

FACULTY OF LAW | A YEAR IN REVIEW 2014



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# From the Dean

## WELCOME TO ANOTHER EDITION OF V.ALUM

IT HAS BEEN A GREAT PLEASURE and privilege to be Pro-Vice Chancellor and Dean of Victoria's Faculty of Law for more than eight years.

It is astonishing to look back and see what has been achieved, with the highlight being the 2013 PBRF result as the best law faculty in New Zealand for research. This year, that achievement continues with the awarding of two substantial Marsden Grants and recognition in the Legal Research Foundation's writing awards.

It is not always an easy course, steering any faculty of a university. This was particularly the case when we take into account that my appointment more or less coincided with the start of the Global Financial Crisis, which made the business dimensions of running the University that much more difficult. The university was also undergoing significant changes, having recently absorbed a College of Education and started a Faculty of Engineering. Both of these required a significant amount of university resource for which we were in some sort of competition. On top of that, the Government kept sending signals that Science, Technology, Engineering and Mathematics were its top funding priorities.

I have tried to keep putting the case for the importance of Law as a University subject of study that is valuable not only for those who intend to practise Law but also as an intellectual discipline that provides and sharpens all sorts of habits of thought that will contribute to the development of our students as valuable citizens, of New Zealand and, it may be, elsewhere in the world.

One of the things I have particularly enjoyed is being so much a part of Wellington's legal community. The inter-connectedness of town, gown and government (as exemplified by the annual Robin Cooke Lecture) has created a stimulating and fertile ground for legal debate and discussion. An example of this relationship and the benefits it brings is the employment of former appellate court judges as Adjunct Lecturers for our postgraduate courses.

I am also proud of other appointments we have made, both at junior and senior levels. The Faculty's future is in good hands and I am sure my successor will have every reason to be as proud of the Faculty as I am. If, as I like to think, the Faculty has become a more convivial, welcoming and encouraging place during my time here, I would take great satisfaction in that.

At the time of writing, the University (and Faculty) are coming towards the end of a hunt for my successor. Whoever it is that takes up the challenge, I wish them well.



**PROFESSOR ATH SMITH**  
*Dean, VUW Law Faculty*



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### AT THE PORTAL

There are many doorways at Old Government Buildings that are featured throughout this issue of *V.Alum*. Doorways open and close, reminding us of opportunity, decisions and chosen paths.

# NZCIEL conference: IP and the internet

Standing: Daniel Gervais



## The New Zealand Centre of International Economic Law hosted the second of its conferences organised in conjunction with InternetNZ: “Intellectual Property on the Internet: Is there Life Outside of the Big Three?”

THE THEME OF THE CONFERENCE was to discuss the increasing number of alternatives that are looked at because of difficulties with the Big Three of IP: copyrights, patents and trade marks.

Examples of those difficulties include the cost of obtaining international patent protection, the over-enforcement of patents by so-called non-practising entities (trolls), the dubious validity of many patents such as for online business models, and the difficulties and possible inefficiencies of copyright-led efforts to modify online behaviour.

Also, the useful but very limited role of trade marks (such as preventing domain names that too closely resemble protected marks) does not work well for new online uses, including, for instance, the sale of brand names as AdWords. Increasingly such problems have led to calls to repeal laws that do not work or replace them with other legal solutions.

And so this conference asked: Is there life for IP online outside of the Big Three? Do we need

new instruments? The common denominator of new legal solutions is that they often are *sui generis* regimes or they stem from common law doctrines and have limited (or even no) recognition in international treaties. Does that matter?

Professor Susy Frankel, Director of the NZCIEL, and Professor Daniel Gervais, Vanderbilt Law School and NZCIEL Research Affiliate, co-organised the event. Renowned experts came from around the world to participate in the event. There were also excellent presentations from junior scholars including two successful VUW graduates (Dr Ping Xiong, University of South Australia and Dr Jessica Lai, University of Lucerne). “It was pleasing to see so many participants from government and intellectual property law practices. The conference generated excellent discussion between speakers and the audience and we were proud to host the event”, said Susy Frankel.

Keynote speaker Rochelle Dreyfuss (Pauline Newman Professor of Law, New York University

School of Law) presented her paper: “Enforcing Intellectual Property Globally when Rights are Defined Territorially.”

Professor Dreyfuss showed how some laws aimed at dealing with internet issues have long existed alongside the Big Three (copyright, patent and trademarks). Examples include trade secrets and rights of publicity.

However, she said others stem from the inadequacy of the big three “silos” to deal with the new production and distribution methods the Internet makes possible. Some address new types of intellectual effort, such as the use of the big data the internet generates; others adapt old doctrines, such as unjust enrichment, or old enforcement mechanisms, such as criminal law, to deal with novel cyber activities and capabilities.

Professor Dreyfuss questioned whether we are thinking boldly enough: intellectual property rights are traditionally territorial, yet events on the internet are quintessentially global. She thought harmonised law could solve some of these problems, but harmonisation is unlikely and, in many respects, socially undesirable. She did not think it would solve all the problems.

She proposed an alternative that has been debated in the United States, Europe and throughout Asia and in organisations from the Hague Conference on Private International Law



to the International Law Association: procedures for streamlining litigation and the recognition and enforcement of judgments.

The opening address of the second day, by Maggie Chon (Donald & Lynda Horowitz Professor for the Pursuit of Justice, Seattle University) was: “The Promises and Pitfalls of Information Governance in a Wireless World.”

Professor Chon asked what can global digital networks and other kinds of technologies (e.g., QR codes and other smart forms of information) contribute to regulation of goods and services in global value networks (such as supply chains)?

Professor Chon started from the premise that information is a public good, and verifiable information is arguably a public “better.” Yet digital information is increasingly generated (and often monetised) by the private sector through firms, consumers and so-called “prosumers.” It is not typically considered as a category of innovation by itself, with some exceptions such as the recognition of *sui generis* database rights. Nor is its verifiability and reliability managed in a consistent manner. At the same time, global administrative law scholars recognise the category of governance by information as one type of transnational regulation – a form of soft regulation within a global market environment that could be

characterised as “wireless engagement” or “information capitalism” or even “cognitive capitalism.”

Professor Chon skillfully discussed how information has tremendous inherent value from both public and private angles, and innovation in reliable information ought to be encouraged, but the question is how that encouragement can be intentionally done in the public interest within a soft regulatory framework.

For example, could the on-line environment be encouraged to create and shape greater consumer awareness of product qualities such as sustainability in manufacturing and distribution? Can recognised categories of intellectual property such as copyrights, trademarks and certification marks be expanded to impart specific process measures, in addition to more overt product characteristics – that is, to highlight so-called credence as well as the more commonly accepted experience attributes?

And what about newer and/or *sui generis* forms of intellectual property: can information about provenance be traced more rigorously in the distribution of goods protected by regimes of geographic indications? And might the on-line environment have a substantial development impact on efforts to monetise or preserve forms

of traditional knowledge, through more widespread distribution of information about their characteristics and history?

Jordan Carter, CEO of InternetNZ and sponsor of the conference, commenting on Professor Chon’s paper, enthusiastically encouraged this line of research.

In 2016 the NZCIEL and InternetNZ’s collaboration will continue with a workshop: “Intellectual Property and Regulation of the Internet: The Nexus with Human and Economic Development”.



# Earth-centred law: New Thinking on Sustainability

From left:  
Professor Klaus Bosselmann  
(University of Auckland), Tony  
Smith, Michelle Maloney (Griffith  
University), Linda Sheehan (Earth  
Law Centre), Michael Rosenthal  
(GAPLA), Kristina Müller (Law  
Foundation Representative),  
Geoffrey Palmer, Cathy Iorns,  
Petra Butler.



Civil disobedience as a response to environmental crises was explored at a conference held at Victoria University's Faculty of Law in February.

THE CONFERENCE "New Thinking on Sustainability" brought together for the first time in New Zealand a new generation of environmental academics and practitioners whose focus is sustainability.

Organiser Catherine Iorns, a Senior Lecturer in Victoria's Faculty of Law, says: "Earth Law is a growing topic of discussion worldwide but is new to mainstream environmental law in this country. Earth jurisprudence involves taking an alternative, 'Earth-centred' approach to law.

"It is but one of several profound changes to current thinking that were discussed. Others are the increasing calls for civil disobedience in pursuit of the need for social change and the exasperation of younger people at the mind set of existing world leaders and decision-makers."

Thanks to generous funding from GAPLA (German Australian Pacific Lawyers Association),

the New Zealand Law Foundation and the University, some leading speakers from New Zealand and overseas were able to attend.

The conference started unofficially with a public workshop on Wild Law and the rights of

*"Perhaps one of the most implementable ideas is that of a sustainability Bill of Rights. This would elevate the right to a sustainable environment to an overarching one which informs every right within a rights catalogue."*

nature. This was led by the Director of the Australian Earth Law Alliance, Michelle Maloney and Catherine Iorns, and attracted a range of people interested in alternative legal approaches for communities wishing to protect the natural environment in their areas.

The conference proper started with a rousing welcome from the University's Deputy Vice-Chancellor (Māori), Piri Sciascia, including a waiata he had written on the need to protect our natural environment, and an introductory speech by Sir Geoffrey Palmer.

Sir Geoffrey emphasised how the concept of sustainable development had not served the world's needs in that our natural environment continues to deteriorate, and that we need a new concept of sustainability if only because environment and development appear to be incompatible.

Professor Klaus Bosselmann (Auckland) followed up this suggestion with an opening keynote speech on alternative concepts of sustainability, with some helpful comparisons with German ideas and an argument for an alternative concept of sustainability. Unless we have a concept that directly aims for

true ecological sustainability, we will continue to face rapid decline in the state of our natural environment, with the consequent social problems that will entail.

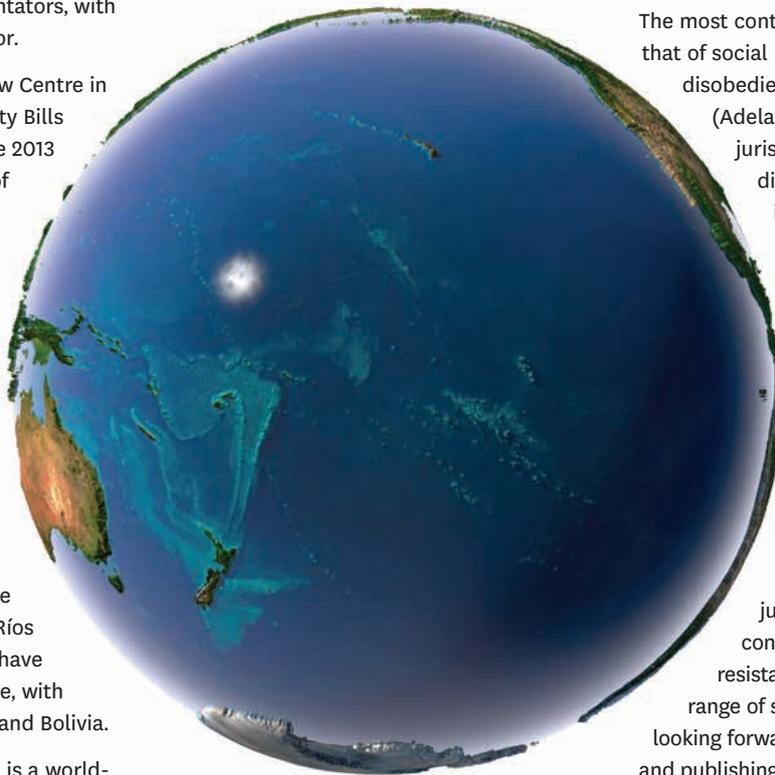
**T**HE FIRST DAY was devoted to exploring three different topics through a sustainability lens: environmental constitutionalism, environmental justice, and climate refugees. After an introduction to each topic by Catherine Iorns, they were then addressed by an overseas keynote speaker and New Zealand-based commentators, with plenty of discussion from the floor.

Linda Sheehan from the Earth Law Centre in California addressed Sustainability Bills of Rights, with the example of the 2013 Santa Monica Sustainability Bill of Rights which she helped draft. Sheehan noted that “rights-based movements can fundamentally change our relationship with nature to one of respect – not dominance”. Klaus Bosselman as commentator focused on the flip side of rights: that of duties which must be recognised towards the protection of the environment so as to fetter the property rights we currently uphold. Dr Joel Colón-Ríos (Victoria) illustrated how others have constitutionalised rights of nature, with some illustrations from Ecuador and Bolivia.

Professor Gerald Torres (Cornell) is a world-leading figure on critical race theory. He addressed some issues of environmental justice as it has emerged in the USA, focusing on the tribal sovereignty of Indian nations. Linda Te Aho (Waikato) helpfully put this work in the wider context of critical race theory, while Jacinta Ruru (Otago) and Andrew Erueti (Waikato) both addressed what it might mean for the development of both New Zealand law and Earth jurisprudence.

The panel on climate change and environmental refugees was kicked off by Brendan Mackey, Director of the Griffith University Climate Change Response Programme, with a sobering description of the current scientific knowledge on climate change and its predicted effects, including the anticipated widespread disruption of human societies worldwide and the very large numbers of environmental refugees that will certainly result.

John Corcoran (Waikato), a Kiribati national, showed the conference – with graphic photographs – the effects of climate change that some Pacific islands are already suffering, including the floating and erosion of land and the consequent effects on the communities



there. Alberto Costi (Victoria) noted how the international community has failed to address these issues and that much more work is needed on the appropriate responses by states – domestically and internationally – to deal with the existing and future numbers of climate refugees. Vernon Rive (AUT) discussed the recent international climate change negotiations and noted how they too were failing to address the necessary issues and challenges raised by climate change, and that a lot more work is needed on a very different type of response.

**T**HE PANELS on the second day addressed different possible responses to these environmental challenges, with a focus on what an Earth Law perspective might entail. An excellent illustration of the way that law might make better use of science in this area was provided by the plenary panel on the nine

planetary boundaries and how these might be used to better address sustainability through law and policy. An original proposal was made by Nicole Rogers (Southern Cross University) to develop a project examining legal judgements from the perspective of Earth jurisprudence.

The most controversial method addressed was that of social resistance and civil disobedience, with Peter Burdon (Adelaide) first arguing that Earth jurisprudence might require civil disobedience as a moral imperative in order to avoid environmental and thus civilisational collapse. Other speakers on social resistance ranged from the philosophical to the practical, including Valerie Morse on her experiences in many years of involvement in protest movements.

A range of other examples and methods of using Earth jurisprudence, eco-constitutionalism and/or social resistance were addressed by a wide range of speakers. The organisers are looking forward to collating many of these and publishing them in a special issue of the NZ Journal of Public and International Law (2015).

Catherine Iorns says that it is hard to pick the one best idea from the conference as the whole area is new and ‘cutting-edge’. Earth jurisprudence provides a very different perspective on how we might approach regulation and law-making in this area. The Dean, Professor Tony Smith, said he was excited by the return to academic discussion of civil disobedience.

Catherine Iorns suggested that perhaps one of the most implementable and thus attractive ideas is that of a sustainability Bill of Rights. “This would elevate the right to a sustainable environment to an overarching one which informs every right within a rights catalogue.”

“It has been said that if we fail our environment we fail to protect human rights. This conference has started to advance the new way of thinking that is necessary to do that.”

# The Dean delivers: *New Zealand Law Now*



The 13th Annual Robin Cooke Lecture was given in December 2013 by the PVC and Dean of Law, Professor Tony Smith, who chose to examine New Zealand's recent legal history.

AS THE STARTING POINT, Professor Smith selected 1972, the year in which the United Kingdom enacted legislation that enabled it to become a member of the European Economic Community. The consequences of that event have become more readily apparent in the constitutions and laws of the two nations.

Professor Smith argued that the United Kingdom's accession to the EEC had dual effects.

First, the UK's integration with Europe is having an increasing impact on the pure Common Law.

The home of the common law to which, historically we have been tied, is moving in directions that New Zealand may not need or wish to follow.

Second, just as the UK's accession turned New Zealand slightly more to its own resources in the development of its trading relations, it led more directly to the development of its own law. There have been a

number of significant "constitutional shifts". These include the Constitution Act of 1986, the New Zealand Bill of Rights Act 1990, the eventual abolition of the appeal to the Privy Council and the creation of a Supreme Court

*"The media frequently contain much misinformed comment, overlooking centuries of constitutional history that gave rise to and still lie behind the independence of the judiciary."*

by the Supreme Court Act 2003 and the Constitutional position of the Treaty of Waitangi.

Other significant developments include the open government legislation and the shift to the MMP electoral system. Taken together, these developments cement the distinctive domestic character of New Zealand's legal culture.

As to the impact of European law on the common law, this entails the introduction of different if not alien elements. The style of legislative drafting is different, and the practices of interpretation are correspondingly different. Whereas the common law draftsman values certainty and precision and adopts a correspondingly detailed legislative style, the European lawyer is content to paint with a relatively broad brush, leaving the detail to be worked out by others, including the courts.

## NEW ZEALAND'S JUDICIARY

Professor Smith maintained that New Zealand continues to be served by a judiciary of the highest calibre almost entirely free from any taint of corruption. But the constitutional position of the judiciary is not well understood by the general public, by the media or even senior politicians and public servants who should know better.

There is a perception that, because judges are paid from the public purse, they are in the same constitutional position as civil servants so far as accountability is concerned. The media frequently contain much misinformed comment, overlooking centuries of constitutional history that gave rise to and still lie behind the independence of the judiciary.



