

FACULTY
OF LAW

A YEAR IN REVIEW 2010



Victoria

From the Dean

Welcome to another edition of V.Alum.

Once again, we have set out our year in review. My colleagues have shown themselves to be full of energy, enterprise and outstanding scholarship. It is most gratifying – the result of the hard work and sheer talent of this small but special Faculty.

I would like to acknowledge the role of the New Zealand Law Foundation in much of our work. At its recent awards dinner, the MC, a former journalist, noted that the mainstream media is largely unaware of the role of the Foundation and its significance to the legal framework of this country. I would like to think that the achievements featured within this publication go some way towards amending this situation. Its funding, which is dedicated to independent legal research, underpins much of our activities.

We are fortunate in our unique position in the capital and our proximity to its legal institutions. This year, we capitalised on that (no pun intended) to a remarkable degree. We have had five major conferences here this year, all of them attracting international guests and interest, but also with involvement from such key figures as the Chief Justice, the Governor-General, the Minister of Justice, the Attorney-General, a former Deputy Prime Minister and a former President of the Court of Appeal. Few Law Schools in the world are able to offer such experience and intellectual excitement. Next year, the Faculty will be offering a welcome to the recently retired Sir Geoffrey Palmer, who intends to spend time in our midst doing some teaching and writing his memoirs.

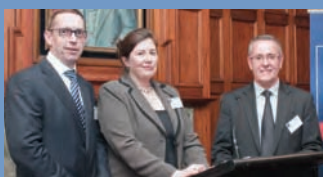
This publication is called V.Alum because it is primarily for Victoria's law alumni. I hope it makes you all as proud of this place as I am. Read on, and I am sure you will see why.



Professor ATH Smith
Dean, VUW Law Faculty



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GROWTH AND STRENGTH:

The interior decoration of the Old Government Building, the Law School's celebrated home, has a theme of natural forms, images of which are featured throughout this issue of V.alum.

"Nature hath no goal though she hath law."

John Donne 1572–1631

New Zealand Law Foundation Regulatory Reform Project

Professor Neil Quigley, Deputy
Vice-Chancellor (Research),
Professor Susy Frankel,
Warwick Deuchtrass, Chair,
New Zealand Law Foundation



A \$1.75 million research project led by Victoria University and funded by the New Zealand Law Foundation aims to help get regulation right for New Zealand.

REGULATION, WHATEVER ITS SHAPE or form, is integral to all New Zealanders whether they are in business or are consumers. Badly designed and poorly implemented regulation can cost the taxpayer millions, as evidenced by the leaky home issue. Implementing and enforcing good regulation can be expensive, but it is often worth the investment.

The New Zealand Law Foundation Regulatory Reform Project (LFRRP) looks at key aspects of New Zealand's regulatory regime and analyses if these areas of regulation serve New Zealand well and how they might be improved.

The project is being conducted by researchers at the Law Faculty of Victoria University of Wellington and also includes researchers from Victoria's School of Government and the School of Accounting and Commercial Law. The University's research partners in the project are Chapman Tripp and the New Zealand Institute of Economic Research.

"The project is looking at regulatory reform that can make a difference to everyday New Zealanders and our economy. If you build a house, buy an imported product, use a cellphone, borrow money or own a company, the project outcomes may be relevant to your life," says Professor Susy Frankel of Victoria University's Law Faculty and leader of the project.

"The Law Foundation's core focus is to support independent legal research into the major legal challenges facing our country. We identified regulation as an area of national importance because the impacts of bad regulation can be spectacular," says Lynda Hagen, Executive Director of the Law Foundation.

This project is the second largest ever funded by the Law Foundation, its most significant being the Human Genome Research Project. "After that project was completed last year, we were determined to find another project with equally significant potential impact, and we are delighted to be able to support the team undertaking this research," says Ms Hagen.

New Zealand was ranked third in the World Bank's Doing Business survey 2011, yet more can be done to promote competition, innovation and growth. Effective regulation plays an important role in the economy. Regulations are the means through which the public can be assured the products or services

they purchase are safe and reliable, and of world-class standards. An effective regulatory regime needs to be good for business, good for the New Zealand public and must also support productivity and economic growth.

The project looks at regulation in the New Zealand specific context. Important factors central to the analysis in this project are: New Zealand's small size, its geographical location, its market economy, its dependence on international trade and the partnership between Maori and the Crown.

The effectiveness and efficiency of regulation is not merely a local matter. Regulatory decisions are influenced by global affairs. For instance, trade agreements are the means by which long-term regulatory harmonisation and co-operation between different economies are established.

In an initial series of papers that are being reviewed in workshops, the underlying issues will be analysed and discussed. The project utilises a series of subprojects which are illustrative case studies of different aspects of the regulatory process. They include:

- + Trans-Tasman and Free Trade Agreements:
- + Regulatory Autonomy and Consumer Protection
- + Labour regulation, shareholder protection and creditor protection

- + Wider International Cooperation Structure
- + Trans-Tasman Intellectual Property Coordination
- + Regulation of Therapeutics – a focus on the Trans-Tasman relationship
- + Importance of Capital Flows
- + Regulating the Building Industry – a case of regulatory failure
- + Networked Industry Case Studies: Electricity and Telecommunications
- + Competition Law and Policy
- + Co-operative Private and Public Regulatory Models for Intellectual Property
- + Regulation – Specialist Bodies, Ministers and the Courts
- + Democracy, Legitimacy, Regulation and the Rule of Law
- + The Regulatory Management Framework in New Zealand Government: A Comparative Analysis of Institutions, Processes and Outcomes
- + The Rights Framework in a Regulated/De-regulated Environment
- + Regulation, Property and the Rule of Law
- + Options for Consumer Protection Frameworks
- + Regulation of Consumer Financial Products

After the issues in each subproject are framed and discussed the second stage of the project will deepen the analysis of the issues and will include cost/benefit analyses. The above subprojects will provide a detailed basis for broader analysis of what questions and issues New Zealand regulators should consider when planning and making regulation.

