

HARRY REICHER

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EDUCATION

Bachelor of Economics, Monash University
LL B, Monash University
LL M, University of Melbourne
LL M, Harvard Law School

EXPERIENCE

Adjunct Professor of Law, University of Pennsylvania Law School
Barrister at Law, Australia
Member, Board of Arbitrators, National Association of Securities Dealers (New York)
Director of International Affairs and Representative to the United Nations of Agudath
Israel World Organization

FORMERLY VISITING (OR ADJUNCT) PROFESSOR OF LAW

Brooklyn Law School
Rutgers Law School, Camden NJ
University of Florida College of Law
Loyola Law School, Los Angeles
University of Pittsburgh School of Law
New York Law School
Visiting Associate, Law School,
University of Melbourne
Lecturer, Senior Lecturer and Visiting Associate Professor, Faculty of Law, Monash
University, Melbourne
Consultant, Legal Department, International Monetary Fund, Washington DC
Consultant to the Rt Hon Sir William McMahon, formerly Prime Minister and Treasurer
of Australia
Speechwriter for the Hon Andrew S Peacock, former Minister for Foreign Affairs of
Australia
Articled Clerk, Associate and Partner, Slonim, Velik and Emanuel, Solicitors,

Melbourne

Research Officer, Research and Information Section, Australian Department of Shipping
and Transport

COURSES TAUGHT IN LAW SCHOOLS IN AUSTRALIA AND THE USA

Australia in the International Legal Order
Comparative Australian and US Taxation
Conflicts of Laws
Current Problems in Taxation
Estate Planning
International Environmental Law
International Human Rights
International Law and the Middle East Conflict
International Taxation
Law and the Holocaust
Law of the Sea
Law of Trusts
Law of the United Nations
Professional Practice (Clinical Legal Education)
Public International Law
Stamp Duty and Other State Taxes
Taxation
Taxation of Corporations and Shareholders

Delivered Lectures in the Following Courses: Civil Procedure; Comparative
Constitutional Law; Corporations; Foreign Affairs and the Constitution

PUBLICATIONS

International Law

Books

Law and the Holocaust: Cases and Materials (Fifth Preliminary Edition,
University of Pennsylvania Law School, 2002)

The Middle East Conflict in International Law: Cases and Materials (Sixth
Preliminary Edition, University of Pennsylvania Law School, 2001)

International Human Rights: Freedom of Religion (Supplementary Teaching
Materials, University of Pennsylvania Law School, 1998)

Editor, Australian International Law: Cases and Materials (Law Book Company,

Sydney, 1995)

Review By His Excellency, Judge Christopher G Weeramantry, International Court of Justice (From the Foreword):

"Harry Reicher and his team of distinguished authors are to be congratulated on putting together a splendid collection of materials...which should serve as a firm foundation for international law studies in the future. The thoroughness with which the search has been conducted for a substantial base of materials of particular interest to Australia is remarkable. Moreover, the collection, while affording an excellent groundwork for the study of traditional principles of international law, is also oriented towards the future, making due provision for areas of international law which will develop strongly when today's law student becomes tomorrow's practitioner....Another reason for which the appearance of this volume is to be welcomed is that, despite its essentiality to the lawyer of the 21st century, international law is not accorded in many Australian universities the position of importance which it warrants. The appearance of this book and the fresh stimulus it will provide to international law studies in Australia will be an important step in rectifying this imbalance....I wish this book much success. It will be a boon to the student of international law, a ready source of reference to the legal practitioner and a significant contribution towards enhancing the status of international law studies, which are so vital to the future of Australia."

Review in 34 Canadian Yearbook of International Law (1996)

"I encourage my International Law and Criminal Law students to see Bruce Beresford's great 1979 Australian film on the Boer War, Breaker Morant. The lawyer's themes of the treatment of the captured enemy and the defence of superior orders are nicely overlaid with the irony of colonial forces fighting a dirty colonial war on behalf of a less than grateful Metropolitan power. The film is a striking symbolic assertion of Australian nationalism and of that nation's independence from Great Britain and from other echoes of the European past.

This new collection of materials edited by Harry Reicher of the Faculty of Law at Monash University (with the assistance of a distinguished group of other Australian scholars) is the Breaker Morant of International Law books....The work captures not only the flavour of the inevitable relationships that any modern state must deal with, but also the unique experiences of a middle power, a former colony which is also itself a former colonial power, a founding member of the United Nations, a country located in the South Pacific and close to

Asia."