They are independent of the executive and the civil service that supports the executive, and there is a highly formal process that must be gone through before they can be removed from office on grounds of incapacity or misbehaviour, at the end of which there must be a Parliamentary resolution. That is one of the buttresses of judicial independence.

Having said that, he maintained there are some real worries about how easy it might now have become to be rid of a judge. The issue is still a very sensitive one following the resignation of Justice Bill Wilson from the Supreme Court Bench. It is not generally appreciated just how much damage might have been done by Justice Wilson's resignation.

In 2004, the Judicial Conduct Commissioner and Judicial Conduct Panel Act made provision for the establishment of an office (the Judicial Conduct Commissioner) to which complaints could be made about judicial misconduct.

Where a complaint is made the Commissioner may, after investigation, recommend that the Attorney-General should appoint a Judicial Conduct Panel to conduct further inquiries. The panel is to be held in public, subject to a discretion in the Panel to proceed in private, and there is a power to prevent publication of the Panel's deliberations.

As is well known, Minister Judith Collins, acting for the current Attorney-General who was under a conflict of interest in the circumstances of the Wilson case, did make such a recommendation. The Judge brought judicial review proceedings which were successful in the High Court but, before proceedings could begin, Justice Wilson resigned.

The concern is that, were similar circumstances to recur, almost any judge is likely to want to resign rather than face a panel in public with wide-ranging powers to investigate the personal circumstances.

There are aspects of this process that are worrisome, not least that recent history shows that it is not always thought necessary for the Attorney-General to be a qualified lawyer. It is, though, the fact that the panel must operate in

public that Professor Smith considered to be most worrying. There is no reason why it should not be sufficient to announce the fact that a judicial panel had been established, its composition and the terms of reference. The Panel should be required to make reasons for its recommendation in writing which would then be published. But the prospect of a public examination of a judge seems a kind of political theatre that is not needed.

#### NEW ZEALAND'S LEGAL EDUCATION

Professor Smith made further points about New Zealand legal education:

What is offered by the universities in New Zealand has been utterly transformed since 1972 and is of an excellent quality, as indicated

*“What is offered by universities in New Zealand has been utterly transformed since 1972 and is of an excellent quality ... three of its law faculties were ranked in the top 30 in the world in 2013.”*

by the fact that three of its law faculties were ranked in the top 30 in the world as assessed by the International QS survey in 2013. Our top students are welcomed with open arms in the best universities in the world, and they routinely perform exceptionally well in the USA, Canada and the UK.

Women now outnumber men in the law schools and have done so for some time. A recently published part of *Law Talk* (27 September 2013) makes the point that “since 1993, the majority of lawyers admitted each year have been women”. Twenty years, then, in which there has been a predominance of women graduates over men.

But the article made it plain that all is still not well. Of lawyers admitted since then, only 37% have been made partners in law firms. It would be fair to say too that the numbers of women in the upper echelons of the academic profession are not as high as could be expected.

The government, through the Tertiary Education Commission, sets targets for the

enrolment and completion rates of Māori and Pasifika students. Māori Admissions processes were instituted at Auckland and Victoria over 20 years ago with the intention of increasing the participation rates of Māori students. These programmes are then supported by additional tuition and enhanced pastoral care.

Finally, there is still an ambivalence about the purpose of legal education in the University, spread as it is between preparation for legal practice as opposed to the place of the study of law in the academy. There has been a transition, from a process whereby the essentially part-time lecturers instructed part-time students in the arts of Lambton Quay and Hereford Street legal practice into faculties that are home to full-time scholars of international reputation.

The old and restrictive curriculum was altered in 1987 with the approval of the Council of Legal Education. It introduced a far narrower range of compulsory subjects, reducing the numbers from 17 to six courses, with Ethics being added some years later. Honours courses were started in the mid 1960s, giving rise to the possibility of students undertaking real research.

In 1972, research in the most of the four Law Schools was something of an optional extra. As a result, there was very little writing about New Zealand's own jurisprudence, and the textbooks were for the most part written in England.

All that changed dramatically with the appearance of books such as P Joseph on *Constitutional and Administrative Law*, Simester and Brookbanks on *Criminal Law*, Todd on *Torts and Burrows* and others on *Contract*. This year saw the 50th anniversary of the establishment of the *New Zealand Universities Law Review* and the 60th of the *Victoria University of Wellington Law Review*.

Professor Smith concluded by saying the New Zealand Law Foundation has made an enormous difference, supporting all sorts of research projects and research Fellowships, enabling people to buy the time to reflect and write. In the preface to his *Treaty* book, Matthew Palmer writes that winning such a Fellowship “is what made this book happen”.

## Farewell ATHS



### Campbell McLachlan pays tribute to PVC and Dean of Law Professor Tony Smith.

**H**OW TO DESCRIBE In such a brief note our collective good fortune in having had Professor ATH (Tony) Smith as Dean of Law at Victoria Law School for the last eight years? It is no coincidence that his genial leadership has coincided with a remarkable period of sustained achievement across all parts of the enterprise of academic law at Victoria.

Tony began his academic career in the South Island. But Cambridge seduced him early. In particular he became a member of Gonville & Caius, that beautiful and ancient college in the heart of the University, many images of which adorn the walls of his study and his home. Caius has a special connection with New Zealand lawyers, not least because of the Tapp Scholarship. Tony held the Tapp and became a fellow of the College in 1973, beginning his life-long association with Caius.

The comfortable life of the Cambridge don, however, was never going to be enough for him. Tony went to the University of Durham in 1981 and thence to the University of Reading in 1986. In both places his natural aptitude for leadership and strong sense of responsibility for the wider academic enterprise led to him being appointed Dean. I have the impression

(though ATHS always modestly denies it) that his leadership, in particular at Reading, transformed the fortunes of the School.

Returning to Cambridge in 1990, Tony's own scholarship in criminal and public law was commanding wide attention: for his ability to probe deeply the central concepts that animate our legal system (harm and culpability, property, public order); for his ability to take an apparently incoherent remedy such as contempt and transform it into a pillar of the Common Law library; and for his collaboration with Glanville Williams that has taken every law student's classic introduction to *Learning the Law* and burnished it for the twenty-first century.

All of this makes it a very remarkable thing indeed that he chose in 2007 to return to New Zealand and to accept our Deanship. But I know—not least from the many New Zealanders that benefited from his warm hospitality in the UK—that finding opportunities to contribute to New Zealand was hard-wired into him.

So what may we say about Tony Smith in his time with us? The first thing that strikes one is the depth of his commitment to the whole

academic enterprise. Whether reviewing the LLB programme; encouraging the research culture within the Faculty; recognising exceptional student achievement or helping to lead the remarkable wider development of Victoria University, Tony's belief in the value of what the University contributes to society has been unwavering. This seriousness of purpose – and respect for those seriously engaged in it – itself commands both respect and renewed effort from others. Just as important, it generates a sense of common collegial purpose.

Second, Tony has always seen the academic enterprise as first and foremost about people. An institution's greatness is not measured by its name or its building, but by the quality of the people in it. So Tony has always given priority to finding, hiring and promoting his Faculty. This he has done right across the board – from wonderful new lecturers hired out of the world's top doctoral programmes to new appointments and promotions to chairs spanning the core fields in which we teach and research.

Third, Smith has recognised the important public intellectual function of the Deanship, perhaps especially in the Capital. He has not hesitated to express his own views on matters of public importance in the law, engaging with the Bench, the Bar and the Government of the day. In New Zealand's small and vibrant polity, this is a vitally important role.



Has this effort borne fruit? Well plainly Professor Smith could not have done it all alone. The Faculty's present renewed success, recognised nationally and internationally, is the product of much effort from many people. But the character of an academic institution at any level tends to be shaped by its leader.

Tony's unwavering focus on what is really important in what we do has contributed to this success in no small measure.

So thank you Professor Smith for everything you have done for Victoria Law School. Enjoy your richly deserved return to Cambridge as

the Arthur Goodhart Visiting Professor. But be sure to return to us.

Have I left anything important out? Oh yes. He has on occasion been known to serve a fine glass of wine with good conversation once the sun is over the yardarm. Long may that continue!

## Staff appointments and awards

**Graeme Austin** received a Teaching Excellence Award.

**Richard Boast's** *The Native Land Court* (Thomson Reuters, 2013) was jointly awarded the JF Northey Memorial Book Award at the Legal Research Foundation writing awards.

**Eddie Clark** has been appointed as a lecturer, starting March 2015.

**Joel Colón-Ríos** received an Early Career Research Award.

**Susy Frankel** received a Research Excellence Award, was the Reinhold Cohen Visiting Professor at the University of Haifa and presented the paper "The International Copyright Problem" at

the 2014 Fenwick & West Intellectual Property Lecture at Vanderbilt Law School.

**Claudia Geiringer's** article "Sources of Resistance to Proportionality Review of Administrative Power Under the NZ Bill of Rights Act 1990" (2013) 11 *NZJPIL* was awarded the Sir Ian Barker Published Article Award at the Legal Research Foundation writing awards.

**Carwyn Jones** was awarded a Marsden Grant of \$300,000 to research "Maori Legal Traditions."

**Nessa Lynch** received an Early Career Research Award.

**Elisabeth McDonald** was awarded a Marsden Grant of \$540,000 to research "Rape myths as barriers to fair trial practices".

**David McLauchlan** was selected as a Herbert Smith Freehills Visitor to the Faculty of Law in the University of Cambridge. He will be away from April to early June 2015. He intends to continue his research in the law of contract, focusing on recent developments in the law of damages.

**John Prebble** received a Staff Excellence Award.

**Tony Smith** accepted an invitation to become the Arthur Goodhart Visiting Professor in Legal Science at Cambridge for their academic year of 2015-16.

**Māmari Stephens** received a Research Excellence Award.

# Fruits of the Vine: Celebrating Harriette

From left:  
Wendy Aldred, Christine Grice,  
Amelia Guy-Meakin,  
Monique van Alphen Fyfe,  
Holly Hill, Nessa Lynch,  
Anais Kedgley Lattdaw,  
Elisabeth McDonald and  
Anthea Williams



## A Special Issue of the *Victoria University of Wellington Law Review* was published to celebrate the centenary of the Faculty's first female graduate, Harriette Vine.

**H**ARRIETTE VINE'S Bachelor of Laws degree was conferred in 1913 and her Master of Laws in 1915 when she was 37 years old. She went on to practice in Whanganui at the firm of Treadwell & Gordon, where she worked for her entire career, practising in the areas of trusts, wills, banking and company law.

Harriette was clearly devoted to her legal work, possessing her own very substantial law library, and she continued to educate herself more widely after her law degree, including obtaining accountancy qualifications.

Evidently a community-minded and inspirational woman, Harriette was awarded the Order of St John for her work with St John's Ambulance, and later made a Dame of the British Empire in recognition of this work. Her non-conformity with prevailing social norms is put beyond doubt, if not by her legal career, by the fact that she obtained her pilot's licence at a time when very few women would have considered taking up such an interest.

Harriette died at age 84 in 1962, at which stage she was still working as a lawyer. She was in fact hit by a train while walking home from

work, which was no doubt a great loss to her family, firm and the Whanganui community.

In spite of her evident dedication to her work, Harriette never became a partner in her firm. The first woman to be made a partner in a New Zealand law firm was Margaret Mackay, who was made a partner at Lee, Grave & Zimmerman in 1946, but opposition from one of the other partners was so strong that her name was not added to the partnership list until he retired in 1961.

The Faculty of Law is grateful to the Wellington Women Lawyers Association (WWLA) for marking the centennial of Harriette Vine's graduation in 2013, which also presented an opportunity for a Special Issue of the *Victoria University of Wellington Law Review (VUWLR)*, with contributions from those with a connection to the Faculty or the University. This is the second issue to acknowledge the role of women in the law since the 1993 issue to mark the Suffrage Centennial.

The 1993 Suffrage Issue contained articles by a number of high profile women lawyers and academics including Mai Chen, Professor Jane

Kelsey and Shirley Smith, whose own (modest) words about her career were reproduced as the Preface piece in this issue. This was in recognition of both her and Harriette's lives as "the first women to...", as well as being a point of connection between this issue and the first women's issue 21 years ago.

Another segue is provided by the first article of the Special Issue in which Elizabeth (Lizzie) Chan draws on the early work undertaken as part of the Women Judges Oral History project, a project led by Dame Susan Glazebrook. In this piece Lizzie, previously a clerk at the Supreme Court, a tutor and research assistant at Victoria University of Wellington Law School, and soon to be an LLM candidate at Yale, focuses on what challenges, based on their gender, nine women judges reported facing as they began their careers on the bench.

What challenges are faced by women lawyers now, in comparison to those faced by Harriette Vine, was the topic of the essay competition run by the WWLA in 2013. The two winners were announced on Suffrage Day (19 September) in Wellington last year, following a panel discussion at the Law School. Their essays appear as the next two pieces in the Special Issue. Monique van Alphen Fyfe and Amelia Guy-Meakin, although both law students at Victoria University at the time, write with thoughtful insight about the

difficulties of being a woman lawyer in 2013, their comments matching many of those made in the research published after their work: “Women’s career progression in Auckland Law Firms: Views from the top, views from below.”

After reading that publication, Christine Grice, now the Executive Director of the NZLS but previously a partner in Harkness Henry and the President of the NZLS, looked specifically at the current situation of women QCs, noting that men (85 per cent of current QCs) still outnumber women when looking at this measure of success and seniority. She talked about her findings and her concerns with Kathryn Ryan on *Nine to Noon* in March 2014. A lightly edited transcript of this interview is reproduced with Christine’s permission and that of National Radio.

The radio transcript is followed by reflections on an aspect of the work of another trail-blazing New Zealand woman lawyer, the first woman High Court Judge, Dame Silvia Cartwright. Anais Kedgley Laidlaw (LLB Hons) was inspired to write about Dame Silvia’s role at the Khmer Rouge Tribunal as a result of observing Dame Silvia in action while she was working as a New Zealand diplomat in South East Asia.

**T**HIS ISSUE WAS, however, never intended to be just about women as women in law. The call for papers which was made in November

2013 also encouraged the submission of pieces which critically analysed aspects of New Zealand law from a feminist perspective, or pieces which reflected on the impact of gender in judicial decisions or legislation. The final five articles all make this kind of contribution.

The first is by Victoria law graduate Holly Hill, in which she develops the topic she first considered as part of an Honours seminar paper on comparative and critical criminal law. Holly focuses on the challenges of prosecuting cases involving allegations of sexual violence, especially when rape mythology can impact on the jury deliberation process. Such myths include the belief that victims of rape would complain immediately after being violated and would cease any contact with the alleged offender. Holly analyses whether, and how, rape myths can be challenged at trial, through the use of expert evidence.

Elisabeth McDonald also considers the need to challenge rape mythology and explores the legislative history of what is now s 44 of the Evidence Act 2006, a “rape shield” provision that controls the admissibility of evidence about a rape complainant’s sexual experience with a person other than the defendant.

Change is also under investigation by Nessa Lynch, an academic colleague of Elisabeth’s at the Law Faculty. In her article, ‘Girls behaving

badly?': Young female violence in New Zealand”, Dr Lynch discusses the under-researched topic of offending by girls, and asks whether there has been a recent shift in the number of girls committing crimes, or is it just the case that such offending gets more media attention?

The criminal justice system is often a target for feminist critique, but women also interact with the law regularly with regard to child and family issues. In the penultimate contribution, Anthea Williams, also an Honours graduate from Victoria University, with an LLM from Toronto, now a senior government lawyer, considers the Court of Appeal decision in *Cumberland v Accident Compensation Commission*.

In the final piece LLB(Hons) graduate Susannah (Susie) Shaw comments on the recent High Court decision *Jack v Jack*, regarding the application of s 15 of the Property (Relationships) Act 1976. Despite unhelpful statements in the media at the time of a “win” to Mrs Jack, Susie considers whether the decision in fact finally recognises that s 15 can, and should, deliver just outcomes in such situations. Susie, previously a judge’s clerk and a government lawyer, completed her work on this piece as she prepared to depart for her LLM studies at Harvard Law School and her life as a woman in the law.

*Wendy Aldred and Elisabeth McDonald*



## Star power



### On 30 September 2014, Professor Thomas Stipanowich gave the third New Zealand Law Foundation International Dispute Resolution lecture: “International Mediation and Conflict Management: Near a Tipping Point?”.

PROFESSOR STIPANOWICH was this year’s New Zealand Law Foundation International Dispute Resolution Fellow. The Fellowship is funded by the New Zealand Law Foundation and is a joint initiative of the law faculties of Victoria University and the University of Auckland. His week-long visit to New Zealand focused on the power of (international) mediation as a form of dispute resolution.

Professor Stipanowich is the William H. Webster Chair in Dispute Resolution and Professor of Law at Pepperdine University, as well as Academic Director of the Straus Institute for Dispute Resolution (ranked number one among US academic dispute resolution programmes by *U.S. News & World Report*), where he teaches courses in negotiation, mediation, arbitration, international arbitration and dispute resolution, contracts and remedies.

He is a leading scholar, speaker and trainer on conflict resolution topics as well as an

experienced arbitrator and mediator. He co-authored the ground-breaking five-volume treatise *Federal Arbitration Law: Agreements, Awards & Remedies under the Federal Arbitration Act*, named Best New Legal Book by the Association of American Publishers, and *Resolving Disputes: Theory, Law and Practice* (2nd ed. 2010).