The final outputs will include a toolkit for those involved in the process of regulation. The toolkit will include guidance about what needs to be considered in the regulatory decision making process, what should be or should not be regulated, how to regulate, and who should have the responsibility for the development and control of the relevant regulation.

The research team brings together practising lawyers, consulting and research economists and academics in law, economics, accounting and government. The interdisciplinary and multi-institution approach to this research will meld domestic expertise with overseas scholars from a range of institutions.

The Project team

Project Leader: Susy Frankel

Project Manager: Bianca Muller

Project Administrator: Christine Gibson

Researchers at Victoria University of Wellington

- + Professor Gordon Anderson
Faculty of Law
- + Professor Graeme Austin
Faculty of Law
- + Mark Bennett, Lecturer
Faculty of Law
- + Dr Petra Butler, Senior Lecturer
Faculty of Law
- + Dr David Carter, Senior Lecturer
School of Accounting & Commercial Law
- + Dr Joel Colon-Rios, Lecturer
Faculty of Law
- + Dr Michael Di Francesco, Senior Lecturer
School of Government
- + Professor Susy Frankel
Faculty of Law
- + Dean Knight
Senior Lecturer, Faculty of Law
- + Meredith Kolsky Lewis, Senior Lecturer,
Faculty of Law
- + Professor Geoff McLay
Faculty of Law
- + Professor John Prebble
Faculty of Law

+ Professor Neil Quigley,
Deputy Vice-Chancellor (Research)

+ Paul Scott, Senior Lecturer
Faculty of Law

+ Dr Rayner Thwaites, Lecturer
Faculty of Law

+ Kate Tokeley, Senior Lecturer
Faculty of Law

NZIER researchers

- + John Yeabsley, Senior Fellow
- + Chris Nixon, Senior Economist
- + Chris Schilling, Senior Economist
- + Jagadish Guria

Key participants from Chapman Tripp

- + Andy Nicholls, Partner
- + Jack Hodder SC, Partner and
Chairman of the Board
- + Daniel Kalderimis, Principal

Other Chapman Tripp participants

- + Casey Plunket, Partner
- + Geof Shirtcliffe, Partner
- + Kelly McFadzien, Senior Solicitor
- + Matt Sumpter, Partner
- + Tim Smith, Principal
- + Victoria Heine, Partner



The prodigal son

Professor Emeritus
David Mullan



To what extent is it appropriate for the courts to engage in judicial review of government actions and decision-making?

THAT WAS THE SUBJECT OF THE 2009 Lord Cooke of Thorndon Lecture delivered at Victoria University of Wellington's Law School in December by Queen's University Professor Emeritus and Victoria University graduate, David Mullan.

Entitled "Judicial Review of the Executive: Principled Exasperation", Professor Mullan explored to what extent the exercise of executive power is justiciable – that is, capable of being examined by the courts.

His starting point was the views of Lord Cooke himself. "Lord Cooke, in a lecture entitled "Struggle for Simplicity" endeavoured to provide a recipe for the simplification of judicial review of administrative action. He propounded the idea that administrative action should be subject to review on the basis of whether or not it accorded with the law, had been taken fairly and had been taken reasonably."

That said, while endorsing Lord Cooke's views that judicial review of the executive is legitimate in certain limited circumstances, Professor

Mullan also acknowledged that it is a highly controversial issue, and – not surprisingly – the New Zealand and Canadian courts have traditionally shown a reluctance to engage in judicial review of high-level executive actions.

A number of commentators cited by Professor Mullan (notably fellow New Zealand law graduate and North American Professor, Jeremy Waldron) argue that it is appropriate for courts to be circumspect in exercising a willingness to judge the merits of government decision-making or actions. They contend there are already well-established mechanisms for the executive to be held accountable, such as the doctrine of ministerial scrutiny, scrutiny by Parliament and, ultimately, accountability to the electorate via the ballot box.

While accepting this argument, Professor Mullan also suggested that the reality does not always live up to the ideal. He argued that executives and legislatures generally have "a history of acting badly" in times of crises or national security emergencies. Then, turning specifically to Canada, he argued that its democratic institutions such as Parliament are not currently "in reasonably good working order." In his view, this justifies the courts adopting a more active judicial review role.

"We live at a time when the judiciary, perforce through the existence of Bills of Rights, or

Charters of Rights and Freedoms, are in fact engaging with executive policy-making – at least in areas where the rights and freedoms protected by the New Zealand Bill of Rights Act and Canadian Charter of Rights and Freedoms are concerned."

Professor Mullan cited New Zealand and Canadian case law to illustrate his point. For New Zealand, he examined the celebrated Fitzgerald case of 1976. In Canada, he used three recent, high-profile cases, involving Ronald Smith, Abousfian Abdelrazik and Omar Khadr.