Australian Supplement (with G French) to Louis B Sohn, Cases and Materials on Law of the Sea (Third Revised Preliminary edn, 1989-90) (Faculty of Law, Monash University, 1995)

Australia's Recognition Policy Towards China (Butterworths Microfiche Series, 1976)

Articles, Papers and Chapters in Books

"The Relationship of International Law to Australian Law" (with G McGinley), ch 2 in Reicher (ed), Australian International Law: Cases and Materials (supra, 1995, Law Book Company)

"International Legal Persons" (with T McCormack), ch 3 in Reicher (ed), Australian International Law: Cases and Materials (supra, 1995, Law Book Company)

"Sovereignty and Jurisdiction" (with G Simpson), ch 4 in Reicher (ed), Australian International Law: Cases and Materials (supra, 1995, Law Book Company)

"Law of the Sea" (with G French), ch 5 in Reicher (ed), Australian International Law: Cases and Materials, (supra, 1995, Law Book Company)

"International Environmental Law" (with J Behrens and P Lawrence), ch 10 in Reicher (ed), Australian International Law: Cases and Materials (supra, 1995, Law Book Company)

"Law of Treaties" (with H Burmester), ch 11 in Reicher (ed), Australian International Law: Cases and Materials (supra, 1995, Law Book Company)

"The Interface of Halacha [Jewish Law] and the Secular Legal System: The Australian Experience," in Jewish Law Association Studies VI, The Paris 92 Conference Volume: Proceedings of the Seventh Biennial Conference of the Jewish Law Association (1994)

"Access by Australian Aboriginals to the Fruits of Deep Seabed Mining", 15 University of Western Australia Law Review 187 (1983)

"The United Nations Resolution on the Thirtieth Anniversary of its Passage," 20 Columbia Journal of Transnational Law 1 (1981)

Taxation

Books

Model Tax Administration Act and Explanatory Memorandum and Commentary (International Monetary Fund, 1993)

Taxation Investigations and Audits (Australian Society of Accountants and Centre for Professional Development, 1983)

Defending Your Client Against an Attack by the Commissioner of Taxation (Fiscal Resources, 1979)

Grbich, Munn & Reicher, Modern Trusts and Taxation (Butterworths, 1979)

Articles, Papers and Chapters in Books

Formerly editor, Taxation Section, Australian Business Law Review

"Contractors -- Personal Exertion Income in Light of Ruling IT 2121," in Recent Developments in Taxation (LawPress, Faculty of Law, Monash University, 1985)

"Taxation Aspects of the New Tax Penalties Legislation," in The New Tax Penalties (LawPress, Faculty of Law, Monash University, 1985)

"The Legal Structure of Family Tax Planning," in Family Tax Planning (LawPress, Faculty of Law, Monash University, 1984)

"Clarification of Current Position of Penalties Under Section 226," in Collection of Outstanding Tax (Center for Professional Development, 1983)

"The Commissioner's Powers of Investigation -- How to Advise Your Clients in Light of Recent Developments," in Tax Planning for June 1982 and Beyond (Australian Society of Accountants and Australian Seminar Services, 1982)

"Scheme of Sales Tax Legislation and the 1981 Amendments," in Sales Tax After the 1981 Budget (Faculty of Law, Monash University, 1981)

"Assignment of Income for Professionals: Will Current Arrangements Survive?" in Structuring Your Business After the 'New Section 260' (Faculty of Law, Monash University, 1981)

"What To Do When The Commissioner Attacks: Preserving Your Client's Sanity and Liquidity," in Tax Strategies for Advisors in 1979 (Australian Seminar Services, 1979)

“Taxation of Trusts After the 1997 Budget”, ch 4 in Grbich, Munn & Reicher, Modern Trusts and Taxation (supra, Butterworths, 1979)

“The Place of Division 6 in the Income Tax Assessment Act”, ch 5 in Grbich, Munn & Reicher, Modern Trusts and Taxation (supra, Butterworths, 1979)

"Recent Developments in Section 260 and Tax Litigation: New Horizons for the Taxpayer," in Trusts: Quo Vadis? (Australian Seminar Services, June 1978)

"Tax Avoidance in 1977: The Decline and Fall of Section 260," 12 Taxation in Australia 680 (1978)

"Recent Trends in Tax Planning: Paradise Lost or New Horizons?", in Trusts: Quo Vadis? (Australian Seminar Services, March 1978).

"Legislation by Press Release," 7 Australian Tax Review 31 (1978)

"Charity Begins At Home," 12 Taxation in Australia 377 (1978)

"Dividend Stripping -- The End of the Saga," 12 Taxation in Australia 163 (1977)

"Taxation of Companies: Recent Cases and Legislation," in Recent Developments in Taxation Law (Monash University, 1977)

"Section 36A Election Schemes, 1976 Style," 11 Taxation in Australia 526 (1977)

Company Law

"Compulsory Acquisition in Company Take-Overs," 6 Australian Business Law Review 11 (1978)