He is the author of many other much-cited publications on arbitration and dispute resolution, and has twice won the CPR Institute’s First Prize for Professional Articles – most recently for “Arbitration: The New Litigation”.

In 2008, he received the D’Alemberte/Raven Award, the highest honour accorded by the ABA Section on Dispute Resolution.

In his lecture Professor Stipanowich focused on the data gathered from his recently completed survey of (international) mediators. The data revealed some new trends in regard to international mediation, confirmed some

anecdotal evidence and a lively discussion ensued among the audience. The lecture was chaired by Tony Willis, a Victoria alumni named *Who’s Who Legal’s* global commercial mediator of the year for the third successive year in 2014.

The lecture is available at [www.victoria.ac.nz/law/about/faculty-on-film](http://www.victoria.ac.nz/law/about/faculty-on-film).

On Monday, 29 September 2014, Professor Stipanowich addressed members of New Zealand’s film industry, the Wellington legal profession and the interested public in a booked-out event at the Lighthouse Cinema on Cuba.

The lecture: “Rebels on the Lot: Negotiating and Resolving Conflict in the Golden Age of Hollywood”, was a journey through the golden years of Hollywood, telling the story of the power of using different methods of dispute resolution to achieve results.

Professor Stipanowich also addressed members of the Arbitrators and Mediators Institute at breakfast meetings in Wellington and Auckland on mediation issues, gave a shortened version of his Victoria University lecture at the University of Auckland Law School and participated in a fireside chat with Tony Willis at Bankside Chambers in Auckland.

# A clash of Utopias: Copyright and the internet



The Faculty hosted the 2014 NZ Law Foundation Distinguished Visiting Fellow, Professor Jane Ginsburg, one of the world's leading intellectual property experts.

**J**ANE C. GINSBURG is the Morton L. Janklow Professor of Literary and Artistic Property Law at Columbia University School of Law, and Faculty Director of its Kernochan Center for Law, Media and the Arts. She teaches and is the author or co-author of casebooks in Legal Methods, Copyright Law, and Trademarks Law.

A graduate of the University of Chicago, Professor Ginsburg received a JD in 1980 from Harvard, and a *Diplôme d'études approfondies* in 1985 and a Doctorate of Law in 1995 from the University of Paris II. She is a Corresponding Fellow of the British Academy, a Member of the American Philosophical Society, and an Honorary Fellow of Emmanuel College, University of Cambridge.

Professor Ginsburg's public lecture at the Faculty was: "From Hypatia to Victor Hugo to Larry & Sergey: 'All the world's knowledge' and Universal Authors' Rights." The topic is timely: "Access to 'All the world's knowledge' is an ancient aspiration; a less venerable, but equally vigorous, universalism strives for the borderless protection of authors' rights," she says.

Late 19th century law and politics implemented copyright universalism; 21st century technology

may bring us the universal digital library, and with it a clash of utopian yearnings, if culture freely accessed comes to mean culture unremunerated. Does the universal digital library of the near future threaten copyright holders, particularly book publishers?

"Lest we sound too soon the dirge for traditional publishers and newer commercial distribution intermediaries, we should remember that digital media may enhance "access to culture," but culture freed from its former masters may yet not be "free." Access-triumphalism may bring us not the universal digital library but the universal digital bookstore," says Professor Ginsburg.

Professor Ginsburg's lecture evoked two utopian goals: universal access to knowledge, and universal authors' rights. The former implied a curator-custodian, a public institution that would gather, systematise and make available the world's knowledge. The latter enforced private prerogative through the international recognition of authors' property rights that arise from their creativity or are justified by the public benefits those creations bestow. Creators and custodians of knowledge long pursued

complementary aims, despite occasional skirmishes between copyright owners and libraries. That may now be changing.

To conclude, Professor Ginsburg addressed the clash of utopias epitomised by the Google book-scanning programme and the legal responses it has inspired, including the recent decision by the SDNY upholding Google's fair use defence. She then queried whether, through mass digitisation, libraries will replace publishers, or vice-versa. She also posited that we should not lose sight of authors, who are both copyright's *raison d'être* and the necessary forebears of libraries, for without works of authorship to stock the collection, there is nothing to curate.

As part of the fellowship Professor Ginsburg also gave a staff seminar: "Fair Use for Free, or Permitted-but-Paid?" and visited all of New Zealand's law schools: "I immensely enjoyed the opportunities to meet so many colleagues across the country, to spend time in their schools, and to interact with students and faculty in a variety of fora, from the formal lectures, to staff seminars, to lunches or other convivial gatherings," she said. "At all the schools, participation in the Q&A following the lectures and staff seminars was lively and perceptive. Indeed, the discussions following the formal presentations were consistently the most engaging portions of each visit."

# Māori Law Review: The first two years

Carwyn Jones with  
2013 Sir Edward Taihakurei Durie  
Student Essay Competition winner  
Laura Hardcastle



Review in future years.

Many members of the Victoria Law School have been published in the *Review*, including Professors Richard Boast and Rawinia Higgins (Te Kawa a Māui), Sir Geoffrey Palmer, Tai Ahu, and many contributions from members of the *Māori Law Review* team, Māmari Stephens and Carwyn Jones.

During the past two years an Indigenous Law Speaker Series has been organised, to provide opportunities for students, faculty and members of the profession to hear from established scholars and jurists. In 2013, lunchtime seminar speakers were Carwyn Jones, Eileen Luna-Firebaugh, Kayla Kingdon-Bebb, and Moana Jackson. In 2014, the series featured presentations from Professor John Altman (Australian National University) on 'The political ecology and political economy of the Indigenous land titling 'revolution' in Australia'; Professor Tony Angelo (VUW) on 'Constitutional development and decolonisation in the South Pacific'; Hon Justice Joseph Williams (High Court) on 'Lex Aotearoa'; and Judge Heemi Taumaunu (District Court) on 'The Rangatahi Courts of Aotearoa/New Zealand'.

The *Review* is also encouraging law students to undertake research on legal issues affecting Māori. This scholarship is recognised by the annual Sir Edward Taihakurei Durie Student Essay Competition, sponsored by the *Review*.

In 2012 the competition was won by Victoria University student Laura Lincoln for her essay on *Takamore v Clarke*. Another student from Victoria, Laura Hardcastle, won the competition in 2013 with an essay relating to the potential implications of the Whanganui River having legal personality. This year, the winning entry was from Anna Brenstrum from the University of Otago and examined significant recent litigation relating to public works legislation. Ms Brenstrum's essay will be published in the February 2015 issue of the *Māori Law Review*.

Reflecting on the *Review's* activities over the two years, it is clear that its relationship with Victoria University is now well-established and central to the operation of the *Review*. The *Māori Law Review* is proud of its continuing relationship with the university and very grateful for the support that it has received from the Faculty of Law and the Office of the Deputy Vice-Chancellor (Māori).

## Co-editor Carwyn Jones reflects on the activities of the *Māori Law Review* over the two years since its re-launch.

WHEN THE *Māori Law Review* re-launched in October 2012 it was produced by a comparatively small team. The two co-editors, Senior Crown Solicitor Craig Linkhorn and Senior Lecturer Dr Carwyn Jones, with the support of a team of four consulting editors, generated much of the content themselves. In the past two years, the *Review* has developed significantly. The team of contributing authors has grown and more than 30 practitioners and academics have written for the *Review* since 2012. The team of consulting editors has also grown, with the addition of prominent Canadian indigenous legal scholar, John Borrows, providing an international perspective.

In 2013, the *Māori Law Review* appointed its first student editor, Erin Carr. This position is now firmly established, with Kohe Ruwhiu holding it in 2014 and Toni Love recently appointed for 2015. This position not only supports the work of the co-editors but provides an opportunity for VUW law students to engage with developments in this area of law and gain experiences that will be valuable for their future careers. The student editor has also proved to be an important link with the wider student body and now manages a team of more than 20 student volunteers from

both Victoria and Canterbury law schools. The student volunteers produce case digests which are crucial to the *Review's* ability to provide a more comprehensive record of Māori Land Court decisions. This summer, through the Summer Scholarship programme and the generous support of the Office of the Deputy Vice-Chancellor (Māori), two Victoria students will also be working on *Review* projects.

Core content of the *Review* has also developed since 2012. The *Review* produces 11 issues each year and has published a special issue in each of the last two years (one focusing on the Treaty of Waitangi and New Zealand's constitution in 2013 and one examining key aspects of the Tūhoe-Crown settlement in 2014).

Annual reviews of specific areas of law have also been established, publishing critiques of: Treaty settlement legislation before the House of Representatives in 2012-2014; fisheries and aquaculture law affecting Māori; and natural resource management issues affecting Māori in 2013 and 2014. These reviews provide a survey of important developments within the law in these areas over the previous year and have received positive feedback. It is intended to make them a central feature of the *Māori Law*

# A post-mortem on James Prendergast

Dr Grant Morris speaking at the launch of his book *Prendergast: Legal Villain?* at the Old High Courtroom in Wellington, with Justice McGrath and Fergus Barrowman of VUP



## Grant Morris discusses his biography: *Prendergast: Legal Villain?*

JAMES PRENDERGAST was arguably New Zealand's dominant legal professional during the period 1865 to 1899. He first served ten years as Attorney-General and then 24 years as Chief Justice. This was a formative period in New Zealand's history during which the settler state was consolidated and Prendergast played a key role in this process.

My specialist area is the history of the New Zealand legal profession. In choosing to write a legal biography I was very aware that the few existing biographies in this area were all of 'progressive' lawyers and judges, especially in relation to Māori issues. Prendergast is considered the 'villain' of New Zealand's legal history, primarily due to the *Wi Parata* decision of 1877, in which he and William Richmond ruled that the Treaty was 'a simple nullity'. The *Wi Parata* decision also undermined the presence of native title in our legal system.

Prendergast's current infamy, combined with his long and eventful career, made him a fascinating and challenging choice to study. I also wanted to explore the historiographical debate around looking at history in its own context versus judging history by the standards of the present. The latter approach has been prevalent in much of the history produced by the Waitangi Tribunal. I argue that

the former approach is more useful in understanding history.

Prendergast's name is only mentioned today to condemn him, based on half a quote from a decision he made in partnership with another judge. The biography is not an apology for Prendergast but an attempt to place him in the context of his time and explore the other aspects of his career beyond the *Wi Parata* decision.

By today's standards, Prendergast showed a clear disregard for traditional Māori society. His actions negatively affected Māori. That does not change the fact that he was an influential leader of the legal profession and one of New Zealand's founding fathers. He was not one of New Zealand's most brilliant judges, but was capable and highly respected by his colonial peers. History, and especially biography, should not be about simply labelling a figure 'good' or 'bad' but rather attempting to understand the complexities of human nature. Hence the question mark in the title of the book.

The biography is a comprehensive treatment of Prendergast's personal and professional life. It tells of his privileged upbringing and legal training in London, his adventures in gold-rush Victoria, his rapid rise to power in 1860s Dunedin and Wellington and his long reign at the top of the New Zealand legal profession.

Prendergast's roles as Attorney-General and Chief Justice are analysed in detail. In particular, the book looks at his contribution to New Zealand's case law and statute law. It also has a strong focus on his pivotal role during the New Zealand Wars and the invasion of Parihaka.

Prendergast's life provides a window into the development of several important locations including London, Victoria, Dunedin and, in particular, Wellington. It also sheds light on other influential figures such as William Richmond, George E Barton, Robert Stout and Governor Arthur Gordon. Personal papers provide insights into Prendergast's family life including the important influence of his father, Michael Prendergast QC and his wife, Mary, and also the tragic lives of his two older brothers.

I hope this biography inspires more of its kind. Many major figures in our legal history lack a comprehensive biography, including William Martin, Michael Myers, Richard Wild, Joshua Williams, William Richmond, Alfred Hanlon and Frederick Whitaker. In fact, only Prendergast, John Salmond, Ethel Benjamin, the Chapman Family and Robert Stout enjoy full-length, scholarly, biographies. New Zealand's legal profession has a rich history and it is time to explore this history in more depth.

*Grant Morris's research was helped by a grant from the New Zealand Law Foundation.*

# The passing of Parsons

Top right, from left to right: Gary Turkington, Paul Morton, Chris LaHette, Nicolette Levy, Robert Litigow QC, Andrew Davie, Noel Sainsbury  
(with backs to camera, from left: Ross Crotty, Val Nisbet, Helen Cull QC, Judge Bruce Davidson)  
Bottom left, from left to right: Val Nisbet, Ross Crotty



The Plischke staricase, the lilting classical music and, always, the talk. Gary Turkington pens a personal eulogy to Parsons which closed in early 2014, and its coffee shop, which was the favourite meeting ground of the legal community, including Law School staff and students, for more than 40 years.

SO IT IS OVER, MS PARSONS? The “Des Deacon” chair is stacked away with all the rest; the round coffee tables are tilted to one side; the midriff of mezzanine floor is exposed; silent now awaiting one last splay of the cleaner’s mop. And the lights go out and the doors clamp close. Stillness. Forever?

But this cannot be? You are our coffee shop, this parlour for our conversation, an oasis for the lawyers. Forty years or more ago was just

the beginning of a never end... No, you say? You are mortal just like the rest of us, and your time has come. Listen, pray listen, you say. It is time for you to share with me, your scribe, memories of the many who have supped and chatted here.

Some came to tell of murder most vile. Remember Mike Bungay<sup>2</sup> saying that he was having trouble with the President over the Benning appeal? He argued the jury had got it

wrong on provocation and self-defence. Alf Benning had chopped his wife into six pieces and buried her in his garden in Karori. She, a woman three times his weight after all, had come at him with a cord. “Well yes,” said the President, “I know she did that, but don’t you think he may have been taking things a bit far when he drove a stake through her torso for good measure... and then planted an apple tree on top?”<sup>3</sup>

Or Sutch the alleged Russian spy who was acquitted.<sup>4</sup> Remember Bungay telling us that there was no way a jury would convict. “What secrets has this country to give beyond telling the Russians we are populated by 40 million sheep – now they might know that, compared to three and half million people”. His irrepressible common touch...

## FOOTNOTES

- 1 Des Deacon, who died young in 2004, was so much part of the gaggle that the back of his chair, was inscribed with his name.
- 2 Mike Bungay, the pugnacious criminal lawyer and QC, was Stacey’s great rival and before his move to the Bar, a partner with the late Ian Greig and now Judge Davidson. His untimely death in 1993 aged only 59 signalled the passing of a great orator with an earthy, common touch much loved by juries.
- 3 Benning was convicted of the murder of his wife Betty in 1977. His appeal was dismissed.
- 4 Bill Sutch, the former economist, was the only person ever charged under the Official Secrets Act and was acquitted by jury trial in 1975. In a move that surprised the Crown, Sutch did not give evidence and relied on the testimony of others.
- 5 Roy Stacey was so different from Bungay, and personified charm and grace. A great raconteur with a penchant for mixing with characters such as Trevor Rupe (aka Carmen) a transsexual whose riotous nightclub The Balcony gave everyone, as Roy put it, the chance of a “ball”. Poor health robbed us of his qualities in later life and he died in 2001.
- 6 Was Roy Stacey captain of a minesweeper in the South Pacific during WWII? Or, as he sometimes muttered, “No sailor has ever lived until he has commanded a floating dock from Singapore to Calcutta.” Nobody really knew on which command he withstood the full fury of the enemy. But such a background provided endless “war” stories from the Devil’s Own Golf Tournament in the Manawatu, provincial hotels, particularly in the Wairarapa, and his beloved Wellesley Club in Wellington.



Top left: Jonathon Williams  
 Top right, from left to right: Paul Morcom, Gary Turkington, Noel Sainsbury, Andrew Davie, Robert Lithgow QC, Nicolette Levy, Helen-In-charge, Chris LaHatte, Val Nisbet, Ross Crotty, Judge Bruce Davidson  
 Bottom left, from left to right: Julian Parsons, Gary Turkington, Val Nisbet, Ross Crotty, Nicolette Levy, Robert Lithgow QC  
 Bottom right: George Barton QC



Roy Stacey ambled in from time to time.<sup>5</sup> “My boy,” he would say to whomsoever was in earshot, “time for the junior naval officer to arm those present with a round (of tea.)” Roy’s mysterious career in the Navy<sup>6</sup> would always be employed as required – the most junior present was pressed into paying for one then another, as the morning descended into laughter at the hand of this accomplished raconteur.

And what about George Barton’s problem with his chambers in Thorndon? He needed a consensus (and he got one) about whether his newly acquired pleasant house in a residential “A” suburb needed an application to the local council for a change of use for the clients that he proposed to meet there. After all, exclaimed George, his constitutional law

clients (for which he was known) would not harm a fly. Michael Reed reminded him, did he not, that the neighbours would not know that and, “George, under the cab rank rule, come on now George, it is entirely possible that you could be instructed by murderers, rapists, motor cycle gang members, or even drug dealers. Now George I would be most uncomfortable if you set up alongside me in Thorndon.” George moved.<sup>7</sup>

Of course there was the redoubtable Shirley Smith, the petite lawyer, so often “brisked wet” in a Wellington southerly, before the respite of company with you, Ms Parsons, returned her to smiles and the many files she so always clutched askew, to a normality.<sup>8</sup> Then a return to the fray; to a meeting outside the Court, so often a swarm of heavy

jacketed members of the Mongrel Mob or Black Power who, parking their machines in Ballance Street row on row, listened to her ministrations as their destiny with the daily list inside awaited.