He argued there is growing judicial exasperation with the executive's conduct and its unwillingness to be held accountable for its actions.

"The extent to which the executive in Canada is exposed to answering meaningfully and consistently for policy decisions is remarkably limited given the way in which the House – Parliament and the provincial legislatures – operate these days.

"The concept of the executive being answerable in Parliament through the doctrine of ministerial responsibility is, in very large measure, an attenuated version of what would have been presented some 40 or 50 years ago. In other words, executive accountability to Parliament as a reality in terms of policy decision making exercises is, in fact, highly attenuated.

"In the country that I now live in, if in fact ministerial responsibility or political accountability is going to be achieved, it may be better achieved through the courts and the exposure ministers get in the sense of exposure to public scrutiny through the publicity that adheres to Khadr, Abdelrazik and the like.

"So there is some encouragement that the Canadian courts have proved themselves willing, where rights-based interests of individuals are at stake, to break beyond traditional barriers of justiciability, to break beyond traditional barriers about non-scrutiny of government decision-making in matters bearing upon the public interest and to at least call upon the government (albeit subject to proportionality analysis or Canadian deference theory or whatever) to justify their positions in the face of situations that indeed exasperate."

Community Justice Project

The 2010 Executive Committee

Helena Nunn, inaugural director of the Community Justice Project.



The Wellington Community Justice Project (WCJP) is an initiative started by law students looking for opportunities to gain practical legal experience through assisting community organisations.

IT WAS LAUNCHED AT THE BEGINNING OF 2010 and the inaugural executive committee would like to thank Victoria University Law School for its continued support and encouragement during the year as well as the Wellington Community Law Centre (WCLC) and the Human Rights Commission.

The Project has gone from strength to strength, with the successful set up of the Youth Education Project in collaboration with the WCLC and the Citizens Advice Bureau. The Youth Education Project has had a busy year developing and presenting education modules based on legal rights in seven key areas, including relationships, consumer, employment and crimes. The sessions are aimed at students who have left high-school education early to train in industry trade organisations such as the Bar School in Wellington.

The WCJP has had a positive response to initiatives in Law Reform, the latest of which has seen the team working with Robert Ludbrook on reforms to the Adoption Act 1955. Similar success ensued from the relationship formed with Human Rights Commission, which has been a great source of assistance and support. Students were given the opportunity to work on research initiatives and sit in on cases involving human rights implications in the High Court. Specific work with the Commission revolved around reviewing the position of migrant workers in New Zealand with a view to looking into whether the Government should ratify the Migrant Workers' Convention. The team has completed stage one of a comprehensive review on New Zealand's international treaty obligations.

The Advocacy team has launched a youth clinic in conjunction with Evolve Youth on Eva St. Law students go along to the clinic and provide one-on-one peer support on legal issues concerning the youth at Evolve. The challenges with setting up a youth clinic proved testing, as liability concerns over giving advice were slowly resolved. Next year the team is planning a review of the project in order to effect a more consistent turnout of youth at the clinics and a greater involvement with the legal community.

From left: Professor Tony Smith, Judge Andrew Becroft and Professor Bill Atkin at the project's launch, and

The advocacy team has also worked closely with the Porirua and Wellington Community Law Centres and has sent student volunteers to clinics run out of both centres. The team is currently looking at new projects in 2011, such as a prisons reform project, an immigration project and a schools clinic.

At the recent annual general meeting, the 2011 executive was elected. The evening was a great success and we would like to personally congratulate Emily Bruce and Adele Taylor who were voted in as the new student directors to replace founding director Helena Nunn, who has completed her studies.

The other new executive members are Stephanie Lambert (continuing) and Chantal Hickey (Human Rights), Alison Hamilton and Alexandra Sinclair (Law Reform), Kathryn Pfeffer, Amy Dixon and Michael Zhang (Education), Narita Chandra and Matthew Hitchman (Advocacy), and Nessa Lynch, Carwyn Jones and Rayner Thwaites (Faculty Staff). We look forward to seeing further success and growth of the WCJP in 2011 and wish the new team all the very best.

By Helena Nunn

Geoff McLay – commissioned, accomplished

Professor Geoff McLay

Within one week in 2010, Geoff McLay was appointed Professor and then, a Law Commissioner.

The University has given Professor McLay a leave of absence for five years. Dean of Law, Professor Tony Smith says: “It is a mark of the esteem in which Geoff is held. He has made an outstanding contribution to the Faculty. We are sure the Law Commission will enjoy the same energy and commitment.”

His specialist areas include torts, crown liability, intellectual property, and legal history. He was a major contributor to the recently published *New Zealand Law Style Guide* and has been a contributor to the Lost Cases Project, both funded by the New Zealand Law Foundation. His recent research on Government liability has also been supported by the New Zealand Law Foundation, as its 2006 International Research Fellow.

Professor McLay began his legal career as a student at Victoria in 1987. He became a staff member in 1995, after completing a LLM at Michigan. He was awarded a doctorate from Michigan in 2008 and was promoted to Professor in October this year.

At the Law Commission, he will be working for an independent Crown entity. It is funded by government and reviews areas of law that need updating, reforming or developing.