RELEVANT DUTIES IN THE FACULTY OF LAW, MONASH UNIVERSITY

Supervision and grading of LL B Honors, LL M and PhD theses

Formerly, Chairman of the Faculty's Continuing Legal Education Committee

Formerly, Assistant Editor, Monash University Law Review

MISCELLANEOUS ITEMS OF RELEVANCE

Faculty Adviser, University of Pennsylvania Law School team in the Jessup International

Law Moot Court Competition, 1997 (regional champion; runner-up, best written memorials) - 2002

Faculty Adviser, University of Pennsylvania Law School team in the National Environmental Law Moot Court Competition, 1997 (quarter-finalist)

Faculty Adviser, University of Pennsylvania Law School team in the East regional of the Jessup International Law Moot Court Competition, 1996 (semi-finalist; winner, best written memorials)

Guest Lecturer on Law of the Sea, Faculty of Law, University of Melbourne, 1992

Coach, Australian team in the international finals of the Jessup International Law Moot Court Competition in New York in 1985 (runners up, International Division Final; equal best written memorials, International division; best oralist, International Division; runner up to best oralist, International Division) and in Washington, DC in 1986

Coach, Monash University team in the Australian Regional Finals of the Jessup International Law Moot Court Competition in 1982, 1983 (runners up), 1985 (Australian Champions) and 1986 (Australian Champions)

Judge in International and US National Division run-offs of the Jessup International Law Moot Court Competition, 1981, 1985 and 1986

Judge, the US National Division Final of the 1981 Jessup International Law Moot Court Competition

Coach, University of Pittsburgh team in the 1981 Jessup International Law Moot Court Competition (Runner up, East Central Regional Division, and runner up for best written memorials and best oralist)

Guest Lecturer on Law of the Sea, Graduate School of Public and International Affairs, University of Pittsburgh, 1981

PRINCIPAL AREAS OF SPECIALIZATION IN PRACTICE

Taxation, including income tax, capital gains tax, sales tax, stamp duty, payroll tax, land tax, financial institutions duty and international taxation

Public International Law

Company Law (especially takeovers)

Law of Trusts

Constitutional Law

Administrative Law

Customs Law

SELECTED ASPECTS OF CAREER AS BARRISTER

Appeared in the High Court of Australia, the Federal Court of Australia, the Supreme Court of Victoria, the Supreme Court of the Northern Territory of Australia, the County Court of Victoria, the Magistrates Court, the Federal Administrative Appeals Tribunal, the Victorian Administrative Appeals Tribunal; also, the British High Court of Justice and Court of Appeal

Successfully argued what is believed to be the first case worldwide interpreting the central provisions of the 1972 Paris Convention on the Protection and Preservation of the World's Natural and Cultural Heritage (the World Heritage Convention): Report of the Commission of Inquiry into the Lemnathyme and Southern Forests Areas (the Helsham Report), Australian Government Publishing Service, Canberra, 1988

Appeared in the High Court of Australia in the first case to consider the issue of affirmative action under the International Convention on the Elimination of All Forms of Racial Discrimination and the Australian Constitution: Gerhardy v Brown (1985) 159 CLR 70

Appeared in the British High Court of Justice and Court of Appeal in the first case to consider the religious heritage, background upbringing and education of a child in the context of the "welfare checklist" in the Children Act 1989 (UK): Re P (a child) (residence order: child's welfare) [1999] 2 Family Court Reporter 289 (Court of Appeal; leave to appeal to the House of Lords refused)

Advised and assisted in the preparation of litigation, involving issues of international law, in the United States Federal District Court in Pittsburgh, on behalf of Aluminum Co of America Inc (Alcoa) in an action brought by the Australian Conservation Foundation: The Conservation Council of Western Australia Inc. et al v Aluminum Company of America (Alcoa) and Reynolds Metals Co, decision of Cohill DJ, US District Court for the Western District of Pennsylvania, July 9, 1981: 518 F Supp 270 (1981)

Appeared for the State of Victoria in the High Court of Australia in a challenge to the constitutional validity of Australian legislation creating the authority which organized Australia's Bicentennial celebrations: Davis and Others v The Commonwealth of Australia and Another (1988) 166 CLR 79

Argued the first case to challenge the constitutional validity of tax legislation on grounds of retrospectivity: Deputy Federal Commissioner of Taxation v Grollo & Anor (1985) 85 ATC 4442: "[T]he defendants' argument . . . was advanced before me with vigour and ability . . .": per Tadgell J, at p4443

Appeared in the High Court of Australia in the first case to establish the procedural requirement that litigants seeking to argue the incorrectness of prior decisions of the

Court obtain leave to do so: Evda Nominees Pty Ltd and Others v State of Victoria (1984) 154 CLR 311 (the case revolved around section 90 of the Constitution)

Successfully argued the first test case in Australia on the conception of "royalties" for purposes of the extensive Commonwealth sales tax amendments which were enacted in 1985: Franklin Mint Pty Ltd v Commissioner of Taxation, (1993) 93 ATC 4047. Federal Court of Australia. Reversed on appeal.