Or Pat Plunkett, remember him, the *Dom Post* journo?<sup>9</sup> Dear Pat all wreathed in cigarette smoke, as one by one the fags lit up. No need to forage for a tidbit for the press, he’d had his due from the morning’s Court; now for the endless banter of lawyers over morning tea and cheerful chitchat from him about his children.

What about Jonathan Williams?<sup>10</sup> A tear to the eye still on this young one’s passing. A musician who found Parson’s early morning Bach so particularly soothing (as it was to others) before his daily joust in Court.<sup>11</sup>

7 George Barton QC loved conversation. He died in 2011, aged 86, yet few imagine he is not still present at least in spirit. This remarkable man, a veteran of so many groundbreaking cases in the Privy Council, shared his perfect knowledge with any of the assembled who cared to ask. And you knew where to find George, he was at Parsons most days for morning tea.

8 Shirley Smith was the daughter of Sir David Smith, a Judge of many years who had the privilege of capping her in 1956 in his final year as Chancellor of the University of NZ. She was a beacon for the few women

then venturing a legal career. She came to it late, having given up the “classics” at university. She had a penchant for the underdog, and frequently charged nothing. She died in 2006 aged 90.

9 Pat Plunkett passed away more years ago than I can remember, sad to say.

10 Jonathan Williams passed away suddenly at home in 2007; a much loved partner at Sladden Cochrane & Co.

11 Julian Parsons liked to commence the day with Bach. In this he followed his father whose photograph gazed, with silver hair in horn-rimmed glasses, on all assembled. The music continued through the day. Always soft and not too “orchestral”. Never was a Chopin nocturne more welcome after a thorough drubbing in the Court. Julian and sister Beatrice have sadly decided enough is enough, as age and the technology of downloaded books and CDs have eroded all before them.

Left to right:  
 Ross Crotty,  
 Hon Justice David Collins,  
 George Barton QC,  
 Jonathon Williams



And, of course characters such as Bill Johnson: “Now watch that water jug Bill,” as Noeline, the Court orderly, swooped to move it and prevent the Crown, Registrar, witness and front row members of the jury being showered from his monumental sweep of hand; oh, to emphasise the point. And so the reports flowed into Parsons of counsel’s theatrics and repartee.<sup>12</sup>

Mel Parun, Fui Tuiaso, J D Dallas, who reported daily to willing ears the tribulations of the duty solicitor list. “The defendant should have been granted bail but failed at the first hurdle. He mentioned to the Judge he would be staying at his brother’s address while on remand. Certainly, said the Judge, I will arrange that – remanded in custody. The brother had been sentenced the day before to imprisonment.” Where are they now? Who knows? But they are still remembered by those remaining in our ranks.

Judges too. Some came to you, Ms Parsons,

with a wistful recall of their carefree days of the Bar and coffee well remembered. No need to mention their daily list or “hard cases”. So, Judges Davidson, Broadmore, Gibson and Mathers, and Justice Gendall enjoyed good company here for its own sake, and remembered tales of derring-do.

And of the present hue: Helen Cull, Letizea Ord, Val Nisbet, Robert Lithgow, Chris LaHatte John Tannahill, Chris Tennet, Jervis Cleary, Noel Sainsbury, John Morrison, Bill Sheat, Mike Antunovic, Paul Paino, Peter McKnight, Douglas Ewen, Andrew Davie, Nicolette Levy, to name a few. What of them? Shall we let the reader guess from whom we should seek advice on the last race at Trentham, the arts in Wellington, defamation, or the dismal state of legal aid?

Mr Attorney came to you too, Ms Parsons – a wink and a nod of recognition to George Barton as both recognised that some small matter of State called for discreet advice in

the opera section of your coffee shop, away from earshot.

Matters of moment, the appointment of so and so, or of Silks, or judgments strong and the not-so-well received, matters of State, the local rugby team, “What should I really do about this case...?”; and so the cacophony of conversation would continue through the morning. The round robin of chairs emptied and filled as the company ebbed and flowed in their daily round.

Ms Parsons, you have given us much of your 40 years. And then much more since Maurice O’Brien<sup>13</sup> tumbled down with the rest of us from the Buttery.<sup>14</sup> Not enough years to come, all of us do say... but in the now mute and empty space that was your coffee shop, your memories shall ever preserve us.

Alas, it is time to say goodbye. Adieu Ms Parsons, adieu.

<sup>12</sup> Bill Johnson passed away in 2012. This incandescent personality was certainly a “car boot” lawyer who practised from his home in Naenae, sallying forth with cellphone and a car load of files, alighting at each Court around the region at various times, mostly accommodated by an understanding judiciary. In this practice he was not alone as economy and

circumstances dictated the daily round of many.

<sup>13</sup> Maurice O’Brien was a QC who transformed the official Law Reports to an easy point of reference.

<sup>14</sup> The Buttery was in Woodward Street until the mid 1970s, served excellent coffee from bone china cups matched for taste by its excellent homemade sandwiches. The suite

that gathered there from the earliest times included not only Maurice but Pat Downey, President Ivor Richardson and the irrepressible George. Parsons became the choice for most over time because of its location near the Courts. This other group (with the inclusion of Justice Doogue) has continued to meet for many years since, discreetly, its wider number now much thinned by time.



# Visitors to the Faculty 2014

## JANUARY

**Julian Ludbrook**, formerly of the Ministry of Foreign Affairs and Trade, is located at the Faculty while he works on a research project: "The Principles of the Treaty: their Nature and their Limits".

**Hejun Zhao**, Associate Professor from the China Women's University Law School, visited the Faculty from November 2013 until March 2014. His visit involved research on a project: "Comparative Study on Prostitution Laws in China and New Zealand: A Human Rights Perspective."

**Blake Brown**, Associate Professor from Saint Mary's University, Halifax, visited from January to June to pursue his research project: "The History of Canadian Law: Warfare, Welfare and Women, 2014-1948."

**Jennifer Llewellyn**, Professor of Law at Dalhousie University, Halifax, visited the Faculty from January to June to further her research project: "A Restorative Approach to Human Rights."

**Monique Costi**, former Head of International Affairs, NZ Securities Commission/FMA, has visited the Faculty several times during 2014 to continue work on a number on research projects and conference papers.

**Naemah Amin**, Associate Professor from the Department of Civil Law and **Ahmad Ibrahim**, Kulliyah of Law, International Islamic University Malaysia, visited from late January to March. During her time as a visit researcher Naemah worked on her paper: "The Quality of

Goods and the Rights of Consumers: A Comparative Study of Malaysian and New Zealand Law".

## FEBRUARY

**Mario Patrono**, Sapienza University of Rome, again visited to teach an Honours/Master's course on European Union Law. He plans to return in 2015 to teach in the Honours Programme.

## MARCH

**Peter Boshier**, former Chief Judge of the Family Court, taught at the Faculty, coordinating LAWS297 Legal Research, Writing and Mooting which is designed to teach students how to: use the Law Library and databases, refer to and cite legal sources and prepare legal opinions. Students must also argue a case before a judge in a mock courtroom.

**Miranda Stewart**, Professor at Melbourne Law School, visited for a month to work on a monograph: "Tax and Government in the Global Era."

## APRIL

**Liz Campbell**, Senior Lecturer at the University of Edinburgh, visited to work on a Law Foundation funded project on DNA with Nessa Lynch.

## JULY

**Yan Zhu**, from Renmin Law School in Beijing, was the Dan Chan Fellow 2014. He was in residence from July to early September.

**Yang Liu** visited the Faculty under the CUPL Internship Programme.

## SEPTEMBER

**Thomas Stipanowich**, the 2014 NZ Law Foundation International Dispute Resolution Visiting Fellow, gave a public lecture at the Faculty: "International Mediation and Conflict Management: Near a Tipping Point?" and an off-site public lecture: "Rebels on the Lot: Negotiating and Resolving Conflict in the Golden Age of Hollywood."

## OCTOBER

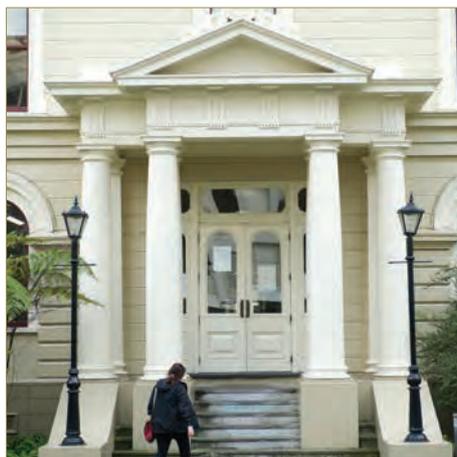
**Lina Zhou**, Researcher from the Communication University of China, is currently visiting while working on her research project: "Comparative Study on Privacy Protection in big data age and the Inspiration to China." Lina is also working with Nicole Moreham on translation of some of Dr Moreham's articles.

**Jane Ginsburg**, NZ Law Foundation 2014 Distinguished Visiting Fellow, visited the Faculty and other New Zealand Law Schools during October and November.

## NOVEMBER

Borin Fellow 2014, **Kent Roach**, visited the Faculty during November and gave several lectures and seminars.

The Hon **Robert French**, Chief Justice of Australia, was at the Faculty to give the 2014 Robin Cooke Lecture: "Common Law Constitutionalism."



# Faculty events 2014

## FACULTY OF LAW

### MARCH

#### PUBLIC SEMINAR

##### **Tax Avoidance and General Anti-Avoidance Rules: a Commonwealth Perspective**

Professor Vern Krishna (Professor of Law and Executive Director, CGA Tax and Business Research Centres, University of Ottawa), Professor Miranda Stewart (Professor of Law, University of Melbourne) and Professor John Prebble (Victoria University of Wellington)

#### PUBLIC LECTURE

##### **The Sentimental Life of International Law**

Professor Gerry Simpson (Kenneth Bailey Chair of Law, Melbourne Law School)  
*In association with the International Law Association (New Zealand)*

### APRIL

#### PUBLIC LECTURE

##### **New Zealand's Long-Term Fiscal Outlook,**

Rebecca Prebble (Senior Analyst, The Treasury)

### MAY

#### PUBLIC SEMINAR

##### **How I learned International Law Thinking about The Bomb,**

Professor Roger Clark (Board of Governors, Professor at Rutgers Law School)  
*In association with the International Law Association (New Zealand)*  
See page 23

### AUGUST

#### BOOK LAUNCH

##### **Foreign Relations Law**

Professor Campbell McLachlan, launched by Hon Christopher Finlayson QC and the New Zealand Law Foundation in the Grand Hall, Parliament Buildings

#### PUBLIC LECTURE

##### **Mass Torts in China – The ‘Sanlu’ Milk Powder Scandal**

2014 Dan Chan Fellow Dr Zhu Yan (Renmin Law School, Beijing, China)

#### PUBLIC SEMINAR

##### **Between Dream and Reality – A Brief Survey of One Hundred Years of Codification of Civil Law in China**

Professor Zhu Yan

### SEPTEMBER

#### LAUNCH

The *VUWLR* Women in Law Special Issue to celebrate the centenary of Harriette Vine becoming the first woman graduate in law of Victoria University of Wellington

#### PUBLIC LECTURES

##### **Rebels on the Lot: Negotiating and Resolving Conflict in the Golden Age of Hollywood**

##### **International Mediation and Conflict Management: Near a Tipping Point?"**

Both presented by the 2014 NZ Law Foundation International Dispute Resolution Visiting Fellow, Professor Thomas J. Stipanowich (William H. Webster Chair in Dispute Resolution, Professor of Law, Pepperdine University) See page 12

#### PUBLIC SEMINAR

##### **Climate Change and its Impacts on Democracy for the People of Kiribati,**

Nathan Ross (LLB student, Victoria University of Wellington and Research Assistant to Associate Professor Alberto Costi)

### OCTOBER

#### PUBLIC LECTURES

##### **From Hypatia to Victor Hugo to Larry & Sergey: “All the world’s knowledge” and Universal Authors’ Rights**

2014 New Zealand Law Foundation Distinguished Visiting Fellow, Professor Jane Ginsburg (Morton L. Jankow Professor of Literary and Artistic Property Law at Columbia University) See page 13

##### **Climate Changes in 2014**

Catherine J Iorns Magallanes (Senior Lecturer, Victoria University of Wellington)

#### PUBLIC SEMINAR

##### **Property in the Human Body: Comparative and Theoretical Perspectives**

Mark Bennett (Lecturer, Victoria University of Wellington)  
*In association with the New Zealand Society for Legal and Social Philosophy*

### NOVEMBER

#### BOOK LAUNCH

##### **Prendergast: Legal Villain?**

By Grant Morris, launched by The Honourable Justice John McGrath  
*Thanks to the New Zealand Law Foundation and the Supreme Court of New Zealand*

### BEEBY COLLOQUIUM

#### ON INTERNATIONAL LAW

#### PUBLIC LECTURE

##### **Current challenges in international peace and security: What legal issues might New Zealand face while on the United Nations Security Council**

Professor Robert Ayson, Victoria University and Dr Penelope Ridings, Manager, Legal Division, Ministry of Foreign Affairs and Trade  
*In association with the Ministry of Foreign Affairs and Trade and the International Law Association (NZ Branch)*

#### BORRIN LECTURE

##### **Remedies for Laws that Violate Human Rights: Breaking Down the Dichotomy of Strong and Weak Form Judicial Review,"**

2014 Borrin Fellow, Professor Kent Roach (Prichard Wilson Chair in Law and Public Policy at the University of Toronto)

#### ROBIN COOKE LECTURE

##### **Common Law Constitutionalism**

The Honourable Chief Justice of Australia, Robert French

## NEW ZEALAND CENTRE FOR PUBLIC LAW

### JANUARY

#### PUBLIC OFFICE HOLDERS' LECTURE

##### **Constitutional Necessity or Constant Nuisance?**

Valedictory Lecture by Marie Shroff (Privacy Commission)

#### THE TREATY DEBATE SERIES

##### **“Water is Our Business”**

Jacinta Ruru (Lecturer, University of Otago ) Clive Howard-Williams (Chief Scientist, NIWA) Donald Couch (Environment Canterbury) Ian MacKenzie (Federated Farmers)

### FEBRUARY

#### PUBLIC SEMINAR

##### **Oil Spills in the Niger Delta: Corporate Responsibility for Environment and Human Rights**

Grant Bayldon (Executive Director, Amnesty International Aotearoa New Zealand) Petra Butler (Associate Professor, Victoria University of Wellington, Faculty of Law), Dr Ngozi Stewart (Lecturer in Law, University of Benin Nigeria)

## CONFERENCE

### **New Thinking on Sustainability**

Keynote speakers: Linda Sheehan (Californian Earth Law Centre) Professor Gerald Torres (Cornell Law School) Professor Klaus Bossleman (University of Auckland) See page 4

### **PUBLIC OFFICE HOLDERS' LECTURE**

#### **Human Rights – Head, Hand and Heart**

David Rutherford, Chief Human Rights Commissioner

## MARCH

### **PUBLIC SEMINARS**

#### **Deference Deconstructed – The Ongoing Saga of Judicial Review of Administrative Action in Canada**

Professor David Mullan (graduate of Victoria University of Wellington; from 2004 until 2008, first Integrity Commissioner for the City of Toronto, now a consultant and researcher) *In association with Crown Law*

**Refugee Law in Australia: Judicial or Legislative/Executive Supremacy?** Presented by Kristen Walker (Barrister at the Victorian Bar, Principal Fellow at Melbourne Law School)

### **PUBLIC LECTURES**

#### **Constitutional Collision: Fitzgerald v Muldoon v Wild**

The Hon Justice Stephen Kos

#### **Renewable Energy Futures: Challenges for Law and Business**

Dr Eric Martinot (Senior Research Director, Institute for Sustainable Energy Policies, Tokyo; adjunct teaching associate, Victoria University of Wellington)

#### **Collection and Retention of DNA from Suspects in New Zealand**

Dr Nessa Lynch (Senior Lecturer, Victoria University of Wellington, Faculty of Law) and Dr Liz Campbell (Senior Lecturer in Criminal Law and Evidence, University of Edinburgh)

## JUNE

### **PUBLIC LECTURE**

#### **Whaling in the Antarctic (Australia v Japan: New Zealand intervening): Observations and Implications for International Law**

Joanna Mossop (Senior Lecturer, Victoria University of Wellington, Faculty of Law) and Dr Caroline Foster (Associate Professor, University of Auckland, Faculty of Law) *In association with the International Law Association*

## AUGUST

### **PUBLIC LECTURES**

#### **Litigating Climate Change**

Professor Gerald Torres (Jane M.G. Foster Professor of Law, Cornell Law School)

#### **The Peaceful Settlement ... of International Disputes ... Some Reflections on Negotiating, Mediating, Arbitrating and Judging**

Bill Mansfield (International Law Association New Zealand Branch); Penelope Ridings (Ministry of Foreign Affairs and Trade), Professor Campbell McLachlan (Victoria University of Wellington, Faculty of Law) and Sir Kenneth Keith (International Court of Justice)

## OCTOBER

### **PUBLIC LECTURE**

#### **In Dire States? Democracy and the Rule of Law in Nauru**

The Hon Roland Kun (MP, Parliament of Nauru) and Dr Katy Le Roy (Public lawyer and former Research Fellow, Melbourne Law School)

## NEW ZEALAND CENTRE OF INTERNATIONAL ECONOMIC LAW

## AUGUST

### **PUBLIC LECTURE**

#### **Intellectual Capital Management: A Heuristic for Value Articulation**

Professor Clint Francis (Northwestern University School of Law)

## NOVEMBER

### **CONFERENCE**

**Intellectual Property on the Internet: Is there Life Outside of the Big Three?** Keynote speaker: Rochelle Dreyfuss (Pauline Newman Professor of Law, NYU)

*See page 2*



# Alumni update 2014

## Their Honours do the honours

The Faculty of Law at Victoria University has a proud record of its alumni achieving high office in the public service, the academy and the judiciary. Its current judicial alumni clubbed together and paid for an honours board for the Law Students' Society (LSS) which records the results of the law competitions run by the LSS. It is named in honour of George Barton QC, an alumnus and former Professor at the Faculty and considered the "father" of the profession in Wellington.