The Law Commission’s outgoing President, Sir Geoffrey Palmer (also a Victoria law alumnus and former Professor), says: “Professor McLay is assured of a warm welcome when he arrives at the Law Commission. Academic lawyers do well here. There is a lot of work to do.”

Shortly after his appointment to the Law Commission was made public, Professor McLay sent an eloquent email to the Faculty:

“I have always been extremely proud of the extraordinary job that our Law School does. I have been privileged to study, teach and visit some of the “best” law schools in the world – and I admire them greatly. But I have always told



the people there that we have students to rival their very best, and faculty and support staff that are extraordinary. I am amazed pretty much every day by what my colleagues do. And without taking away from what has been done

of strength that people care. The nicest thing about my promotion this month was that people from my home told me that I had done a good job. In case any of you are in doubt, you all do a great job.

“ I am amazed pretty much every day by what my colleagues do.... We have very little resources compared to many places, but none of you ever makes that an excuse for doing less than you ought. You make a real contribution to our little country and our wide world. And most importantly you all believe in helping people. ”

Professor Geoff McLay

before, the staff seminars of last week and this week tell us that the best is yet to come. We have very few resources compared to many places, but none of you ever makes that an excuse for doing less than you ought. You make a real contribution to our little country and our wide world. And most importantly you all believe in helping people. When people tell me about the legendary arguments of yore at the faculty over teaching I always tell them it is sign

“This Law School has been my home from just about the first LAWS 101 with Bill Hastings – I am very lucky that some of the people in that class remain my very best friends (including the learned judge). That is now 22 years ago. It has always been an honour and privilege to have been a student here and then a colleague of all of you, and of those who have gone on to other things.

“What I have most enjoyed is the sheer variety of people (academics, student, student admin, support staff) who work here, study here and otherwise pass through. There is

nothing I would rather do than stand in front of our torts class. But the opportunity that I have accepted was not one which I could refuse. It is a chance to learn from some of the best legal people in New Zealand and to give a little bit back to the wider community.

“To change a phrase well known around these parts, *amicitia magis auro desideranda.*”

Graeme Austin – Back to the future

Graeme Austin is our newly appointed Professor of Private Law.

WELLINGTON BORN AND BRED, Professor Austin's first law degrees are from Victoria (LLB, LLM). He also graduated LL.M and JSD from Columbia University, where he was awarded the Burton Fellowship in Intellectual Property.

He has spent 10 years as a tenured professor at the University of Arizona, most recently as the J Byron McCormick Professor of Law. Before his Arizona appointment, he was a senior solicitor at Chapman Tripp; before that, he was on the law faculty at Auckland University. But he has always had a special fondness for Victoria.

“Victoria University is where I began my life in the law, first as a student, later as a junior faculty member. Like everyone who passes through Victoria, I benefited greatly from the extraordinary dedication, knowledge, insight and skill of the Law School's fine faculty.”

Professor Austin's scholarship has been published in the *Law Quarterly Review*, *NYU's Annual Survey of American Law*, the *Canadian Journal of Law and Jurisprudence*, and the *International Review of Intellectual Property and Competition Law*. He is co-author of a widely-adopted textbook on international intellectual property. His most recent book,

Human Rights and Intellectual Property: Mapping the Global Interface (co-authored with Professor Larry Helfer, (Duke)), will be published by Cambridge University Press in 2011.

He is regularly invited to speak on legal issues in a variety of university, and public and private sector settings. He has given presentations and lectures at the World Intellectual Property Organisation, the Intellectual Property Research Institute of Australia, the Colegio Público de Abogados de la Capital Federal (Buenos Aires), Columbia University Law School, New York University Law School and Oxford University (St Peter's College). In 2010, He was invited by Cambridge University to deliver the 5th Annual Hercul Smith Lecture on International Intellectual Property (Emmanuel College).

Graeme has been a visiting professor at a number of leading academic institutions, most recently at the University of WuHan School of Law (China). He has also been regularly invited to teach in Melbourne University's graduate law programme. An elected member of the American Law Institute, Professor Austin served on the panel of advisors for its Project on Intellectual Property, Principles Governing Jurisdiction, Choice of Law, and Judgments in Transnational Disputes (2008). He serves on the editorial boards of the *Journal of the Copyright Society* (USA) and the *Media and Arts*

Law Review (Australia). His current research includes: a project on the relationship between the copyright and privacy; a project exploring distributive justice issues in the context of tech transfer contracts; and an examination of the conceptual bases for the regulation of consumer debt.

“I'm delighted to be back at Victoria – especially now,” says Graeme. “The wonderful Government Building is home to an exceptional group of legal scholars who are making a significant impact on legal thinking, both domestically and internationally. I feel truly honoured to now be working amongst them. There is a real commitment here to the great traditions that built this Law School as well as a determination to push the boundaries of legal science, as faculty members identify and analyse the many new legal issues which confront lawyers, policymakers and the public. It's a terrific mix.

“The students are also very impressive, and I am very much looking forward to working with them. In past visits to the Law School, I have enjoyed making contact with many former students; it's refreshing to see so many coming back to the Law School, and taking advantage of the vibrant and diverse array of public lectures, conferences, and seminars that the School puts on for the local legal community each year. I can tell already that this will be a very exciting place to work.”

Staff appointments and awards

Graeme Austin was appointed Professor – see above.

Honorary Fellow **Brian Brooks** has been appointed by the Attorney General for a three-year term to the Legal Aid Review Panel.

