

THIS EDITION OF THE BOND  
LAW REVIEW IS DEDICATED  
TO THE MEMORY OF OUR  
GREATLY RESPECTED  
COLLEAGUE

EMERITUS PROFESSOR  
DAVID ALLAN AM

1928-2006

FACULTY OF LAW  
BOND UNIVERSITY

## **DAVID ALLAN**

### **1928 – 2006**

David Allan was a man of many parts - barrister, teacher, scholar, administrator, law reformer, and adviser and consultant to governments and international bodies. He was of national and international renown.

David was born in Bolton, England, and was educated at Bolton School. He went to Trinity Hall, Cambridge, on a history scholarship, where he graduated with first class honours in his Bachelor of Arts, and later received the degree of Master of Arts. He was called to the bar at the Middle Temple, winning all the major Prizes and Scholarships of his vintage. He then practised on the Northern Circuit from chambers in Manchester. As a young and energetic member of the Bar, he had a wide and varied practice, mainly in common law and criminal matters. As with all young barristers starting out with no legal background and connections to draw on, it was a battle. He had to provide for a young family and, being fed up with the cold and sensing an opportunity, he replied to an advertisement for a position at the University of Western Australia in Perth. He was appointed a Senior Lecturer in the Law School, with responsibilities for teaching in the area of equity, especially trusts, a new part of the law for him. His research led to major reforms in Western Australia in these areas of law, and the first legislation in the British Commonwealth to reform the rule against perpetuities.

As he was the youngest member of faculty, it was made clear to him that preferment would be slow. So in 1963 he was appointed to the Chair of English and Commercial Law at the Victoria University of Wellington in New Zealand. This was another change in direction, and this started a remarkable career in all aspects of commercial law, securities, banking and financial law, both national and international.

Again in New Zealand, it was made clear to him that law reform in his areas of interest was not a high priority and so, in 1966, he returned to Australia and became Professor of Law and Dean at the University of Tasmania, having declined the offer of a chair at London University in order to stay in Australia.

From there he went to become the Hayden Starke Professor at the then new law school at Monash University. He held that chair from 1969 - 1971, when he became the Owen Dixon Professor of Law at Monash, a chair which he held until 1985. He was Dean of the Faculty from 1971 - 1976.

During this time, his close mentors were Professors Sir Zelman Cowen and Sir David Derham, men whose guidance he often acknowledged.

In 1986, he became Professor of Business Law at the University of Melbourne, and became Head of the Department of Business Law when it was separately established in 1990. He held these posts until retirement, when he was appointed Professor of Law at Bond University and Emeritus Professor of that University in 2002. He taught his last class there in the middle of 2005.

David was regularly a Visiting Fellow at the Max Planck Institut in Hamburg from the 1970s.

Throughout his career in Universities, he maintained his practice of law. He was admitted to the Supreme Courts of New Zealand, Tasmania, Victoria, New South Wales and Queensland and the High Court of Australia. He would have been admitted in Western Australia, but he was appointed the examiner for Bar exams, and he felt that this meant a conflict of interest. The compromise was that he became an honorary member of the Law Society.

David had a long association with the firm of Malleson Stephen Jaques. He was a consultant from 1977 to 1996 in commercial law, banking and finance, and then held a retainer in these fields from 1997 until 2004.

David was consultant to the Asian Development Bank from 1969 - 1980 on the problems of development finance in the member countries of the Bank. This was the basis for his research into the investment laws and legal systems generally of 10 - 12 countries in the region, and especially of their commercial law. He spent much time in those countries and developed a network of friends and colleagues that lasted the rest of his life.

He was also an Expert Adviser to the European Bank for Reconstruction and Development from 1992. He was engaged in looking for a model law of property security capable of securing bank finance for the transitional economies of Central and Eastern Europe. His work is now the Bank's Model law.

David served on a vast number of Committees extending from the American Bar Association, the International Legal Centre in New York, the Australia-Japan Trade Law Foundation, the Australia-China Committee. He was a member of the Law Council Trade Committee, and later Chair from 1998-1991, after it was renamed the International Trade and Business Committee. He was Chair of the International Law Section of the Law Council from 1991-1995. He was a member of the International Academy of International Commercial Law from 1986, and became an honorary life president from 1999. He was a member of the Association and of the Board of the Australia New Zealand Banking & Financial Services Law Association, and was made an honorary life member on his retirement in 2005.

He represented Australia both as a Delegate to the United Nations Commission on International Trade Law on a number of occasions, and also as a member of its Working Group on International Banking Law.