An unveiling ceremony was held and many judges, students and academic staff attended.

"The judges have been wonderfully generous and we are most thankful for their support," said LSS President, Myles Snaddon. "Many of the judges were students who excelled at mooting, witness examination, client interview or negotiation and they understand the important role these competitions play in developing students' skills."

The Dean of Law, Professor Tony Smith said: "What is pleasing about this gift is its illustration of the warmth of relationships within our legal community. There is a constant interaction between the judiciary, the Law School and the profession which is to everyone's benefit. Another illustration is that many judges give their time to judge the competitions which the honours board commemorates."



The wooden board is made of a mix of Fijian and New Zealand Kauri. The makers were the Centre for Fine Woodworking – based in Nelson.

## 1989 Criminal Law class reunion

In June 1989 Elisabeth McDonald, newly graduated LLM from the University of Michigan, returned to Victoria University to take up a position as a lecturer. Her first class was a criminal law small group.

At that time, every Victoria student was placed in a small group for one of their compulsory second year subjects. They did not attend tutorials in that subject, instead the extra contact time allowed students to learn their legal writing, research and moot skills (now provided in LAWS 297). The vacancy arose through the untimely death of Richard Kiwanuka, who was much loved during his short time at Victoria.

To mark 25 years since that first class, Elisabeth, prompted and assisted by Andrew Scott-Howman, tracked down the students from around the country and overseas. 11 of the original 16 were able to join the evening of reflections, reminiscing, laughter and levity, which began at the Law School with an attempt to recreate the photograph taken at the Kelburn Campus at the end of term in 1989. The group much enjoyed drinks with members of the current staff at the Law School, which included a few of the other academics who had taught them (notably Professors McLauchlan, Palmer and Prebble). While much of the evening operated under the Chatham House Rule, it seems that none of the class knew they were Elisabeth's first, although they were kind enough to pretend they had not noticed. Over dinner at a local restaurant, the group toasted absent friends, especially Richard who was remembered fondly. They were also able to convince the extremely talented Caroline Hickman to sing an aria for them for the first time.

Those in attendance were (from back left): Tonis Focas (Company Director, Wellington); Dinesh Gupta (Manager, Taxpayer Rulings, IRD); Maree Bennett (ACC); Andrew Scott-Howman (Barrister, Wellington); Bridget Le Fort (Employment relations lawyer in government); Mary Gordon (was Stewart) (LINZ); Caroline Hickman (Barrister, Napier); Lucy Trevelyan (DGW); Andy Beatson (Bell Gully, Wellington); Karaka Tuhakaraina (HNZC); Associate Professor Elisabeth McDonald. Missing from the photograph but in fine form at dinner was Jennifer Woodman, now a manager with QBE Insurance in Auckland. Those unable to be in Wellington for the event included Ainslie Hewton, Lincoln Falcolner and Phil Goh.



## Victoria University confers Honorary Doctorate on Professor Roger Clark

Pre-eminent public international law, human rights and criminal law scholar Professor Roger Clark received the honorary degree of Doctor of Laws at Victoria University of Wellington's May graduation.

Vice-Chancellor Professor Pat Walsh said the honorary doctorate, conferred by the Victoria University Council, acknowledges Professor Clark's exemplary commitment to teaching, international public service and research during his career.

"We are delighted to recognise Professor Clark for his outstanding contribution to the legal profession, both in New Zealand and the United States, with an honorary doctorate from Victoria," says Professor Walsh.

The first member of his family to go to university, Professor Clark graduated from Victoria in 1964 with a Bachelor of Arts and Bachelor of Laws. He added a Master of Laws in 1967, and has since gained a further three degrees: a Doctor of Laws from Victoria in 1997, along with a Master of Laws and a Doctorate in Juridical Science from Columbia University in New York.

Professor Clark has written or edited 12 books, authored and co-authored more than 130 articles and book chapters, and played a significant role in international human rights law—especially in helping to establish the International Criminal Court in The Hague.

"It is particularly exciting to be conferred an honorary doctorate from Victoria as it has been 50 years since my initial graduation, and I am now 50 years into my law teaching career," said Professor Clark.

Professor Clark has taught at Rutgers University-Camden for over 40 years, where he insisted on the inclusion of a course on the international protection of human rights, an uncommon part of the law school curriculum in the United States at the time.

By the mid-1980s, his focus had shifted to teaching international criminal law, a topic also just beginning to be taught in law schools. He has helped to shape that discipline which is now taught at the majority

of law schools across the United States and is the subject of specialty programmes worldwide.

In 1998, Professor Clark was named a Rutgers Board of Governors Professor. This honorary professorship is awarded by Rutgers University's governing board to faculty members for substantial contributions to teaching and research.

Previously, Professor Clark taught at the Law Faculty at Victoria and worked for the New Zealand Justice Department and Ministry of Foreign Affairs, served as an American Council of Learned Societies Fellow and Doctoral Fellow at the Columbia University School of Law, interned at the United Nations and taught at the law school of the University of Iowa.

## Alumni Achievements 2014

**Roger Clark** BA LLB 1964; LLM 1976; LLD 1997 received an honorary degree of Doctor of Laws at Victoria University of Wellington's May graduation.

**Karen Grau** LLB(Hons) 2003, **Yasmin Moinfar** LLB(Hons) 2011 and **Ricky Versteeg** LLB(Hons) 2010 were awarded Firsts in the LLM exam at Cambridge University.

**Amelia Keene** LLB(Hons) 2010 has been a university trainee, supported by Columbia University, at the International Court of Justice assisting Judges Keith and Greenwood. She has accepted a two year appointment as a judge's clerk and will in the first instance be working with Judge Keith. Amelia is the first New Zealander to hold those positions.

**Hon Justice Stephen Kòs** LLB (Hons) 1981 delivered a public lecture at the NZ Centre for Public Law: "Constitutional Collision: Fitzgerald v Muldoon v Wild".

**Stephanie Lee** LLB 1994 was named as New Zealand's first dedicated Ambassador the Association of South East Asian Nations (ASEAN). The Ambassador to ASEAN will be responsible for maintaining the momentum which has built around New Zealand's relationship with the region.

**David Laursen** LLB 1991 was made a QC.

**Tony Lendrum** LLB 1976 was appointed as an acting District Court Judge with general and family warrants for a period of two years. He will be based in the Hawke's Bay.

**Hon Justice John McGrath** LLB 1968; LLM 1970; Hon LLD 1992 delivered the 2014 VUWLSS Patron's Lecture.

**Hon Justice Mark O'Regan** LLB(Hons) 1975; LLM (1980) was appointed a judge of the Supreme Court.

**Geoffrey Palmer** LLB 1966; Hon LLD 2002 was awarded an honorary LLD by the University of Glasgow.

**Matthew Palmer** LLB(Hons) 1968 was made a QC.

**Paul Radich** LLB(Hons) 1986 was made a QC.

**Patsy Reddy** LLB 1976; LLM 1979 was made a Dame of the NZ Order of Merit in the Queen's Birthday Honours.

**Susannah Shaw** LLB(Hons) 2011 was awarded a prestigious Frank Knox Memorial Fellowship to study at Harvard University.

**Tony Willis** LLB 1966 and **Geoff Sharp** LLB 1982 have been named in the top ten of mediators in the world by *Who's Who Legal*.

**Ruiping Ye** LLM 2009; GCertLaw 2009 was awarded a Library Fellowship by the Australian Centre on China in the World, a research institution established to enhance the existing capabilities of the Australian National University.

# Obituaries 2014

## LOUISE ELDER 1964 - 2014

**M**EMBERS of the legal profession were stunned and saddened by the sudden death of Masterton lawyer Louise Elder, aged 50. Colleagues, court staff, police and clients were all profoundly shocked to hear the tragic news at a Masterton District Court sitting that morning, causing the abandonment of the session.

Described as a “defender of the weak, representative of the downtrodden, a great litigator, someone who made a difference”, and also “vivacious, happy, outgoing, and free-spirited”, Louise ran her own law practice in Masterton as a criminal defence and family court lawyer. Her practice was wide-ranging and included youth work, civil litigation and compliance prosecutions, as well as a great deal of pro bono work for SPCA, Forest and Bird and other clients.

Louise was born on 13 August 1964 in West Drayton on the western edge of greater London and lived with her family in a small Norfolk village for her first few years. Her father George was in the Royal Air Force and, as is the way of military families, mum Angela and children Louise, Nigel and Philip moved frequently – living in East Anglia but also in North Wales and most memorably in Hong Kong from 1969 to 1971.

Older brother Nigel Elder, speaking at Louise’s funeral, said she was a very happy little girl who made friends easily and managed the frequent changes of school with aplomb. “She was talented in many areas and was always a ‘sporty tryer’,” he said. “She was a ‘mature sister’ to both younger brother Philip and to myself.”

In 1977 her father George completed 20 years service and retired from the military. This provided an opportunity to take stock and look around at opportunities and as a result the family decided to start a new life outside the UK in New Zealand. They set up home first in Johnsonville and Louise, then 13, went to Onslow College. A move a few months later to the Wairarapa took Louise to Solway College and then for her last two years to Wairarapa College.

She studied at Victoria University, majoring in anthropology for a BA, but being of pragmatic disposition thought that she may have limited her job prospects and decided to study for a second degree in law.

While a student at Vic the more “free-spirited” aspects of her personality came to the fore. Georgina Miller, a close friend from student days, related Louise’s formation of the “Growlers” hockey team, later transformed into a netball

team, which included Louise wearing a set of so-called “elephant undies” that caused consternation and dismay among opponents. The team played together for a decade.

“An early hint of her litigation skills came with her debating with the referees, opponents and their supporters... She was sparkling, loyal, funny and irreverent, a friend for life.”

Georgina said Louise loved shopping, particularly for shoes, and dressed really well: “She also loved parties and dancing – she was like a real life Patsy from *Ab Fab*.”

Louise was admitted to the bar on 2 November 1988 and went to work with Phillips Shayle George in Wellington, becoming a duty solicitor in 1989. In January 1991 she joined Burrigge & Co in Masterton where she was responsible for building and maintaining the firm’s litigation practice, both criminal and family. She joined Gawith & Co in Masterton in 1994, became a partner in 1996, and continued in the merged firm of Gawith Burrigge until she set out on her own as a barrister in 2003.

She was a youth advocate in the Youth Court and a lawyer for the child in the Family Court, and also represented those with mental illness. NZ Law Society Vice President Mark Wilton said Louise excelled in representing the most vulnerable members of the community.

“Her passionate and powerful representation obtained outstanding outcomes for her clients and she changed their lives... she was a dynamo lawyer full of energy with a wonderful can-do attitude who made a difference.”

She served as Wairarapa representative on the New Zealand Law Society Wellington Branch between 2009 and 2010 and recently became a tutor at the Institute of legal Studies, passing on her skills to a new generation of advocates.

Friend and colleague Jock Blathwayt said Louise built the largest personal practice in the district, particularly representing those most at risk.

“I have heard many people say: ‘I was a client of Lou’s – she was my friend’. When she started in the Wairarapa she was a country lawyer and did everything, and she continued to do a surprising range of work.”

Louise Elder was a special kind of lawyer and she was also unique in the way she ran her court practice while caring for her three children.

Jock Blathwayt: “Intertwined with her professional life were her children Hannah,



Maddy and Izzy. The library at the Masterton District Court was the nursery. I remember a prison guard with a bemused expression with a baby in his arms. There was a jacket Lou often wore with dribble down its back. We all put in for dry cleaning for that. She was the only counsel I have seen appearing in court with a child latched on!”

Louise was described as a “fiercely proud mother”. She was deeply involved in her children’s many interests, including dancing, swimming, hockey and school.

Jock Blathwayt again: “She had a complex structure of friends often linked by text messaging. It didn’t look as if it was under control but it was. She had a facade of casualness, sometimes marked by sudden disappearances from court. But she was a top-notch lawyer, respected by clients, colleagues, police and court staff. I was privileged to be a sounding board and friend.”

Jock Blathwayt said it was inevitable to rail against the unfairness of it: the loss of a friend, partner and mother. “But when I think that, I feel her tap on my shoulder. Lou was a pragmatist – she did not take on battles she knew she could not win ... she was one of a kind.”

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## WILLIAM LEITH 1992 – 2014



**W**ILLIAM JOHN LEITH passed away suddenly on the 2nd of April 2014, aged 21. Those who knew William lost a kind, caring and intelligent son, brother, nephew, uncle and friend, and Victoria University Law School lost a passionate, creative and motivated student.

William was in his fourth year of studying for a conjoint degree in Law and Commerce at Victoria. He was a high-achieving student who was passionate about his studies. In early 2014, his success was acknowledged at the School of Accounting and Commercial Law's "Awards for Excellence" ceremony, where he was presented with a Certificate for Excellence in Accounting, marking his success as one of the top academic performers in the subject. In 2013 he was included on the Business School Dean's List for high achievement and was the recipient of a summer scholarship, working at the Inland Revenue Department over the summer of 2013-14. William was also a much-admired tutor in the Accounting School, and he worked part-time at the Office of the Children's Commissioner, where he was greatly valued by his colleagues.

Before university William attended Heretaunga College in Upper Hutt, where he was the Head Boy in 2010. He received numerous awards during his time at school, including Excellence Awards in year 11 and year 12, top student awards, the senior debating prize and the Katherine Mansfield Birthplace Literature Award. William also made a significant contribution to the school community. He was the student representative on the board of trustees, the editor and designer for the school yearbook for many years, and a winner of the TVNZ Schools Web Challenge, designing a website for the visually impaired.

William was a kind and caring friend, with a great sense of humour and a sharp wit. He had diverse, and sometimes 'niche' passions and interests – from tax law to typography, politics to the TV Show "Miranda". Highlights from his trip to Europe last Christmas included playing a BBC News presenter in the London studios, making the all-important trip to the House of Lords (and spending a healthy sum at the gift shop on themed merchandise), and visiting the fondly named "D-Cam" at Westminster.

William will be remembered for his eloquent speeches, his hopes for law firm partnership (at to-be-established public law firm "MacLeod Leith", alongside his co-schemer Alasdair MacLeod) and his Twitter account, which is a lasting record of his witty quips and astute political commentary.

William was a young man who could rightfully expect many successes. His future was certainly going to be a bright one. For those of us who were lucky enough to know William, our lives were enriched by his friendship. He is greatly missed. William is survived by his mother Donna, his father John, his stepmother Prue, his sister Penelope, his brother Sam and nephew Eric, as well as his many friends at the Victoria University Law School and beyond.

*Fellow students Harriet Farquhar, Alasdair MacLeod, Stephanie Gregor and Emma Robertson*

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## THE RIGHT HONOURABLE SIR IAN MCKAY 1929 – 2014



**I**HAVE KNOWN the Right Hon Sir Ian McKay for over 50 years as a colleague and friend. When he was appointed to the Court of Appeal direct from private practice in 1991 he had already had a remarkable career reflecting his extraordinary blend of expertise and experience. Then, when he retired from the Court in 1997 he embarked on a third hugely busy law-related career.

Ian grew up in Waipawa and, as a part-time student at Victoria from 1946-1951, completed a BA in history and an LLB. He worked for the first two years at the Public Trust Office, well known in those days for paying impecunious law students far better wages than law firms did. Then, to a small law firm where he worked full-time as a law clerk until he had completed his degrees and been admitted as a barrister and solicitor.

In 1952, when other young lawyers gained their overseas experience at Northern Hemisphere universities or law firms, Ian worked his passage by sea to Britain to further his bagpipe studies, which became an important part of his life, as we will hear from his friend Roy Gunn.

On his return to Wellington, Ian joined Swan and Davies, becoming a partner in 1953. His practice and the firm's built up rapidly over the next few years and for the last 24 years before he came to the Court of Appeal in 1991 he was the senior partner in what, with expansion and a merger, became Kensington Swan. Ian had developed the expertise and experience to straddle many fields of law: commercial work, litigation, patents, trade marks and intellectual property, construction cases, arbitrations, and prosecuting in jury trials as a member of the Crown panel of prosecutors in Wellington. In later years he was largely engaged as senior counsel in the High Court, the Court of Appeal and the Privy Council, and in arbitrations and tribunals. Yet he made time to look after the legal affairs of a large number of Samoan families and regularly had other individual clients who needed help.

Despite the demands of a very busy practice Ian served the profession and the public well over all those years. He was on the Council of the Wellington District Law Society and its President

(1977-1978), and the Council of the New Zealand Law Society and its Vice- President (1979-1982). I was a member of both Councils and respected his diligence, leadership strengths and organisational skills. I also respected his ability to sense the human factors involved and to show compassion.

On that same theme, Ian's keynote paper at the New Zealand Law Conference in August 1975 was a catalyst alerting lawyers and the public to the hugely damaging effects of the galloping inflation on the economy and society and the responsibilities lawyers faced. A few weeks later following a change of Government, the Committee of Inquiry into Inflation Accounting was set up and reported its conclusions nine months later. As happens, the legal problems of inflation and the significance of Ian's 1975 paper are the subject of an article in the latest issue of the *Victoria University of Wellington Law Review*.