Susy Frankel is Project Leader for the \$1.75 million New Zealand Law Foundation grant for the Regulatory Reform Project – see page 2.

Faculty adjunct **Bill Hastings** has been appointed as a District Court Judge and will head the new Immigration and Protection Tribunal.

Dean Knight will spend 2011 completing a doctorate on “Vigilance and Restraint: Standards of Review in Administrative Law” at the London School of Economics and Political Science.

Campbell McLachlan was awarded the 2010 New Zealand Law Foundation International Research Fellowship, and will spend 2011

as a Visiting Fellow to All Soul's College, Oxford to work on his book *Foreign Relations Law* (Cambridge University Press).

David McLauchlan won this year's Legal Research Foundation prize for the best published article for his article “Contract Interpretation: What is it About?” (2009) 31 *Sydney Law Review* 5-51.

Geoff McLay was appointed a Professor and a Law Commissioner – see page 4.

Sir Geoffrey Palmer, alumnus and former Professor of Law at the Faculty, will return to teach and contribute to the NZCPL in 2011.

Rayner Thwaites was appointed Lecturer and recently received the prize for the best graduate thesis by the University of Toronto.

Yvette Tinsley has been appointed Associate Professor.

Three wise men



The Law School was host to a number of eminent visitors this year, including Professor Graham Zellick, The Right Hon The Lord Walker of Gestingthorpe and Justice Edwin Cameron.

At the Faculty as the 2010 New Zealand Law Foundation Distinguished Visiting Fellow, **Professor Graham Zellick** spoke in Wellington on “The investigation of possible miscarriages of justice and the quashing of wrongful convictions”.

As a former Chairman of the Criminal Cases Review Commission, he spoke from experience. England was the first jurisdiction in the world to establish formal independent machinery to investigate and review alleged miscarriages of justice, with sweeping powers which he said have ensured its effectiveness.

Graham Zellick is currently President of the Valuation Tribunal for England. He has been an Electoral Commissioner, Vice Chancellor of the University of London and Principal of Queen Mary and Westfield College, University of London.



He has been a magistrate, a member of the Data Protection Tribunal, the Criminal Injuries Compensation Appeals panel, the Competition Appeal Tribunal, the Lord Chancellor’s Advisory Committee on Legal Aid and the Criminal Justice Council.

He holds honorary degrees from New York University, the University of Birmingham, Queen Mary, University of London and Richmond, the American International University in London and is Fellow of the Royal Society of the Arts, of Medicine and of Heythrop College, Honorary Fellow of the Royal Academy of Music and a Companion of the Chartered Management Institute.

The Right Hon The Lord Walker of Gestingthorpe paid the Law School a return visit in 2010 and gave an address: “Treating like cases alike and unlike cases differently: some problems of anti-discrimination law.” Lord Walker read Classics and Law at Trinity College, Cambridge, graduating in 1959.

He practised at the Chancery bar from 1961 to 1994, specialising in trusts, pension schemes and tax. He became a QC in 1982 and was appointed a High Court judge in 1994. He was made a Law Lord in 2002 and became one of the first Justices of the new Supreme Court of the United Kingdom. His pastimes have included cross-country skiing, riding and running (sub-



three-hour London Marathon 1986) but are now rather less energetic.

On 27 July, the New Zealand Centre for Public Law and its public audience were treated to a guest lecture by **Justice Edwin Cameron**. Justice Cameron serves on the Constitutional Court of South Africa. He has served on the Supreme Court of Appeal and the High Court and has had a highly successful career in human rights law practice, was a Rhodes Scholar, and holds honorary doctorates in Law from King’s College London and the University of the Witwatersrand.

He gave a touching presentation on the HIV/AIDS crisis in South Africa, and the role the Constitutional Court has played in bringing change to the negative stigma so often associated with HIV/AIDS victims. He spoke of his personal background, and how being diagnosed with HIV/AIDS changed his life. The lecture covered the unique nature of the HIV/AIDS epidemic in South Africa. Unlike Western nations, where HIV/AIDS transmission rates are dramatically lower, Central and Southern Africa face disproportionately high levels of HIV/AIDS transmission rates. In telling the audience of his own personal battle, Justice Cameron touched on another contributing issue; the extreme cost of HIV/AIDS antiretroviral medication. He explained that he was fortunate enough in his earlier years to have the income capacity to

Professor Graham Zellick
The Right Hon The Lord Walker of
Gestingthorpe
Justice Edwin Cameron

The Court Report

obtain the best medical treatment to fight the disease; yet his fellow South Africans were unable to access adequate treatment under the apartheid regime and Mbeki Government.

He spoke of Mbeki's extremely conservative reluctance to recognise the threat of not addressing the HIV/AIDS epidemic to the social prosperity of South Africa. The TAC took its case, that adequate mother-to-child antiretroviral medication should be government-provided, to the Constitutional Court. This case played an important role in deciding that, under the South African Constitution, the ambit of the right to health care should include HIV/AIDS treatment. This was a clear message from the judiciary to the Mbeki Government; HIV/AIDS denial should not continue. Justice Cameron stressed the importance of the judiciary in upholding a secondary right under their Constitution – such that the right overlaps the policy function of the Executive to a large extent.

