

Law Foundation of South Australia Fellowship

Report of Olivia Jay

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I feel very fortunate to have been awarded the Law Foundation of South Australia Fellowship in 2023, in respect of my study of the LLM at the University of Cambridge in the 2024-25 academic year. My year at Cambridge was challenging, immersive and joyful – a wonderful experience that would not be possible for most, and certainly would not have been possible for me, without the endorsement of organisations such as the Law Foundation.

I had great difficulty choosing just four subjects from a large selection, but ultimately took papers in Advanced Private Law, the Law of Restitution, Criminal Justice and Human Rights, and Race, Gender and the Law. While that selection was often met with confusion by academics and students alike, the diversity of my papers was what made the year so intellectually stimulating. A standard week might commence with a critical consideration of the desirability of fusing law and Equity in light of the operation of selected commercial remedies in Advanced Private Law, and later move to an examination of the rights of trans persons from an intersectional feminist perspective in Race, Gender and the Law. Equally stark was the contrast between arguing about whether decades of hard work by acclaimed common law academics in building the English law of unjust enrichment ought to be forgotten in favour of less unified, more ‘Civilian’ approaches in the Law of Restitution, and philosophical questions of *why* fair trial rights exist (and what they accordingly must entail) in Criminal Justice & Human Rights.

As to the outcome of my study, I am happy to report that I graduated with a first class (‘Class I’) result, and was awarded the Gareth Jones Prize for the Law of Restitution. I was also elected a Senior Scholar of Trinity College, and received an Examination Prize and the Lizette Bentwich Prize from Trinity for my performance in final examinations. Having the time and the support to spend a year thinking about complex and diverse legal issues was a true privilege: it is a credit to the Law Foundation and indeed to the profession in South Australia that students and lawyers who wish to extend their legal education are actively encouraged to do so. Such support is certainly not widely available in other jurisdictions, and I suspect it is in recognition of the same that many former recipients of the Fellowship continue to exhibit dedication to a key criterion for selection: benefit to the legal community. At all stages of this process – from applying for postgraduate study, to navigating financial concerns, to riding the (stressful) wave of final exams – fellows from years before me have been extremely generous with their time, and so I am accordingly grateful not only to the Foundation, but also to the community that the Foundation has cultivated.

I would wholeheartedly encourage any South Australians who are considering applying for further study to do so, and to them, I offer three pieces of advice. First, do not be intimidated at the prospect of submitting such applications: the legal education provided by universities in South Australia is first rate, and will more than equip you to succeed at the postgraduate level at overseas institutions. (I cannot offer such advice without extending my sincere thanks, in particular, to Dr David Plater, Dr Sylvia Villios and Dr Anna Olijnyk, who were as wonderfully

helpful throughout this experience as they were during my undergraduate studies.) Secondly, do not hesitate to get in contact with South Australians who have previously undertaken courses in which you are interested, including those who have been fortunate enough to be named Fellows of the Law Foundation – my ‘door’ is always open. And thirdly, and on a biased note – while the temptation may be to pick subjects that help in building a ‘specialty’ (and, of course, that is valuable!), I would encourage candidates to consider taking subjects that force them to consider legal issues beyond their comfort zones. In my experience, variety not only stoked creativity in legal thinking, but prompted me to think critically about the law as a collective. By way of example, the combination of Advanced Private Law and Race, Gender & The Law forced me to reckon with the racialised and gendered implications of private law in common law jurisdictions – the importance of which cannot be overstated in Australian legal education, given our nation’s history.

Now that my course of study has concluded, I am looking forward to embracing opportunities to contribute to the community in South Australia. In the first instance, I will do so by assisting the South Australian Law Reform Institute (**SALRI**) with two references over the coming months, relating to barriers to Indigenous participation on juries in South Australia and the operation of the *Bail Act 1985* (SA). SALRI’s work is important and I feel fortunate to have been welcomed back warmly by Professor John Williams, Dr Plater and Dr Villios. With gratitude to the Law Foundation for its support during a formative time, I am glad to be in a position to embrace these and other professional and academic commitments with old energy, new knowledge and a fresh perspective.