Ian was a Government appointee to various law reform bodies and chaired many time-consuming and difficult inquiries – by the Torts and General Law Reform Committee (1971-1983); the Committee on the Law of Defamation (1975-1979 – whose recommendations, including a new statutory qualified privilege for the media, were belatedly and only after three changes of Government largely enacted in the Defamation Act 1992); and the Committee on the Law of Evidence (1982-1987). He was also a member of the New Zealand Council of Law Reporting overseeing the publication of the official *New*

*Zealand Law Reports* (1974-1979) .

As well, reflecting areas of special expertise, he was a member of numerous New Zealand and international arbitral bodies and director of many private and public companies. They included five major companies listed on the New Zealand Stock Exchange. He was also a fellow of the Institute of Directors and chaired the New Zealand Society of Accountants Disciplinary Appeal Tribunal. And he chaired Standards New Zealand's committee which produced sets of standards relating to construction contracts.

Against that background, it is not surprising that Ian made a major and distinctive contribution to the work of the Court of Appeal. The number of cases on which he sat and the 403 judgments which he delivered demonstrate his workload at the court. He was a prodigious worker with a particular capacity for analysing complex facts and identifying and applying legal principles with a healthy pragmatism. Ian also brought to the court his knowledge of organisations and of the commercial world. Barristers tend to deal with situations which have gone sour. But, it is also very useful in judicial work to know how organisations normally tick, how management and boards relate, what they see as issues, and how they are inclined to deal with issues. And the Court certainly benefited from his wide experience.

As judges we tended to think that we were always kept busy with the remorseless flow of appellate

cases. But Ian also managed to contribute, beyond the judicial work, to a range of associations as President of the New Zealand Institute of Arbitrators, the Wellington Medico-Legal Society, the Thomas More Society and the Wellington Club.

The third chapter of Ian's career began straight after his retirement from the Court. He was President of the Electoral Commission (1997-1999), Chairman of the Committee of Experts on Tax Compliance (1998) and President of the Surveillance Panel of the New Zealand Stock Exchange (1997-2003). He was appointed to the Court of Appeal of Samoa and for many years he maintained a very busy arbitration practice. And he was Trustee of the Wellington Club from 1997 and a regular attender there until a few months ago. A member since 1969, Ian greatly enjoyed the Club. He was a stalwart over a long period and served on various committees and successively as Vice-President and President. The current President of the Club, Ian Fraser, has especially asked me to express the Club's great appreciation of Ian's involvement in the Club.

We will miss the breadth and depth of Ian McKay's experience; his conscientiousness; his fund of stories and his sheer good humour. With respect and admiration, those of us who have known him through all the years pay tribute to him.

*Sir Ivor Richardson, LLB (Cant), LLM SJD (Mich), Hon LLD (Well & Cant)*

## KEITH TAYLOR MATTHEWS 1921 - 2014

**K**EITH TAYLOR MATTHEWS was one of the law profession's finest examples of an extremely competent, dedicated and compassionate lawyer, with a true love of the law, serving his clients assiduously and actively upholding the principles of the rule of law. He was highly respected among the legal profession and was dearly loved by family and friends.

Keith Matthews was admitted on 11 June 1945. He became a partner of Duncan Matthews and Taylor in 1948, and from 1968 was a partner of Tripe Matthews and Feist until 1997, where he continued to work until 2002.

Born in Wellington in 1921, Keith's life was shaped by the exigencies and aftermath of the two World Wars. His solicitor father, Nelson, contracted tuberculosis in World War 1, having fought in the battle of Passchendaele, and was an invalid throughout Keith's childhood, able to practise law only spasmodically. His mother had cared for people during the 1918 influenza epidemic and brought up the three children of the family in difficult circumstances.

Speaking of that time in a recent eulogy for one of his lifelong friends from the 1930s at Wellington College, Keith recalled:

*"As a group we questioned in depth all those wicked things that were happening in the world between the two wars. We felt we were compelled to stand by and watch the apparently ineluctable measures that politicians were inflicting on our generation in what seemed to be a conscious endeavour to rekindle the drive towards war. We gobbled up all the literature that we could lay our hands on and talked our heads off deep into the night... It was a good life and then came the war with consequences I would rather not dwell on."*

Keith's father died in 1938 and when Keith started university the following year, he chose to study law as well as continuing to study language and languages, a love which was to last his whole life. While studying, he also worked as a Judge's Associate in Wellington, first to Sir Hubert Ostler and then to Justice Arthur Fair in Auckland. He applied himself willingly to the law, satisfied in the knowledge that he had helped resolve a human conflict or problem.

After his marriage to Jackie in 1946, and some years working as an office solicitor in Leicester, Rainey & McCarthy and Phillips, Hollings and Shayle-George, Keith joined forces with his long-time school friend, Nigel Taylor, to start their own

law practice, which shortly thereafter became Duncan, Matthews and Taylor.

In 1950, Keith took leave, during which he and Jackie worked for the World Peace Council in Paris. Years later, Keith wrote of the fear that gripped Europe in 1950-51, when he had travelled to places such as London, Coventry, Stuttgart, Nuremberg, Berlin, Dresden and Warsaw, and said:

*"Arriving from distant New Zealand the shock of all this was a source of unutterable despair, something that could be comprehended only by seeing the damage and speaking to the people. The written word was and is totally inadequate to describe the scale of such monstrosities. It was almost impossible to believe the world could do this to itself. It was unthinkable that some of the great powers were able to contemplate and prepare for a renewal of world war as a political instrument."*

In 1951, when Keith returned to New Zealand, it was to a country in the throes of a bitter waterfront dispute. During that time, the Government had declared a state of emergency. The law firm of Duncan, Matthews and Taylor became engaged in defending union workers and their funds from new draconian regulations.

They provided defences for strikers charged under the regulations, at a time when lawyers themselves were at risk of imprisonment for their role.

Keith continued his work for peace by promoting the Stockholm Appeal [*a call for the absolute ban on nuclear weapons*], addressing public meetings and chairing the Wellington Peace Council for the next four years.

He was also involved in legal action to prevent continued discrimination. In the long battle to prevent the All Black team leaving New Zealand to play against the segregated South African Springbok team in 1970, Roy Parsons initiated a legal action with Dr George Barton as barrister and Keith as solicitor. They invoked the writ 'Ne exeat regno' in its ancient form, to prevent a subject leaving the realm to engage in activity that would bring the Queen and her subjects into disrepute. The writ was refused on the ground that in a matter of State, the writ cannot issue on the application of a private citizen.

Along with his wife Jackie, Ailsa Barton and Margaret Lee, Keith was among the ranks who confronted the Red Squad on Rintoul Street in the 1981 Springbok tour demonstrations. Keith was batoned. Later Keith and Margaret Lee made submissions to a subsequent inquiry into incidents during the Springbok tour, pressing for the creation of an independent authority to monitor police conduct.

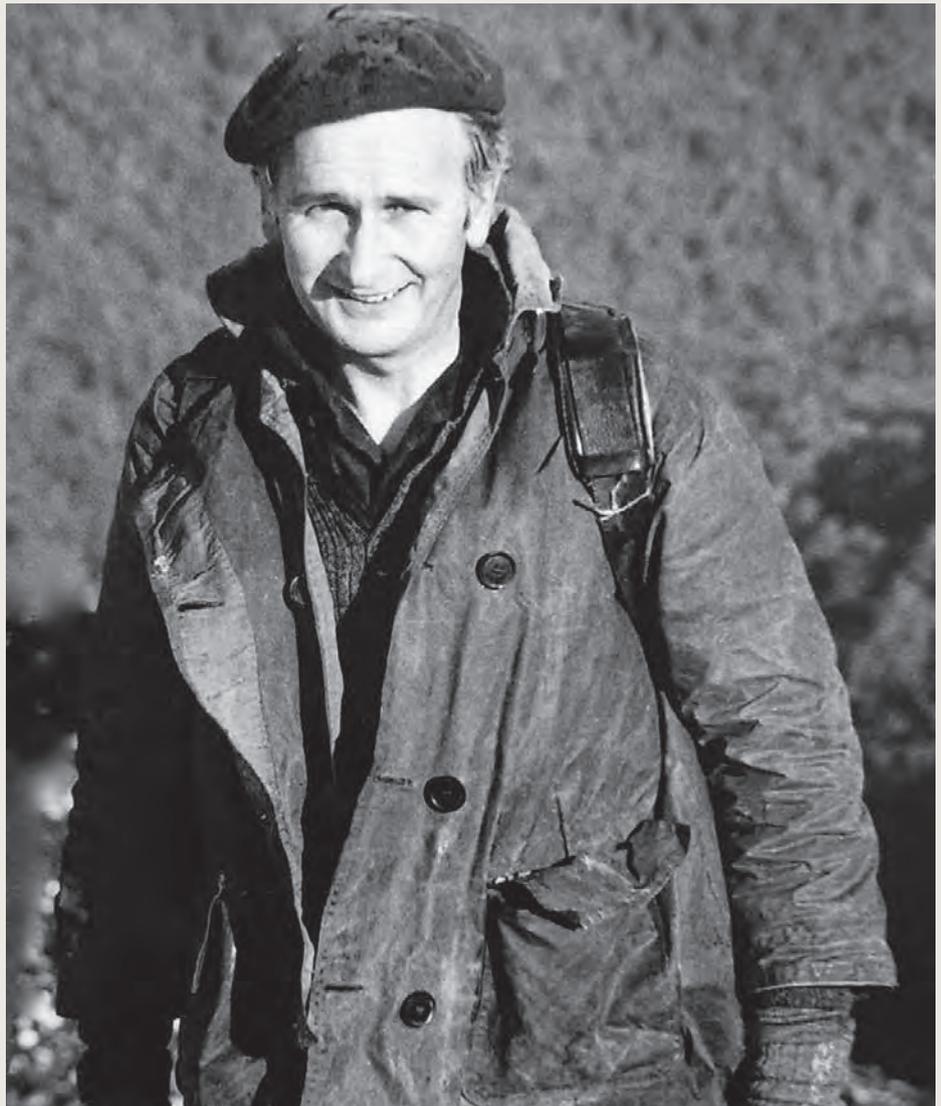
Keith was always alive to the needs of others and led by example. He was a volunteer solicitor at the Aro Valley Citizens Advice Bureau, and was on the roster of the Wellington Central Library senior law centre for many years.

On a sabbatical break with Jackie in Europe in 1977, Keith worked for days on end in a campervan in the Ardèche, drafting a report on community law centres, many of which he had visited in England and Holland to ascertain their viability and work. He returned to Wellington, a strong advocate for the establishment of community law centres here, and of course, became a volunteer practitioner on their roster, once they became established.

In so many ways, Keith Matthews was ahead of his time. He encouraged and mentored women to practise law and helped in advancing their careers. Tripe Matthews and Feist was the first law firm in Wellington, if not in New Zealand, to have equal numbers of men and women partners, a fact of which he was rightly proud. Those of us who were partners with him are in his debt.

Even in 1968, when Keith hired Anne Thompson as his practice accountant, she timidly told him she was a solo mother with a young baby. Keith was undeterred. He encouraged her to bring her baby to work, which for the time was unusual. Anne remained at Tripe, Matthews and Feist for 30 years.

With his experience of the aftermath of war, Keith eschewed labels to describe people or their beliefs. Unbeknownst to him, he was the very target of such classification.



In the 1950s, Keith was a member of The Vegetable Club, a group of friends whose bonds were forged by their various experiences of war and their desire to change the world. They gathered on Friday nights after work at Duncan Matthews and Taylor to partake of a drink, talk politics and distribute vegetables bought wholesale from the market, to take home to their long-suffering families.

In 2007, nearly 55 years later, Keith requested his SIS declassified file, to discover he was the subject of security interest, because of his association with "communist" or "subversive" persons or organisations. Reports had been received from a "mole" inside the Vegetable Club. Keith was clearly aghast and entered into a carefully considered correspondence with the Director, asking that it be lodged with his file.

Of note is the following paragraph:

*"One should beware of broad political descriptions like communist, leftist, subversive, right wing, fascist, Islamist, terrorist, unionist, wharfie, Catholic, Jew, Masonic, Muslim etc. It is necessary to remember how such words have often been used politically in the past to impute evil and to arouse suspicion and hatred. Such*

*descriptions can creep into the unconscious mind of a person who is called upon to make judgements about another citizen and great harm and injustice can ensue."*

Keith practised law the way he lived: principled, compassionate, and with the utmost integrity. For him, social justice was not an empty term in the life of the law.

In addition to his work life, Keith was a wonderful family man. He was gifted in his interactions with young children and was a wonderful father and grandfather to his four children and grandchildren. He was patient and enthusiastic, reading aloud to them and instilling in them a love of the bush, the outdoors and the mountains, with family walks and camping trips.

Keith Matthews was a kind and gentle person, who led by example and was generous to a fault. He was a friend beyond measure to many; a mentor to a lucky few: and an example to all. For those of us who had the privilege to know and work with him, we are richer for that experience and his influence.

*Helen Cull QC, LLB (Hons) 1978*

## MIRIAM MENZIES 1955 - 2014

**D**ESCRIBED AS a “strong and very gentle person with a real sense of fun”, Miriam Menzies was also a competent and caring lawyer who worked over many areas of the law but had a particular interest in protection of the young and the elderly and wider family law.

Miriam was born in Dunedin in 1955, the fifth of eight children of Nugent and Dorothy Menzies. After service as a naval radio officer during the war, Nugent worked for himself in small businesses in Southland. The family lived in relatively straitened circumstances, at one stage crowded into a flat above the family’s small dairy, eight kids and mum and dad, five boys in one room three girls in another. Later they shifted to a hotel which the family owned. Nugent’s progressive attitudes led him to instil in his children the importance of obtaining a good education, particularly for women. Miriam’s brother Paul says, “I think the old man saw education as a way out of the poverty trap”.

Miriam spent her primary school years at St Dominic’s school in Dunedin. Her secondary school years were mostly spent at St Catherine’s Dominican College in Invercargill. The social conscience that revealed itself later in Miriam’s legal career was no doubt nurtured by the Dominican nuns, by her father’s attitudes to education and by his involvement over many years with the St Vincent de Paul Society, the Catholic voluntary organisation dedicated to serving the poor.

When Miriam left school she first attended Teachers’ Training College in Dunedin. She soon decided that teaching was not for her and did not complete the training. She moved to Wellington and worked for the Treasury for a while, and after starting a family decided to study law at Victoria in the 1980s. She was admitted to the bar in 1989, her admission moved by her brother Paul Menzies, a lawyer in Winton. She went to work as a staff solicitor with the firm of Grubi and Newell in Upper Hutt where she undertook a variety of legal tasks including conveyancing, estates and court work.

After Reg Newell left the practice, Miriam and Rod Grubi formed a new partnership in May 1995, under the name of Rod Grubi & Miriam Menzies. Rod Grubi enjoyed practice with Miriam and says she was a very energetic lawyer: “She was young

and I was old,” he says. “She was keen to expand and change things.” He relates an occasion when he was ill and she came to his home with six files that he had been working on: “We went through each file and I said you need to do this and that. She summed up the situation very quickly and dealt with the files perfectly. She was very quick on the uptake.”

Rod Grubi retired in November 2002 after 43 years practice in Upper Hutt and Miriam began practice on her own account as Miriam Menzies & Co. She worked from her old office before moving to CBD Towers in Upper Hutt. She had a busy practice and worked with a wide range of clients but with a particular interest in family law. She was frequently appointed as counsel for the child or counsel to assist the court in complex family cases, and she had a significant criminal law practice. She was elected to the Family Law Section Executive in March 2012 but resigned in March 2013 when she became unwell.

Miriam was also a youth advocate and was experienced at acting for young people charged with offences. There was a lot of publicity about a case she was involved with in 2012 when she acted for a 16-year-old young woman who had been held in police custody for more than 24 hours in contravention of the Children, Young Persons, and their Families Act and additionally was separated from her breast-fed baby. The charges against Miriam’s client were dismissed because of breaches of arrest procedures.

A close friend, Val Sim, says that as a lawyer Miriam’s hallmarks were her absolute integrity and her fearless pursuit of what she believed was right: “She could not tolerate injustice and worked hard to prevent it wherever she saw it. Miriam also had a strong sense of community. No matter how busy she was, she gave freely of her time to improve things both for her colleagues and for the community as a whole. Her efforts in trying to prevent the closure of the Upper Hutt court are just one example... [She] had a passionate interest in family law reform.”

Miriam had a great love and talent for music. She sang in the choir of St Mary of the Angels in Wellington, and also played the guitar. She was an avid listener of music with wide ranging musical



tastes. Leonard Cohen was a particular favourite. On one of Cohen’s recent tours she managed to attend five concerts: four in New Zealand and one in Brisbane.

She loved spending time with her children Nisha and Josh. Brother Mike says she was a shrewd judge of surf breaks as the result of past years of taking Josh to surf beaches up and down the Wellington and Wairarapa coast.

Miriam liked to have fun and have the odd celebration. She was a social person who had made many good friends and enjoyed spending time with them. Val Sim again: “As a friend, Miriam’s hallmarks were her loyalty and keen sense of fun. She was an exceptional hostess and her many friends benefited from her ability to bring interesting people together as well as from her undoubted culinary skills.”