This lecture inspired the New Zealand audience with much fundamental food-for-constitutional-thought. How far should the judiciary extend itself in affirming fundamental human rights? How far should the judiciary go in influencing public policy? The different attitude towards the legitimacy of judicial power over such matters, driven by the different constitutional context, was striking. In NZ, judicial interference over health policy would quite likely be ultra vires of judicial power. In South Africa, it was a legitimate exercise of power granted under a unique Constitution.

Justice Cameron has not only worked on the HIV/AIDS cause in his time on the Bench, but also in voluntary and scholarly work (notably his book, *Witness to AIDS*). He has received the Nelson Mandela Award for Health and Human Rights (2000); Stellenbosch University's Alumnus Award (2000), Transnet's HIV/AIDS Champions Award and the San Francisco AIDS Foundation Excellence in Leadership Award (2003). He also received the Brudner Prize from Yale University for his commitment to AIDS improvement. Cameron J left an inspirational, yet remarkably courteous, message for governments that HIV/AIDS victims deserve full respect for their rights to adequate medical treatment.

By Shaun Wallis



Judges, Ministers of the Crown and the legal community are amongst the million viewers a month for TV7. Its weekly programme, *The Court Report*, is filmed at Victoria's Law School.

MADE BY LOCAL PRODUCTION COMPANY Gibson Group and with a panel format led by prominent local barrister (and Victoria alumnus) Greg King, as its leader, it is quintessentially a Wellington show.

"A strength of our Law School is its unique position in the capital," says Dean of Law, Professor Tony Smith. "Our proximity to the principal legal institutions – Parliament, the courts and the public service – is emphasised by this programme, which places Victoria University at the heart of legal discussion in this country."

"Another strength of ours is the calibre of our academics, and they, too, are part of the programme, where appropriate." *The Court Report* aims to take a detailed look at legal issues, with a focus on underlying principles and informed analysis. The panel varies from

week to week but includes politicians, practitioners, academics and journalists.

The Law School, through a series of public seminars, conferences and lectures, regards the promotion of intelligent and informed debate on legal matters an important part of its purpose.

"*The Court Report* provides an opportunity to extend that purpose via another medium," says Professor Smith.

TV7 is a public service channel. The programme screens more than once weekly and is also online. It has a monthly audience of 1.6 million people.

The Court Report is filmed in a lecture theatre on Tuesday nights in front of an audience consisting of law students, legal practitioners and the wider university community. There is time for questions from the audience at the end of the show.

"The prospect of a gritty, energetic and intelligent contribution towards legal debate is a wonderful opportunity for the Law School and the university," says Professor Smith.

Another season of *The Court Report* is planned for 2011.



One brief shining moment . . .

A statue of Peter Fraser stands in front of the Law School.

He is bent into the Wellington wind, holding a satchel and a coat over one arm. It is a portrait of a purposeful man, battling with the elements, and utterly intent on where he is going.

THE ROLE NEW ZEALAND PLAYED in the development of the Universal Declaration of Human Rights is a story of which more could be made. The role Victoria University of Wellington played in providing the intellectual heft for this country's policy on the matter is a fundamental part of that story and something to celebrate.

Jailed as a conscientious objector in World War 1, Peter Fraser experienced at first hand the withholding of human rights and endured the

hostility his stance incurred. His politics were forged by that experience and tempered by the realpolitik of post World War 2 international relations.

The war, lasting six years and spreading across the globe, opened up the possibility of a crusade on behalf of human rights and Walter Nash, with Peter Fraser, were at its forefront.

In the drafting of the United Nations Charter itself, this country played a pivotal role,

particularly in strengthening its human rights provisions.

Subsequently, the task of defining the full extent of international obligations to protect human rights was assigned to the Commission of Human Rights which was led by Eleanor Roosevelt.

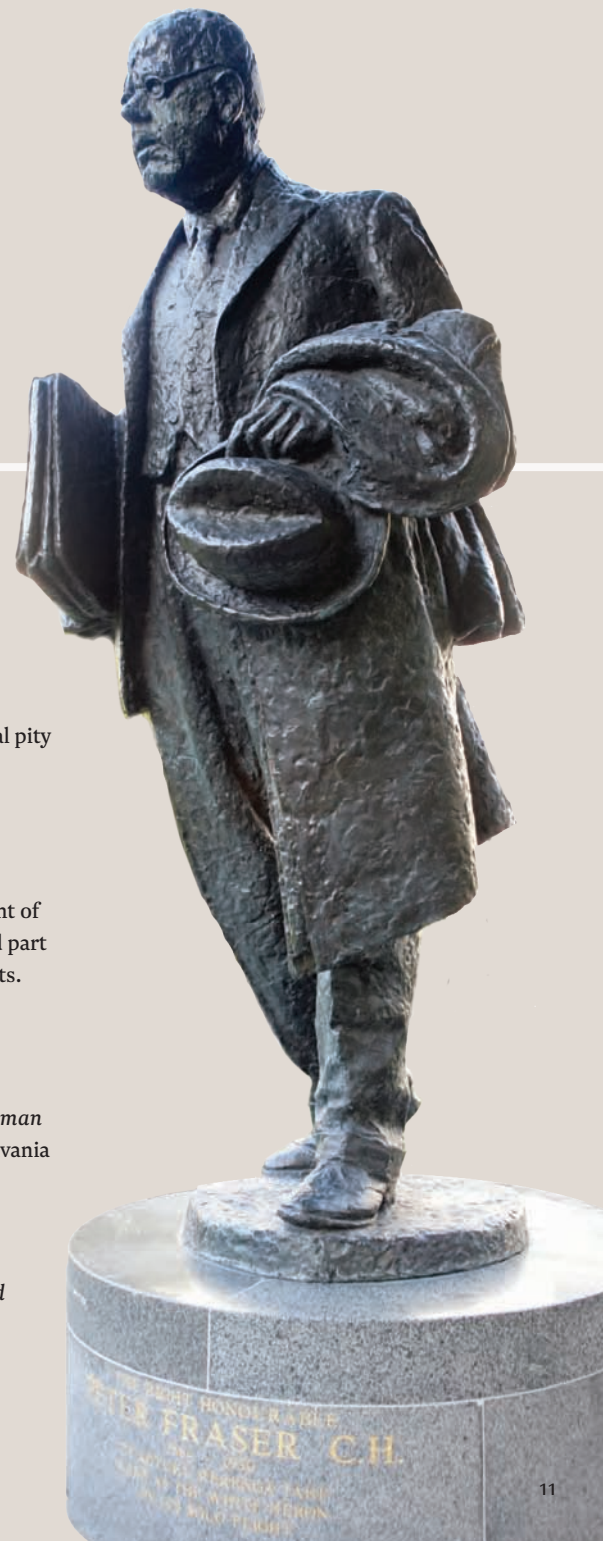
In 1947 the Commission asked the United Nations members to examine and comment on its ideas for a declaration and covenant.

