Nippon Foundation of Japan. This Fellowship program gives officials and professionals of developing coastal states the opportunity to develop their knowledge and skills in the field of oceans affairs and, upon return to their home countries, to assist in the implementation of policies in the field. MASLU is one of 22 prestigious research institutions which participate in the Fellowship program, among which one can mention the University of Virginia, the University of Southampton, Tulane University and Harvard University.



*Dong Nguyen*

A civil servant at the Ministry for Foreign Affairs of Vietnam, Mr. Nguyen is now completing his 6-month fellowship at UQ. On 3 August, Mr. Nguyen was visited by Mr. Francois Bailet, the Program Advisor at the UN Office of Legal Affairs. While meeting with the Head of the Law School and several MASLU members, Mr. Bailet expressed the hope that UQ would welcome other Fellows in the future.

Nippon Foundation Fellows are required to undertake research in a particular area under the direction of a supervising professor and to submit a final report. While at MASLU, Mr. Nguyen examined the South China Sea islands disputes in the context of the 1982 United Nations Convention on the Law of the Sea. While noting that the territorial claims made in the region can not only affect the security of the South China Sea but also the stability of global security and commerce, Mr. Nguyen considers that the legal frame of the 1982 Convention, and notably its dispute settlement mechanism, is the appropriate regime to turn to in order to achieve a peaceful solution. After leaving Australia, Mr. Nguyen will spend three months at the UN Department of Oceans Affairs and Law of the Sea in New York City as part of the training aspect of his Fellowship program. Bon voyage Dong!

### **Naval Operations Law (LAWS7877)**

The postgraduate 'Naval Operations Law' course provided a detailed examination of the international and Australian domestic law which affects the conduct of naval operations. It was held from 7-10 February 2005 and was co-ordinated by Michael White.



*Participants in the Offshore Energy Law Course (March-April 2005) in the Sir Samuel Griffith Common Room at the TC Beirne School of Law.*

### **Offshore Energy Law (LAWS7935)**

The postgraduate 'Offshore Energy Law' course provided students with an overview of the international conventions, Australian laws and regulations and policy in relation to offshore energy in the Australian region. It examined the international regulation, general oil and gas policy and industry practice, including marine boundary aspects of the north-west shelf and the Timor Sea. It was held from 29 March - 1 April 2005 and was co-ordinated by Michael White.

### **Marine Environment & Pollution Law (LAWS7867)**

The postgraduate 'Marine Environment & Pollution Law' course offered an overview of the international conventions, Australian laws, regulations and policy in relation to protection and preservation of the marine environment. Held from 12-15 July 2005, attendees included persons from government, private practice and from various countries. The course was co-ordinated by Michael White.



*Participants in the Marine Environment and Pollution Law Course in July 2005*

### **International Maritime Arbitration Moot Competition**

The Sixth International Maritime Arbitration Moot Competition was held from 8-12 July at UTS in Sydney. The competition, an initiative of the Marine & Shipping Law Unit, was won by the team from the University of Queensland.

This year, a total of ten universities entered the competition, which is designed to encourage law students in the Asia-Pacific region to develop an interest in and understanding of maritime law. The teams, from universities in Indonesia, India, Hong Kong, Singapore and Australia, all submitted written memoranda and competed in the oral rounds.



*The victorious UQ team (from left): Ryan Gawrych, Dioni Perera, Ngaire Ballment and Francis Burgess.*

The Final of the competition was held in the Federal Court in Sydney between Queensland University of Technology and the University of Queensland and was presided over by Justice Ryan of the Federal Court of Australia, Justice Palmer of the Supreme Court of New South Wales and Mr David Martin-Clark, a UK based Shipping Arbitrator and Mediator.

Thanks must be given to all those who gave up their time to sit as arbitrators on practice moots for the UQ team. In 2006 the competition is being hosted by Murdoch University in Perth. Please contact Ms Kate Lewins at [k.lewins@murdoch.edu.au](mailto:k.lewins@murdoch.edu.au)

## ***Upcoming Courses Offered by the Marine & Shipping Law Unit***

*Students can enrol in MASLU courses either as part of a postgraduate degree at the University of Queensland or any other recognized university, or on a 'once-off' basis through the Executive Education and Professional Development program. A complete schedule of all courses and activities scheduled to be held by the MASLU over 2005-2007 may be found at: [www.law.uq.edu.au/maslu/courses.html](http://www.law.uq.edu.au/maslu/courses.html)*

### **April 2006: Shipping Law (Laws7865)**

This course includes ship management & shipping structures; port state control; collisions & groundings; salvage; pilotage; towage; wreck & prize; constitutional background & jurisdiction of courts; maritime liens & mortgages; arrest of ships & the Admiralty Act 1988. The course will be held from 6-9 April 2006 and will be co-ordinated by Dr Craig Forrest.

## ***Graduation Ceremony***

At the recent mid-year graduations of the Faculty of Business, Economics & Law, MASLU staff Dr Michael White and Dr Sarah Derrington congratulated those Law graduates who had participated in MASLU programs or been otherwise involved in MASLU activities. Many congratulations to Ross Mierendorff (MAppL), Peter Glover (JD), Joanne Lockyer (MAppL), Lyn Raphael (LLM), and Anne Sheehan (LLM).



*Law Graduations July 2005 (left to right): Ross Mierendorff, Peter Glover, Joanne Lockyer, Lyn Raphael, Dr Sarah Derrington, Anne Sheehan, Dr Michael White.*

## *Dhiana Puspitawati completes PhD Thesis*



Dhiana Puspitawati (pictured here on the right at a farewell lunch) presented her PhD thesis for forwarding to the examiners on 23 December 2005, after nearly three years research and writing at the TC Beirne School of Law. Her thesis is on 'The Concept of an Archipelagic State and the Implementation of Archipelagic Seas Lanes Passage in Indonesia' and is an original contribution to this area of knowledge of the law of the sea. Indonesia is a leader in the archipelagic sea lanes concept established under the *United Nations Convention on the Law of the Sea* 1982 and no scholar has previously brought all of the material together into the one work. Dhiana's thesis advisors were Michael White and Craig Forrest.

Dhiana arrived at MASLU, then the CML, at the TC Beirne School of Law in early 2003. She had done her law degree in Indonesia and her LLM in Australia and was on leave from the Indonesian naval College in Indonesia at Hang-Tuah University, Surabaya. She arrived with her husband Erry, a forestry graduate, and she now leaves with husband, a PhD thesis and two children. In fact she had a busy time before she left. Her thesis was presented on 23 December, her second child was born a week later and she and her family had the task of packing up and returning home to live in Indonesia a month after that.

We wish Dhiana and her family all the best for the future.

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Mr Pierre-Jean Bordahandy  
Topic: *"The Concept of the Container and its Legal Implications"*

Mrs Dhiana Puspitawati  
Topic: *"Indonesian Archipelagic Sea Lane Passage and its Implementation"*

Find out more about MASLU's scholars' expertise and qualifications on our website at [www.law.uq.edu.au/maslu/staff.html](http://www.law.uq.edu.au/maslu/staff.html)