Appeared in the High Court of Australia for the Commissioner of Business Franchises (Vic) in a test case on the status of ultra vires tax assessments in recovery proceedings: McDonald v Commissioner of Business Franchises (1993) 67 ALJR 55

Argued the test case in which the Victorian Comptroller of Stamps sought to establish the limits of Exemption (18) of Heading VI to the Third Schedule of the Stamps Act 1958, dealing with transfers of property to a nominee or trustee of the transferor: Comptroller of Stamps v Yellowco Five Pty Ltd [1993] VR 529

Advised and prepared the test case in the Supreme Court of the Northern Territory on behalf of a wide range of aboriginal organizations which asserted "public benevolent institution" status for purposes of Northern Territory revenue law. Although unable to argue the case personally (due to ill health), I developed the original conception on which the argument was based, and had its conduct until shortly before trial. The decision of Angel J had major implications for numerous aboriginal organizations in and around Alice Springs. Tangentyere Council Inc v Commissioner of Taxes (NT) (1990) 90 ATC 4352

Successfully argued the first case in which a taxpayer obtained leave to defend recovery proceedings by which the Commissioner of Taxation sought to recover late payment penalties under section 207 of the Income Tax Assessment Act on primary tax levied under that Act: Deputy Federal Commissioner of Taxation v. Trower (1986) 86 ATC 4157

Successfully argued the first case in which a taxpayer obtained leave to defend proceedings by which the Commissioner of Taxation sought to recover late payment penalties under section 207 of the Income Tax Assessment Act on additional tax levied under section 226 of that Act: Koadlow v Deputy Federal Commissioner of Taxation (1985) 85 ATC 4147

The two above decisions led to significant amendments to the Income Tax Act (Cth), the Fringe Benefits Assessment Act (Cth) and the Sales Tax Assessment Acts (Nos 1-11) (Cth)

Appeared in some of the most significant takeover battles in Australian corporate history in the late 1980s, eg North Broken Hill and Industrial Equity; BHP and Bell's; Humes and Unity APA Ltd; Hendersons; Cherry Lane

Argued the only reported case solely concerning the adequacy of grounds of objection in tax cases: Executor of Estate of Weinberg (deceased) v Federal Commissioner of Taxation (1983) 83 ATC 4747

Successfully argued the first case in which public company shares (some \$65 million worth) were vested in the National Companies and Securities Commission: Ex Parte North Broken Hill Holdings Ltd. Decision of Fullagar J in Supreme Court of Victoria, January 10, 1986, reported in The Age, Monday, January 13, 1986

Successfully argued the last case from Victoria in which an appellant (unsuccessfully) sought leave to appeal from a decision of a single judge of the Supreme Court of Victoria direct to the Privy Council: Crosley Ltd v North Broken Hill Holdings Ltd., decision of Fullager J in Supreme Court of Victoria, 1986, unreported

Successfully argued what is believed to be the first case in Australia in which an injunction was granted to prevent a Coroner from carrying out a post mortem examination on the body of a deceased person: Romer and Levy v Ellis, decision of Phillips J (now CJ) in Supreme Court of Victoria, July 23, 1985, reported in The Age, Friday, August 9, 1985

Consultant to International Monetary Fund, Washington, DC, on issues of international law and taxation. Among other things, drafted Model Tax Administration Act, together with accompanying Explanatory Memorandum and Commentary

SELECTED ASPECTS OF LAW REFORM WORK

Drafted submission to the Attorney-General of the State of Victoria which resulted in the first legislation in Australia conferring a right on the next-of-kin of a deceased person to apply to the State Coroner that no post mortem examination be performed and, if the Coroner wishes to proceed nonetheless, to seek a review of his decision in the Supreme Court of Victoria: See Coroners Act 1985 (Vic), section 29

Conducted negotiations on behalf of the Jewish community with the Australian Department of Agriculture which resulted in the obviation of a requirement that esrogim (citrons) imported for the Jewish festival of Succos (Tabernacles) be fumigated, a process which may have rendered them unfit for use pursuant to Halacha (Jewish Law)

Drafted submission to the Minister for Agriculture of the State of Victoria which resulted in the enactment of a provision in the Prevention of Cruelty to Animals Act 1986 exempting the shechita (killing by kosher means) of poultry from the requirements of the Act. See section 6(a) of the Act

Led a team of lawyers who researched and publicized an injunctive power in the

Australian Family Law Act which is now being utilized to assist adherents of the Jewish faith whose spouses refuse to cooperate in the obtaining of a Get (Jewish religious divorce)

Drafted written submission, and presented oral submission before a Parliamentary Committee, which resulted in recommendation for the privatization of the main Jewish cemeteries in the State of Victoria under the Cemeteries Act 1958