The Government, under Peter Fraser, set up a special committee to look at the Commission of Human Rights's draft. Members included the Solicitor General (Mr H E Evans), the Director of Education (Mr C E Beeby), the Director of the New Zealand Council for Educational Research (Mr A E Campbell) and Professor R O McGechan (Law), Professor F L W Wood (History), Professor J C Beaglehole (History) and Mr J O Shearer – all from Victoria University of Wellington.



“ *The sacrifices made by our men and women... must not – I speak most seriously and earnestly – be in vain. We are fighting... so the principles... of the four freedoms – freedom of speech, freedom of religion, freedom from fear and want – may be established and the masses of people given greater opportunities than ever before. Unless we strive to carry out those principles we shall be undoing in peace what has been won on the battlefield.* ”

Peter Fraser



The special committee’s report was the basis of the Government’s comments to the Commission of Human Rights.

Then came the Paris session of the United Nations General Assembly in 1948, where New Zealand took an active part in a debate which lasted for three months and which led to the adoption of the Universal Declaration of Human Rights.

Fraser led the New Zealand delegation, which included Colin Aikman, then at the Ministry of External Affairs and later Dean and Professor of Law at Victoria University.

The New Zealanders proved to be muscular and effective in the negotiations which formed the basis of the Declaration. They successfully sponsored a resolution calling for the Commission on Human Rights to continue to give priority to working on the covenant and measures of implementation after its adoption on 10 December 1948.

What was achieved by the Declaration was nothing less than the transformation of individual people as objects of futile, global pity into actual subjects of international law. It was a tectonic shift of thinking.

It is widely acknowledged that during and after the global meltdown of World War 2, New Zealand found an identity independent of Britain. An unacknowledged and profound part of this was its championing of human rights.

Sources:

“New Zealand’s role in the evolution of international human rights”, Paul Gordon Lauren, *The Evolution of International Human Rights: Visions Seen*, University of Pennsylvania Press, Philadelphia, 1998.

“New Zealand at San Francisco”, Malcolm Templeton (ed), *New Zealand as an International Citizen: Fifty Years of United Nations Membership*, Ministry of Foreign Affairs and Trade, 1995.

The Legal Māori Project



With two major milestones achieved this year, the Legal Māori Project's significance continues to grow.

In July, coinciding with Māori Language Week, the researchers and staff involved with the Legal Māori Project completed two of their major funded works: The Legal Māori Corpus and the Legal Māori Lexicon.

Project co-leader and Faculty lecturer Māmari Stephens said at the time: "It is our hope, as we celebrate another Māori Language Week, that within a few short years any person or group will be able to use te reo Māori to engage fully in the New Zealand legal system. The Corpus and the Lexicon are important tools to help us move in that direction.

"I would like to take this opportunity to thank the hard work put in by all involved with getting these outputs produced on time and in accordance with our FRST agreement. Many of these contributors are either current or former students of the Law Faculty, and I am grateful beyond words to all of them."

The Legal Māori Corpus is an unprecedented collection of modern and historical Māori language texts totalling just on 8 million words. "When we started the project two years ago we had no idea the final size of our corpus

would be so great, and to our knowledge, it is the largest structured corpus of Māori language texts ever compiled," says Māmari Stephens.

In the 2010 URF round Professor Tony Angelo, Carwyn Jones and Māmari Stephens were awarded \$25,000 to conduct substantive research on the texts gathered for the Legal Māori Corpus. The gathered texts comprise a rich treasure trove, many of which have never been researched.

All texts pre-1910 are now publicly available for researchers to use in order to analyse patterns of language use and vocabulary, as well as being able to download the texts themselves for their own use. The post-1910 texts will be made available once copyright permissions are gained.