Miriam Menzies is survived by daughter Nisha, a Wellington lawyer, and son Josh, who works as an analyst with the Ministry of Justice. Law runs in Miriam’s family. As well as Nisha, two of Miriam’s brothers, Michael and Paul, her niece Jane and her nephew Christopher are also lawyers. Another nephew Nick is studying law in Queensland.

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## KATHY STRINGFELLOW 1943 - 2014

**K**ATHY STRINGFELLOW, who came later than many to the law, was a highly skilled lawyer whose efficiency, integrity and personal warmth attracted life-long clients. She was also a stalwart of the Law Society for many years. On her election as President of the Wellington District Law Society in 1997 she was just the second woman ever elected to that office.

Kathy was born Kathleen Anne Barnett at Kohimarama, Auckland, the second of three children born to Ron and Joan Barnett. Her forebears came from Kent and Warwickshire and the Ngati Huri hapu of Ngati Raukawa.

Around the time she was born, just after Christmas in 1943, her parents moved from a rented house to a caravan on a plot of land in St

Heliers. They worked hard to break in the land and established gardens and an orchard to supply fruit and vegetables to the Auckland market. No doubt Kathy learned there many of the habits of hard work and conscientiousness that characterised her work as a lawyer, as well as absorbing the delights of the garden, one of her passions as an adult.

She was a keen and successful student and enjoyed school at St Heliers Primary and Selwyn College. In her teens she was an enthusiastic Girl Guide and became a proficient performer of kapa haka and the long poi to represent New Zealand at an international guide camp in Australia.

With not a lot of money about, Kathy decided to train as a teacher rather than attending university, working in a shoe shop to help pay her way. It was there that she developed an everlasting love for fine shoes, many of which she coordinated with clothes she made from Vogue patterns.

After Teachers' College, Kathy taught at Glendowie College for a couple of years while also running a local cub pack and studying towards an ACA, the professional qualification for associate chartered accountants. Late in 1964 she headed off by ship on a typical Kiwi 'OE' to London where her commercial skills landed her PA positions to senior executives in insurance and engineering. She met her future husband Barry in London. They married there, and typically for Kathy in some style. Barry describes the wedding as a Kathy production 'par excellence'. She made her own wedding dress – a French ribbon lace coat over a crepe dress. The wedding cake was made by her mother and iced by the confectioner at the Royal Naval College of Greenwich, with the reception in the Ranger's House at Greenwich Park (formerly home of the Earl of Chesterfield) by permission of the Greater London Council, a first at the time.

On return to New Zealand, Kathy taught at Wellington East Girls' College for five years before returning to England with Barry. Once again they lived in their beloved Greenwich and while Barry was tied up with planning submarine cables, Kathy was able to further pursue her passions for opera, theatre and art and also studied at Elizabeth David's London School of Cordon Bleu Cookery.

In the mid-1970s, the submarine cabling project was completed and the couple returned to Wellington where Kathy taught for a short time at Naenae College.

Deciding a change in career direction was in order, Kathy enrolled at Victoria University where she studied for a law degree and a BA in English and art history. Her first job after graduation was for legal publishers Brooker and Friend as assistant editor on the revision of Anderson's Company Law, a leading commercial law text at that time. The original author was Harry Anderson of Buddle Anderson Kent & Co and the late Chris Pottinger of the same firm was to be the new writer. Kathy was seconded to Buddle Anderson in 1980 to work with Chris in developing the text. Speaking at the funeral, Wayne Chapman says that Chris Pottinger quickly saw Kathy's abilities and potential as a lawyer and she joined Buddle Anderson Kent & Co as a staff solicitor in 1981.

"She joined the conveyancing department, which in those days was still an important backbone to large practices that were tending to move more into the high level commercial and banking work

that was emerging. In August 1982 Buddle Anderson Kent & Co and Findlay Hoggard Richmond & Co merged to become Buddle Findlay. Kathy was an integral part of the [combined conveyancing department] team".

Kathy's early training as a conveyancer was overseen by both Chris Pottinger and Wayne Chapman. Wayne: "Kathy was a natural. She was technically and legally skilled at the highest level but she also had that element in her makeup that is so essential for a successful conveyancing practitioner. She had people skills. She related well to her clients and fostered a very real and positive relationship with them all. They loved her. Thus she built up a strong client base that followed her wherever she went. Many will be bereft following her death."

Kathy did well at Buddle Findlay and in 1985 was promoted to Associate. However, with changing times, partnership prospects there were limited. Helen Cull, then a partner at Tripe Matthews & Feist, had met Kathy in 1985 at Law Society functions, during Law Week that year and through the Women Lawyers Association, and was impressed with her abilities. "Although outwardly quiet and unassuming, Kathy had inner strengths, determination, strong intelligence and was very hard-working." It was through Helen's good offices that Kathy was invited to join Tripe Matthews & Feist, which she did at the beginning of 1988. During the succeeding 25 years, until a year or so ago, Wayne Chapman says, Kathy "...went from strength to strength and grew, fostered and retained a large and loyal client base". Many of these clients followed Kathy into her own practice in 2012.

Kathy Stringfellow had another life during this period, as a hard-working member of the Law Society. She was co-opted to the council of the Wellington District Law Society in October 1990 after Marion Frater was appointed a District Court judge.

Wayne Chapman, who was a council member at that time and President in 1994, worked closely with Kathy: "She willingly accepted responsibility for various committees with particular emphasis on finance and education roles. She was a member of the Fidelity Guarantee Fund management committee during the aftermath of Renshaw Edwards. That was a hugely demanding role... Her teaching skills were invaluable in delivering parts of the Flying Start programme and more recently, Stepping Up. She willingly gave the extra time in the weekends that those roles demanded. As a member of the Council's Audit Committee (later the Financial Assurance Committee) she was involved in sorting out the practice of another Upper Hutt practitioner."

In 1995, Kathy was elected to the position of Treasurer, became Vice-President the following year and President in 1997. Kathy was only the second woman officer of the Society following Sandra Moran about a decade earlier and just the



second woman President of the Wellington District Law Society. "Not unsurprisingly she fulfilled that role with distinction. She went on to serve as a vice-president and council member of the New Zealand Law Society."

Kathy Stringfellow worked hard as a lawyer and had a successful career. She lived a vivid and creative life and cared deeply about her friends. Helen Cull says they had a standing arrangement for lunch most weeks, "...where we discussed the latest gossip in the law profession, the foibles of some, the achievements of others and of course the conversations about shoes... We were both avid followers of the Peter Sheppard shoe catalogue, took trips to Tuscany and enjoyed good food, wine and clothes... Kathy was the expert seamstress, sewing her own clothes to perfection out of beautiful fabrics sourced in England and Italy. She was also an excellent Cordon Bleu chef." Her love of entertaining saw Kathy continuously collect and cook new recipes, sharing these with friends and family. Local favourite, Ruth Pretty's Springfield, was of particular enjoyment where Kathy and her good friend Elizabeth Brown would master new recipes and enjoy being around other "foodies".

Former partner at Tripe Matthews & Feist, Alison Douglass, said Kathy was her business partner and instructing solicitor over 25 years. "She was more than that: a friend, a confidante and a rock solid supporter of my legal career and most importantly, my family... My daughter Emma particularly benefited from Kathy's creative side. Kathy made beautiful dresses for her each birthday. Not many partners in law firms can lay claim to having a business partner that sews their daughter dresses!"

Kathy's good friend Margaret Nicholls can also attest to Kathy's passion and talent for sewing. As well as making Margaret's wedding cake, Kathy sewed Margaret's wedding dress and her own dress as Margaret's matron of honour. She later taught Margaret how to sew, sharing her partiality

for Vogue sewing patterns and telling her “only Vogue” would do.

Kathy loved reading history, art and the history of art as well as attending opera. She is said to have had an encyclopaedic memory of the royal houses of Europe, and she was an expert guide to the art museums of Europe.

She strongly supported the progress of women in the legal profession. She believed women could do as well as men given the same opportunities.

Helen Cull says Kathy loved being part of the legal profession. “She was a compassionate person who enjoyed being part of a helping

profession that engaged directly with real people to resolve their real needs. It was this love and drive which kept Kathy serving the needs of her loyal clients for as long as she was able.”

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## THE RIGHT HONOURABLE SIR ARTHUR OWEN WOODHOUSE 1916-2014

**C**APTURING THE ESSENCE of Owen Woodhouse makes demands. He was a complex, multi-faceted human being, blessed both with penetrating insight and human empathy. His compassion for people was perhaps his most salient characteristic. The number and range of his friends and acquaintances both in New Zealand and overseas was astonishing.

Owen had the gift of friendship. He inspired enormous loyalty and affection among those with whom he interacted and worked. He laboured in some tough situations. He was a leader. He had the capacity to weld a disparate group into a team and produce high quality outcomes. Everyone wanted to help him. He also knew how to run a social occasion and was a great host, if a trifle heavy handed with the whisky.

Owen had a warm-hearted social vision. He was a visionary with judgment and wisdom. He believed those in distress should be helped and the well being of each one should be of concern to all. He looked into the future and tried to see how it would be. These qualities were reflected not only in his court judgments but also in the reports he wrote both in New Zealand and Australia.

In all of this he carried his message through a unique prose style. Always spare, his prose had a limpid and crystalline quality to it. It was the result of painstaking drafting and redrafting. The Woodhouse Report in Australia went through nine drafts. He wrote these reports himself. They were powerful, clear, elegant and persuasive. From Owen I learned it was fine to start a sentence with “and.” He was always critical of lawyers with a turgid style.

Owen Woodhouse was devoted to his family. He and Peggy were such a great team and they nurtured a family of six wonderful people- Roger who predeceased Owen but not Peggy, then Susan, Peter, John, Tim and Margaret. Those five are all here today with their families. When Peg died in 2000 Owen was sad beyond consolation.

They married in Napier in 1940, seven years after Owen had set his cap at Margaret Thorp, when he was not yet 17 years of age, a law clerk in Napier earning ten shillings a week, having left school early during the depression. She invited him to tennis at her home and that was, as they say, the ball game. In his privately circulated “A Personal Affair” he says: “And at an early age I had my eye on the girl next door. Our marriage has been my

life.” Notice that sentence begins with “and.” He spent the years from 1935 until 1939 as a full-time but underpaid law clerk in Auckland for several law firms, studying part time for a law degree at the University of Auckland, from which he graduated in 1940. He was for a period law clerk to Alfred North. He also found the time to edit the University newspaper “Craccum.”

Apart from his family, four primary forces shaped Owen Woodhouse’s beliefs and values: Napier, the 1931 earthquake there, the Great Depression and the Second World War.

Napier, where he was born in 1916, was a tolerant and happy community. There he was brought up, there all the Woodhouse children were born, there he practised law.

The earthquake of 1931 that thrust the land mass up by nine feet visited terrible suffering upon Napier, with 256 deaths and many injuries. Owen was then at Napier Boys’ High School and was outside when the earthquake struck since it was the beginning of cadet week. He saw directly the physical ruin and human desolation that event caused in the town.

The Depression that he lived through and from which he directly suffered made its impact on his outlook: the retrenchment, the unemployment, the poverty, the hunger, the soup kitchens and the dislocation of people’s lives.

The ranks of the Second World War veterans like Owen, who left such a heavy imprint upon New Zealand life, are thinning now. Their values, their courage and their sacrifice were real.

Owen joined the territorial artillery and was called up in 1940. He decided it was better to join the Navy and be trained in England. At the end of 1941 he was accepted and left New Zealand for England on the “Dominion Monarch” in January 1942. He did not tell the authorities he suffered from asthma and was embarrassed when he had an attack in England. He was lucky not to be sent home. The poet Denis Glover was one of his naval friends of whom Owen wrote he had: “Music in his soul.” Tough naval training all over the United Kingdom followed, where he enjoyed fascinating experiences, and met many people. He passed the tests to become an officer. He cabled Peg back in New Zealand: “With delicate grace have donned gold lace. No arrogant louse, your loving Woodhouse.”

He always had the purpose of serving in motor



torpedo boats and he resolutely secured his wish. The MTBs of the Coastal Forces were intended for offensive operations by night. They were of plywood construction, 70 feet long, powered by enormous marine engines. From April 1943, Owen took part in many patrols from various bases in the Mediterranean, the Aegean and the Adriatic. In this type of warfare the engagements were close, requiring much courage and skill. He saw a lot of action. After Sicily fell, his flotilla went up the coast of Italy, a country that he came to know well and love.

In November 1943 Owen was appointed the Coastal Forces Liaison Officer to work ashore with Tito’s partisans at their headquarters on the island of Hvar. This was a position of unusual responsibility and danger involving sensitive intelligence issues, strategy, negotiations and lengthy reports. He was active along the Dalmatian coast. He was obliged to attend many meetings all over the theatre of war. He thrived as an Intelligence Officer, being blessed with both tact and insight.

In August 1944, Owen was given command of MTB 85. His boat broke down in an operation resulting in considerable danger but he was given a new one, MTB 410. It was in this vessel in the closing stages of the war in April 1945 that he won the Distinguished Service Cross for an operation in the Gulf of Venice in which the flotilla sank five



ships out of eight. His MTB sank two of them and his boat came under heavy fire for 12 minutes. Owen was responsible for the sinking of enemy shipping and loss of life. He did his duty with professional detachment. He told me, however, the last time I saw him in February of this year how he was having dreams about the fate of the German sailors who perished as a result of his activities and what a terrible toll it must have taken on their families. That compassion was typical of him.

When the war in Europe concluded, Owen came under heavy pressure to accept an appointment as assistant to the naval attaché in the newly opened British Embassy in Belgrade, where he remained six months. He was promoted to Lieutenant Commander. During the war he progressed through the ranks of bombardier, seaman, able seaman, sub-lieutenant, lieutenant and finally Lieutenant Commander, a testament to the quality of the man.

The intensity and breadth of his war experiences taught Owen Woodhouse a great deal. It taught him how to operate, and what an operator he was. He had a tremendous sense of strategy and was a master of clever tactics. Furthermore, he was remorselessly determined and could not easily be convinced to change his stance. Behind his humane purposes and positive outlook there was real grit and steel. These qualities were forged in the war.

Back in Napier, New Zealand, aged 29 he resumed his legal career and was quickly appearing in major cases. In 1953 he was appointed Crown Prosecutor.

At the early age of 44, in 1961 he was appointed a Supreme Court Judge, now the High Court. He served as a Judge until 1986, becoming a Judge of the Court of Appeal in 1973 and President of that Court in 1981. As a lawyer and as a Judge he was of the highest quality. The depth of his life experiences was reflected in the insights contained in his judgments. He was something of a lateral thinker and not afraid to strike out in new directions. For him the law was not an end in itself. The pursuit of certainty was not always the pursuit of justice. He thought the law had to move on. That was part of the judicial function.

Owen was appointed counsel assisting a Commission of Inquiry into fluoridation of the public water supply that reported in 1957. The work required the sifting and evaluation of complex scientific information. He wrote the entire report and it brought him to the attention of politicians and administrators in Wellington.

In 1967 he was asked to chair the Royal Commission into Personal Injury in New Zealand. He wrote every word of that report too. Appointed in September 1966, the report was complete by December 1967. It precipitated a legal revolution and made Owen Woodhouse a figure of international significance. I first met him when I was a student at the University of Chicago Law School and he visited with the Royal Commission. I drove him back to the Drake Hotel along

Lakeshore Drive from the South side in an uninsured, beat-up 1955 Chevrolet.

His report swept away the common law action for damages and provided in substitution earnings-related compensation for all, 24 hours of the day. There was no place for the old jury trials, nor the common law itself. Workers' compensation was abolished. It was all to be done with no further money than the old compulsory insurances provided. The report caused a deal of fluttering in the legal and political dovecotes. It needed to be studied, a White Paper was to be written; I was its main author, selected and insinuated into the system by Owen Woodhouse.

After delays, hesitations and changes the scheme was enacted but not as it had been recommended. ACC in New Zealand would have worked better if his report had been followed in every respect. The experience with the scheme has not matched the vision of the original blueprint. New Zealand never received what was envisaged by Owen: a "unified and comprehensive scheme of accident prevention, rehabilitation and compensation." Owen was publicly critical of unwise later decisions that befell the scheme.

One person who noticed the Woodhouse Report in New Zealand was Gough Whitlam, then Leader of the Opposition in Australia. He visited Owen in Auckland to talk about it. A lawyer himself, Whitlam was attracted to the reform. When he became Prime Minister of Australia in 1972, one of the first things he did was to ask the New Zealand Government to lend Owen to head up an Australian inquiry. The government agreed, a step that did much for trans-Tasman relations. Owen rang me when I was teaching at the University of Virginia and said: "Palmer, you have to come to Australia" and I became Principal Assistant to the Committee of Inquiry. It never occurred to me to refuse.

The landscape in Australia was very different from New Zealand and the way of the reformer much harder. We had a tough time, but it was the most exciting adventure I've ever had. Here is Owen's crisp summary of the fundamental principle in the Australian report:

"There is the initial principle of community responsibility. For three main reasons the community must accept the obligations that are clearly owed to every person who has been struck down by sickness or by injury. First, there are the civilised reasons of humanity. Next, there are the economic reasons of self-interest. If the well-being of the workforce is neglected, the economy soon will suffer and society itself thus has much to lose. Finally, there is the plain fact that rights universally enjoyed must be accompanied by obligations universally accepted. The scheme proposed is a national scheme. It involves national responsibility. It must be organised as a responsibility of the State."