David published more than 20 books in the fields of Australian and Asian Contract law, law of development finance in Asia, and Finance Law. Australian Finance Law is now in its 5<sup>th</sup> edition. He published chapters in more than 25 books, and in more than 40 different journals. He had a great grasp of the intricacies of finance, and he had a prodigious capacity for work. From the early days of his work for the Asian Development Bank, he worked in conjunction with my sister, Mary, who became his wife. It was a fascination to me to watch the way they went about their work.

But it was not all work and no play. Sir Roy Goode QC, Emeritus Professor of Law at Oxford, wrote in a tribute to David that 'he had a huge capacity for enjoying life and friendship'.

David was also a caring man, particularly regarding his younger colleagues and overseas students, often inviting them into his home and generally befriending them. He involved himself and supported them, whether their problems were personal or professional. Many of those friendships continued for the rest of his life. He was a magnificent host, and loved company over good food and wine. He was particularly happiest with his grandchildren.

I was especially aware of his life away from the law. He was my brother-in-law as well as a brother in law, although we worked in different areas of the law. We had countless great times together. We shared many things: a love of music, especially jazz and swing, and he had a great collection of 78s. David had been the leader of a jazz band in his youth, playing trumpet and clarinet. We spent many a glorious day at the MCG before the advent of 50 overs matches, when it was possible to take a picnic lunch, including the chilled white wine and the appropriate glasses without prying inspections, and when you could choose any seat in the northern stand. We played golf together with more enthusiasm than skill. We had a particular leaning to fish restaurants, stimulated by Mary's allergy to fish and its non-appearance on domestic menus; and we shared a partiality to red wine.

David was welcomed into and quickly became a part of our Irish-Australian family. He was quickly brought up to speed on Australian culture. Given his shape, he was always the first choice to play the role of Santa Claus at our extended family Christmas dinner, suitably clad with a large cigar stuck in his whiskers. He was greatly loved by all the members of the family, especially the younger generation to whom he was a valued mentor and often a defender.

His last work was at the request of the Standing Committee of Attorneys-General when, in April last year, he presented a paper to them on his proposal regarding the reform of the law of personal property security, an aim he formulated in 1963. A few days after his death, the Attorney-General of the Commonwealth, Philip Ruddock, paid a tribute to David, an unprecedented tribute to a person outside the judiciary or government.

David was made a Member of the Order of Australia in 1991 in recognition of his work for law and legal education. He left a legacy in the law that will long be remembered.

David had a strong religious faith which developed from the Judaism of his upbringing, to the inspiration of great Anglican theologians at Cambridge where Owen Chadwick was his moral tutor, to the deep convictions of his old age. He saw all this as a natural and accumulating progression. His faith was to him a meeting with his God. Together with the unfailing support of my sister, Mary, it supported him through his last months of increasing mental and physical infirmity.

David was indeed a great man, a loving husband and father and grandfather, a devoted son, a caring brother, a great friend to many and an all-round good bloke.

He will be greatly missed by many throughout the world.

Reginald Hiscock  
28 May 2006

## DAVID ALLAN

I come today on this sad occasion to say a few words about my friend, David Allan. David and Mary have been friends of mine for over 20 years and I have always been grateful to them for their friendship and support.

How can one describe David Allan? He was a man of many parts and achievements. He was scholar, teacher, administrator, reformer, colleague as well as friend. He had a Cambridge First, he was a productive writer and researcher. He was a leading academic and lucid teacher. He was an effective Dean of Tasmania and Monash Law Schools and Head of a university department at Melbourne. He was closely involved with Malleson Stephen Jaques and held high office in the Law Council of Australia. He was an active law reformer. He never gave up on the Personal Property Act proposal because he was convinced that it was the right thing to do. The Commonwealth Attorney General in a rare tribute said:

His contribution proved pivotal in prompting new moves towards harmonisation across the jurisdictions. I believe it would be a fitting legacy to Professor Allan's life work for all of us to recommit ourselves to achieving this goal.

I knew David as a colleague at the University of Melbourne and it was my good fortune and the good fortune of Bond University that I managed to persuade David and Mary to take Professorships in the Bond Law School where they have given such good service. David and Mary gave me strong support at Melbourne and Bond, particularly in the hard time that I had as Acting Vice Chancellor in the troubles of 1995-6. One values that loyalty and support combined with the forthrightness with which it was expressed.

David had a strong personality. He was not known as Tiger for nothing. I can tell you from personal experience that once he had made up his mind he never gave up on something and he did it his way.

David made an outstanding contribution on so many fronts and we shall miss him greatly.

Now David enters the Kingdom of Heaven and the realm of memory but he was such a strong personality that he will long be in our memory. Our thoughts and prayers go out to Mary at this time. Mary gave David wonderful support and she had a heavy burden in recent years as David's health began to falter. We gather today to honour and farewell David and to express our love and support for Mary at this sad time.

God bless you, David, Shalom - peace be with you, my friend.

Professor John Farrar  
February 2006