



PROFESSOR IVAN SHEARER AM RFD FAAL RAN (RTD)
1938 – 2019

Dale Stephens and Matthew Stubbs***

This issue of the *Adelaide Law Review* is dedicated to the memory of our dear friend and colleague Ivan Shearer. Ivan's 63-year involvement with Adelaide Law School began when he commenced his undergraduate law studies here in 1956. He later became a member of the academic staff, served as Dean of Law, and in his retirement returned as an Adjunct Professor. Ivan also served for many years as a member of the Advisory Board of the *Adelaide Law Review*.

We introduce here a series of short tributes presenting personal reminiscences about Ivan and his contributions, from some of the many whose lives he touched. This collection does not attempt to provide a comprehensive account of Ivan's life, intellectual contributions, academic and professional achievements (of which there are many) or service to the Royal Australian Navy.¹ Instead, the reflections we have collated present a patchwork of Ivan as a person, from the perspectives of those who knew him. The breadth and calibre of international law scholars and practitioners represented here, however, gives a clear sense of the extraordinary impact that Ivan had.

In a sense, Ivan enjoyed three very distinguished careers — as a legal academic, a naval officer and advisor to governments, and a jurist. In the first of these, he was a consummate international law scholar, a generous mentor and teacher, and a distinguished leader. After his law studies at the University of Adelaide, Ivan completed a doctorate (SJD) at Northwestern University in the United States. Following his return to Australia, Ivan rose rapidly through the academic ranks. He served as Dean of Law at both the University of Adelaide and subsequently at the University of New South Wales, before accepting the Challis Chair of International Law at the University of Sydney. He also held the distinguished Charles H Stockton Chair of International Law at the US Naval War College. Naturally, Ivan was made a Fellow of the Australian Academy of Law.

Ivan was a proud and loyal officer of the Royal Australian Navy, rising to the rank of Captain. He had been a protégé of the renowned international lawyer Professor Daniel O'Connell (himself a Commander in the Navy and, like Ivan, a member of academic staff at Adelaide Law School). Possibly because of that close connection,

* Professor, Adelaide Law School; Director, Research Unit on Military Law and Ethics, University of Adelaide; Captain, Royal Australian Naval Reserve. The views expressed in this article are personal views and should not be interpreted as an official position.

** Associate Professor, Adelaide Law School; Lieutenant, Royal Australian Naval Reserve. The views expressed in this article are personal views and should not be interpreted as an official position.

¹ An excellent account of Ivan's professional life can be found in James Crawford, 'Ivan Shearer: International Lawyer and Teacher' (2005) 24 *Australian Year Book of International Law* 1. Volume 24 of the *Australian Year Book of International Law* was dedicated to Ivan and is the most comprehensive tribute to his intellectual legacy.

Ivan transferred from the Royal Australian Air Force ('RAAF') to the Navy in the 1970s. Throughout the subsequent decades, Ivan's role in advising the Australian Defence Force ('ADF') in the field of international law grew exponentially and his own global reputation as a leading international law scholar became firmly established. In the early 1990s, at the time of the first Gulf War, Ivan was fully engaged in providing advice to senior Navy and ADF Commanders which decisively shaped the legal framework under which the ADF was deployed. That set the high standard for legal compliance that all subsequent ADF operations have followed.

Thereafter, the Navy and ADF increased their commitment to developing international law skills for all permanent and reserve legal officers. Ivan was an active and insightful supporter of this emerging expansion of international and operational law expertise. Ivan was undoubtedly the leading Australian scholar on the Law of the Sea and the Law of Naval Warfare, two critical areas of law relevant to the ADF. He ensured that the international scholarly networks he had created in these fields were accessible to ADF legal officers. His world-class academic reputation was well known by all junior officers and while demands on his time were constant, he always found opportunities to train and engage with junior ADF legal officers about the law.

Ivan was a kind and patient mentor and an ideal role model. He strongly supported scholarship within the ADF and often found the time to compliment young legal officers on a paper they had published or a presentation they had just delivered. It was always a wonderful moment to receive a hand-written note from Ivan following some personal achievement. Ivan's legacy will live on in the work and commitment of ADF Legal Officers for decades to come. His 40 years of service to the RAAF and Navy was recognised with the Reserve Forces Decoration, and in 1995 Ivan was made a Member of the Order of Australia. Marking Ivan's passing, Rear Admiral the Honourable Justice Michael Slattery AM RAN (Judge Advocate General, ADF) and Commodore Peter Bowers RAN (Director-General, ADF Legal Service) observed:

CAPT Shearer's selfless commitment to teaching and advising in international law and its application inspired a generation of ADF officers to understand and respect the international rule of law. We salute his service to the Navy, the ADF and to Australia.²

Ivan's service to Australia encompassed not only his military service, but included extensive civilian service on foreign affairs matters, including involvement in Australia's defence of the proceedings brought against it in the International Court of Justice by Portugal in respect of Timor-Leste.³ Yet Ivan was not only a trusted advisor of his own government; he also served the Kingdom of Lesotho so well that he was offered (but declined) the position of Attorney-General. Closer to home, he served Nauru and Kiribati as well.

² MJ Slattery and PW Bowers, 'Vale CAPT Ivan Shearer, AM, RFD, RAN (Rtd)' (Minute, Department of Defence, 12 July 2019) 4 [24].

³ This dispute culminated in *East Timor (Portugal v Australia) (Judgment)* [1995] ICJ Rep 90.



Source: Joel Lisk

Ivan's career as a jurist commenced in parallel with his academic and naval work, but after his retirement from the latter two roles, Ivan's service to national and international dispute resolution increased. He served as a Senior Member of the Administrative Appeals Tribunal, as a member and later Vice-President of the Human Rights Committee, twice as a judge ad hoc of the International Tribunal for the Law of the Sea, five times as an arbitrator in UNCLOS⁴ Annex VII Tribunals, and was a member of the Panel of Arbitrators of the Permanent Court of Arbitration. There is no doubt that Ivan stands among the most distinguished of Australia's international jurists.

However, in our view there is perhaps an even better measure of Ivan as a person than all of these remarkable professional achievements: his engagement with law students in his 'retirement'. Of course, retirement from full-time university teaching was accompanied for Ivan by a marked increase in his distinguished service as an international arbitrator. Yet, notwithstanding the pressures of that important work, Ivan would always make the time to attend research proposals by our PhD students in international law, providing detailed and helpful feedback to the next generation of international law scholars.

Ivan was also a generous supporter of international law mooting. His leading role in bringing the Philip C Jessup International Law Moot to Australia, and his stalwart

⁴ *United Nations Convention on the Law of the Sea*, opened for signature 10 December 1982, 1833 UNTS 397 (entered into force 16 November 1994).

support for the competition over many years, is well known. Even in retirement, Ivan continued to coach Jessup teams from the University of South Australia. He was equally generous in his support of the Manfred Lachs International Space Law Moot when Adelaide Law School hosted it in 2017 and 2018. Ivan invested time in mastering the moot problems, and was an engaged and generous judge (as pictured above) for diverse teams of competitors from around the Asia-Pacific region. The many law students who had come from India, China, Japan and a dozen other countries had the opportunity to witness the brilliance of a scholar who was still at the top of his game. The rest of us recognised that we were in the presence of a master international lawyer whose commitment to this body of law, and to making the world a better place, was absolute.