Sadly, when the Bill was in the Senate, Sir John Kerr, who when he was Chief Justice of New South Wales had made submission to the inquiry, favouring the end of the common law remedy,

dismissed Whitlam from office. The scheme perished with him. Owen led the Australian inquiry with determination and vigour. One example will suffice—the inquiry was within the jurisdiction of the Attorney-General Lionel Murphy. He was not enamoured of the Woodhouse ideas. He clamped a restriction on the inquiry that no movements interstate were to be undertaken without his express approval. Owen spent his own money and flew to Canberra to see the Prime Minister. By nightfall the inquiry was no longer within Senator Murphy's power.

The third Woodhouse Report came after Owen was appointed President of the Law Commission in 1986. The new Commission was asked to review the Accident Compensation Act 1982 and one of its recommendations was that sickness should be covered by the scheme as soon as possible. I took up that opportunity. We tried to get a combined scheme together after I became Prime Minister and a Bill was introduced in 1990. The time will come for that coverage.

Owen did much work on the Law Commission Act 1985, while it was being designed and he became the Commission's first President at the age of 71. He suggested that each Law Commission Report should be accompanied by a draft Bill and that be given an automatic first reading by law. I could not get it through Cabinet but it should be done. Owen set up the Law Commission when the statute was passed and kept a strong and imaginative arm on the tiller, navigating the directions it took. Ken Keith, who is here today, was his Deputy President. The Commission, under Owen's leadership, made many useful contributions to law reform in New Zealand: the structure of the courts, wholesale reform of company law, accident compensation, a Personal Property Securities Act, a new Act on the interpretation of statutes, work on the statute of limitations and a valuable report on Imperial Statutes in force in New Zealand. A start was also made on the massive evidence project. During this period he was also a member of the international arbitral tribunal in Greenpeace's claim against France over the Rainbow Warrior bombing.

Mention should be made of Owen's constitutional views. His judgment as President of the Court of Appeal in striking down a set of regulations in 1982 was bold. His 1979 J C Beaglehole Memorial lecture called for a halt to expanding executive power, likening the situation in New Zealand to that enjoyed by the Stuart Kings. He called for a written Constitution supported by a Bill of Rights. We are still waiting for the real thing.

Owen Woodhouse rendered the State much distinguished service. We shall not see his like again. But his legacy will live long in the life of New Zealand and the culture of its law. He was a wonderful mentor to many.

We celebrate today what was not merely a good life, it was a great one.

*Sir Geoffrey Palmer, BA (VUW) 1965, LLB (VUW) 1966, JD (Chicago) 1967, Hon LLD (VUW) 2002*

# Student prizewinners 2013

## FACULTY OF LAW PRIZEWINNERS 2013

### A H Johnstone Scholarships in Law

Best result in top three 200-level courses  
Rose Goss, Harriet Farquhar

### AJ Park Prize in Intellectual Property

Top result in Intellectual Property final exam  
Timothy McGuigan

### Archibald Francis McCallum Scholarship

Best result in LAWS 301 Property Law  
Emma Smith

### Bernard Randall Prize in Family Law

Top student in LAWS 370 Introduction to Family Law  
Juliet Bull

### Chapman Tripp Prize

Top graduating law student  
Lauren Brazier

### Chris Highfield Memorial Prize in Judicial Law

Best result in LAWS 322 Judicial Review  
Laura Hardcastle

### Chris Highfield Memorial Prize in Public Law

Best result in LAWS 213 Public Law  
Finn Stallmann

### Coleman-Brown Memorial Award

Top female student in the field of Legal Theory  
Laura Hardcastle

### Colin Patterson Memorial Prize

The best piece of writing in a commercial law, securities law or company law topic  
Henry Hillind, Chara Sherwood

### Cullen Employment Law Prizes

Top students in LAWS 355 Employment Law  
William Fussey, Peter McKenzie-Bridle, Guy Finny, Richard Taylor

### Faculty of Law Prize in Legal System

Best result in LAWS 121 Legal System  
Georgia Whelan

### John Miller Award in Social Justice, Community Development

Julia Whaipooti

### LEADR Prize in Dispute Resolution

Best student in Dispute Resolution  
Sarah Lamb

### Lord Cooke of Thorndon Prize

Best student entering the Honours programme  
Rose Goss

### Mario Patrono Prize in Legal System

Highest average grades in LAWS 121, 122, 123  
Georgia Whelan

### VUW Medal for Academic Excellence 2013

Top graduating law student  
Lauren Brazier

### Maritime Law Prize

Best student in Maritime Law (LAWS 351)  
Lauren Brazier

### NZ Law Review Prize

Top students over four 200-level Law courses  
Rose Goss, Harriet Farquhar, Georgia Lockie

### Quentin-Baxter Prize in International Law

Jasmin Moran

### Quentin-Baxter Prize in Public and International Law LLM

Holly Hedley

### Robert Orr McGechan Memorial Prize

Best work for VUWLR  
Asher Emanuel

### Sir Edward Taihakurei Durie Student Essay Competition

Sponsored by the Māori Law Review  
Laura Hardcastle

### Thomson Reuters Prize in Jurisprudence

Best work in Jurisprudence class  
Thomas McKenzie

### Thomson Reuters Prize in the Law of Contract

Best work in Law of Contract class  
Georgia Lockie

### Val Gormly Memorial Prize

Top student in LAWS 301 Property Law  
Emma Smith

### VicBooks Award – LAWS 211

Top tutor in LAWS 211  
Lauren Brazier

### VicBooks Award – LAWS 212

Top tutor in LAWS 212  
Caleb McConnell, Thomas McKenzie

### VicBooks Award – LAWS 213

Top tutor in LAWS 213  
Anna Peacey

### VicBooks Award – LAWS 214

Top tutor in LAWS 214  
Louisa Jackson, Duran Timms

### VicBooks Award – LAWS 301

Top tutor in LAWS 301  
Molly Woods

## COMPETITION WINNERS 2013

### Bell Gully Mooting

Aric Shakur and Duncan McLachlan

### Minter Ellison Rudd Watts Witness Examination

Emma Smith

### Russell McVeagh Client Interviewing

Luke Archer and Jasmin Moran

### Buddle Findlay Negotiation

Luke Archer and Myles Snaddon

### Buddle Findlay Junior Mooting

Pita Roycroft and Ashley Varney

### Chapman Tripp Junior Negotiation

Zane Fookes and Tory Hansen

## PHD STUDENTS SHINE

**VERGIL NAROKOBI** received the New Zealand Pacific Scholarship Top Achiever Award in recognition of his academic excellence, leadership, and community involvement.

*Vergil is pictured on the right, with his family and PVC Pasifika, Winnie Laban*

**LILI SONG** was granted the Australian Awards Endeavour Research Fellowship by the Australian Government to support her research on China and the international refugee protection regime. She will begin the Fellowship in January 2015 at the China in the World Centre at Australian National University.



# Student activities 2014

## FROM LAW STUDENTS' SOCIETY PRESIDENT

**T**HIS HAS BEEN another huge year for the Victoria University of Wellington Law Students' Society (VUWLSS). The 2014 team has added significant value and built on the developments made in 2012 and 2013. When we began we had the overall goal of making VUWLSS an organisation that all students feel a part of and are proud to be a part of.

VUWLSS has moved itself from being thought of as a student club that depends on grants to a business-like model which focuses on wider sponsorship, more rigorous selection and quotation of suppliers, and efficient and effective decision-making. Nonetheless, of course, at the heart of VUWLSS and still of primary concern are the students and providing value to them.

Membership in VUWLSS has never been higher and attendance and engagement with our events and initiatives has been overwhelming. Students really do see the value in what our organisation provides.

Improving the education portfolio was a goal the 2014 and great progress has been made. In particular, we managed to increase the library hours. This has provided a major benefit to students which we believe will be a lasting one. We also extended the study groups to LAWS301 Property Law. The study groups have provided significant help to students and always have fantastic attendance.

The competitions have been a resounding success. They are an exciting chance for

students to develop skills that are relevant to the real world. This year we have added preparation sessions for the competitions several days prior to each competition. These sessions are run by a previous participant in the competition and allows them to impart their advice about how to be as effective as possible, what strategies to use and major pitfalls to avoid. Students have found these sessions very helpful.

Social events continue to be an important part of VUWLSS. They add a significant amount to the Law School community. This year we aimed to go even further than before, with more events and also to improve on existing events. In particular, the Law Ball was the single largest and most successful event in VUWLSS history with over 680 people attending.

It was held at New Zealand's National Museum, Te Papa, which is a far bigger venue than that of any previous Law Ball. The scale was immense: a large array of wonderful food; an open bar; the fantastic band, Drax Project, playing through the night. Improvements made this year included a photobooth, multiple bars around the venue open and a lot of space to mix and mingle. The night ran very well and the response from students was overwhelmingly positive.

Overall VUWLSS has had a very successful year. The future is bright. We are constantly improving and are one of the most effective and oldest student organisations on campus. We hope more and more law students share in what VUWLSS has to offer. We believe that VUWLSS will continue to be innovative and add

value. No two years are the same and we look forward to seeing what the 2015 executive has to offer.

*Myles Snaddon*

## LAW REVUE 2014

**T**HE LAW REVUE has become a must-see show for many students, academics and professionals in the Wellington legal community. This year, "The Lords of the Bench: The Two Gavels", played tribute to the Right Honourable Justices of the Supreme Court, whose distinguished, iconic, and often quite lengthy and ambiguous judgments law students and lawyers around New Zealand both cherish and dread.

As with past years' revues, the 2014 Meredith Connell Law Revue was written, produced and performed by a cast of incredibly talented and eager law students and young professionals. This year's cast included 17 Victoria University students and eight young lawyers, with many cast members new to the Law Revue stage. After several years as Musical Director, Jade David Neale stepped up to the role of Director with Kariba McGinn as Assistant Director. The production team also included Jennifer Howe and Richard Collins as Producers, Nigel Smith as Musical Director, and the talented Catherine Reid as Choreographer, taking the show's dance moves to the next level.

The performance began with the Ghost of Lord Cooke revealing to the audience and the Supreme Court Judges the existence of two equal legal forces – the true gavel of justice

## WORLD WARS INSPIRE STUDENT

**V**ICTORIA LAW SCHOOL student Troy Stade used a family connection as inspiration for an entry in this year's World of Wearable (WoW) Arts show. In what started as a family project using his great-grandfather's tools, Troy created, together with his parents Martin de Ruyter and Karen Stade, a Bizarre Bra entry.

The garment is made up of shells from spent bullets which are split in half and then welded and filed to create a petal. "The petals are shaped like a poppy, which brings in a New Zealand connection," said Troy.

"My great-grandfather made trench art after World War II, which ignited a bit of a passion for my family. It's been great to see our piece come together."

Troy's family, from Nelson, are long-time supporters of WOW, having been to every show since the event began, and tried to use this experience to help them put together an award-winning garment. Troy remarked how important it is for students to have a creative outlet, especially those studying law. "Having this creative outlet is cathartic for me."





and the anti gavel of anti justice. He also revealed that a mysterious hooded figure had stolen the anti gavel of anti justice to travel through time and change New Zealand's foundational legal events. The Supreme Court Judges – the Justice League – were tasked with travelling back in time to stop the villain and save New Zealand's legal history. Chasing the villain through numerous events fundamental to New Zealand's legal history – the signing of the Treaty of Waitangi, the murder of the Bain family, and Parliament's decision to pass the Supreme Court Bill – the talented cast delivered as many laughs and obscenities as in previous years.

The Law Revue also featured extravagant musical and dance numbers, with the talented Max Bicknell, who played Captain Hobbes, singing "Constitutional Dream" (based on *Miss Saigon's* "The American Dream") as a Treaty of Waitangi dropped from the ceiling in front of a giant waka and British naval ship. The cast also showed off their musical talents in "Good Morning Wellington" (based on *Hairspray's* "Good Morning Baltimore") and a *Mamma Mia* medley as the show's final number.

And, like all Law Revues, a variety of skits were mixed in with the main scenes, featuring a completely neutral debate host, the over excited Big Save Furniture woman, a kind klansman and a reminder that defamation is not defamation if it is true. A Law School

version of *Les Miserables'* "Empty Chairs at Empty Tables", performed by Jade David Neale, Jennifer Howe, Max Bicknell and Stephanie Trengrove, wrapped up the medley of skits as a sombre tribute to those who have fallen at the first hurdle and not made it through to second year law. These performances were particularly well received, with the audience continuing to applaud well after the final note was delivered.

From its irreverence towards political and judicial figures, to witty puns, through to the black humour for which the Law Revue has become infamous, there was something for everyone this year. And while it provides a priceless night of entertainment for all 900 audience members, it also presents a unique opportunity for law students and young lawyers to interact outside the structured mentor programmes and summer clerk recruitment functions, and express their creative side. It also provides a wonderful opportunity for students of all levels and backgrounds to connect with others outside the walls of the Old Government Buildings. Having participated in the show for four out of the seven years I have lived in Wellington, with two of those years as a law student and two as a solicitor, it is a real pleasure to see the show going strong and lifetime friendships being formed.

The Law Revue is thankful to its sponsors Meredith Connell, J Legal, Buddle Findlay,

Duncan Cotterill, MinterEllisonRuddWatts, Rainey Collins, Simpson Grierson, Thomson Reuters, Fuji Xerox, Tuatara and Tommy Millions Pizza for making the 2014 Wellington Law Revue possible.

Jennifer Howe

## LAW STUDENTS' SOCIETY PATRON'S LECTURE

THE LAW STUDENTS' SOCIETY Patron's Lecture was held during Wellness, the mental health awareness week, which was fitting as both speakers both touched on important issues facing lawyers and law students.

The Society's Patron, Sir Geoffrey Palmer, welcomed the students and introduced the keynote speaker, the Honourable Justice McGrath.

Justice McGrath graduated with a LLM from Victoria University of Wellington in 1968. He was a partner at Buddle Findlay, in Wellington, until he moved to the separate bar in 1984. He became Queen's Counsel in 1987 and he was Solicitor-General between 1989 and 2000. Justice McGrath was appointed to the Court of Appeal in July 2000 and to the Supreme Court in May 2005. In 2007, Justice McGrath was appointed a Distinguished Companion of the New Zealand Order of Merit. The appointment was redesignated Knight Companion of that Order in 2009.



The Law Students' Society was grateful to have two very distinguished speakers share their knowledge and experiences as well as a few funny stories.

Sir Geoffrey described many of the experiences he'd had with Justice McGrath, including his appointment as Solicitor-General by Sir Geoffrey. Sir Geoffrey described how informal the appointment was and how different it would be today. He discussed Justice McGrath's achievements and his contribution to New Zealand's legal system.

Justice McGrath spoke about his career and experiences in the law and how he moved from one role to another. He described how changing roles was good because it allowed him to learn more about the law and this maintained his enthusiasm. Justice McGrath also discussed cases he was involved in and some of the difficult legal issues he has had to face and his thinking behind some of the decisions, especially in the Supreme Court.

Following the speakers, the floor was open to questions. Students asked about the struggles and successes both men have had in their respective careers. Afterwards, drinks and nibbles were hosted in the Common Room and students had a chance to talk to both Sir Geoffrey and Justice McGrath in a more informal setting.



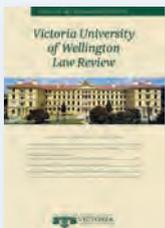
# Faculty publications 2014

## VUW LAW REVIEW

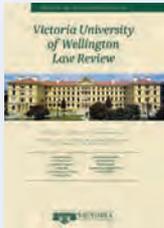
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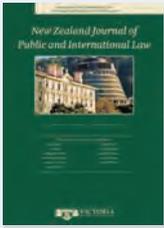
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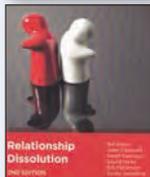
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  - 2 The Role of the New Zealand Law Commission Justice David Baragwanath
  - 3 Legislature v Executive – The Struggle Continues: Observations on the Work of the Regulations Review Committee Hon Doug Kidd
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  - 5 The Role of the Secretary of the Cabinet – The View from the Beehive Marie Shroff
  - 6 The Role of the Governor-General Dame Silvia Cartwright
  - 7 Final Appeal Courts: Some Comparisons Lord Cooke of Thorndon
  - 8 Parliamentary Scrutiny of Legislation under the Human Rights Act 1998 Anthony Lester QC
  - 9 Terrorism Legislation and the Human Rights Act 1998 Anthony Lester QC
  - 10 2002: A Justice Odyssey Kim Economides
  - 11 Tradition and Innovation in a Law Reform Agency Hon J Bruce Robertson
  - 12 Democracy Through Law Lord Steyn
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  - 15 The Case that Stopped a Coup? The Rule of Law in Fiji George Williams
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  - 18 Law Reform & the Law Commission in New Zealand after 20 Years – We Need to Try a Little Harder Rt Hon Sir Geoffrey Palmer
  - 19 Interpreting Treaties, Statutes and Contracts Rt Hon Judge Sir Kenneth Keith
  - 20 Regulations and Other Subordinate Legislative Instruments: Drafting, Publication, Interpretation and Disallowance Ross Carter

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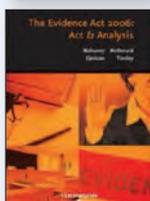
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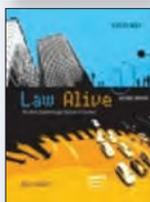
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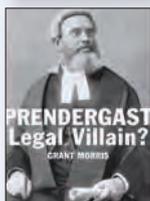
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