The Legal Māori Lexicon is a glossary of all legal terms identified during the project so far. Just over 2,000 terms have been collated with their English translations and are also now available. These terms, and their frequency of appearance in the Corpus will form the basis of the final dictionary, due for completion in early 2012. Access to both of these outputs are through the website of the New Zealand Electronic Text Centre, and from the project's page on the Law website at www.victoria.ac.nz/law/PROJECTS/MāoriProject.aspx.

The research attracts considerable interest, both national and international. In October this

year, Māmari Stephens delivered a paper to the National Inter-University Māori Academy for Academic and Professional Advancement (MANU-AO) entitled "Me he kōrero tūi: te reo Māori, Parliament, and some thoughts about language rights". The video is available at www.manu-ao.ac.nz/index.php?p=weekly_seminars.

And in November, she delivered a paper at the 12th International IALL Conference: "Law, Language, and the Multilingual State", (IALL: International Academy of Linguistic Law Académie Internationale De Droit Linguistique) in Bloemfontein, South Africa. Her paper was entitled "Lost in Translation? The Māori language, the New Zealand parliament and the Māori Language Act 1987".

In February 2011 Project Co-Leader Dr Mary Boyce of the University of Hawai'i, and former student and staff member of Victoria University, will deliver a paper at the 2nd International Conference on Language Documentation and Conservation (ICLDC), "Strategies for Moving Forward," on the University of Hawai'i at Manoa campus. The paper is entitled "The Legal Māori Dictionary: expressing Western legal concepts in Māori".

Ka nui ngā mihi matakuikui ki a tātou. Ka haere tonu te mahi, ka puta mai tonu nga hua.

The Urgency Project



The Urgency Project is examining the use of urgency by the New Zealand House of Representatives. The project is conducted under the auspices of the New Zealand Centre for Public Law and the Rule of Law Committee of the New Zealand Law Society. The principal funder is the New Zealand Law Foundation.

In essence, urgency enables the government to extend the sitting hours of the House and to prioritise certain items of business to be conducted within those hours. As such, it is an extremely important tool for governments seeking to progress their legislative programmes.

On the other hand, urgency also enables governments to dispense with the various stand-down periods between the different stages of the legislative process and, indeed, to dispense with the select committee stage in its entirety. The use of urgency, therefore, raises issues of considerable significance for the quality and integrity of New Zealand's law-making processes. Urgency motions can be a means to foreshorten democratic deliberation – both amongst parliamentarians and with the wider community.

For these reasons, the use of urgency is an issue of major public importance with significant implications for the democratic foundations of

the New Zealand constitution and for the law-making function of Parliament. Nevertheless, there has been surprisingly little in the way of in-depth study of the use of urgency within New Zealand.

The Urgency Project aims to fill the gap in our knowledge of this important topic by providing a contextualised account of the use of urgency by the New Zealand Parliament. The Project is identifying the trends in the use of urgency, commenting on the constitutional implications of the use of such powers, and providing suggestions for reform of the regulatory matrix in which they occur.

Questions the Project is particularly concerned with include:

- + What factors motivate the use of urgency?
- + What sorts of uses of urgency are troubling from a constitutional or democratic legitimacy perspective, and in what circumstances?
- + What constraints exist on the use of urgency, and how robust is the regulatory framework that governs it?
- + What effect have multi-party governments had on the use of urgency? Have they constrained governments from using urgency?

The research team consists of Claudia Geiringer (Senior Lecturer in Law at Victoria University of Wellington), Polly Higbee (Research Fellow at the New Zealand Centre for Public Law) and Dr Elizabeth McLeay (adjunct Professor of Political Science at Victoria University of Wellington, and Visiting Senior Research Fellow at the New Zealand Centre for Public Law).

At the heart of the project are two research exercises. First, databases have been created which document every use of urgency by the New Zealand House of Representatives between the years 1987-2009, and the data produced from them is being analysed by the research team. Secondly, interviews have been conducted with 18 current and previous members of Parliament and senior parliamentary officials on their experience and perceptions of the use of urgency. The interviewees have had careers that have spanned the full 23-year period under study and beyond, and have fulfilled a number of parliamentary roles.

In November, the research team held an expert roundtable with a range of senior academics, legal practitioners and officials, to discuss some of the preliminary results being produced by the project. Final results of the study will be made available during the course of 2011 by way of an NZCPL occasional paper and public lecture.

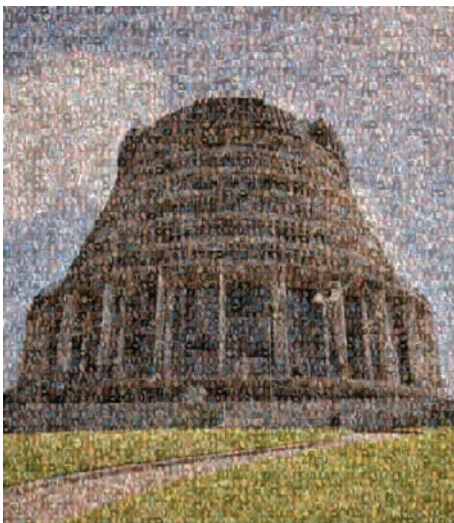
Dissecting our democracy



WE THE PEOPLE(S) – ENGAGEMENT AND PARTICIPATION IN GOVERNMENT

11-12 February 2010

Wellington, New Zealand



The conference graphic was made up of over 100 faces of people invited to submit a photo through Facebook. These were then merged with a master photo of the Beehive. Conference organisers say the graphic neatly captures the themes of the conference, blending the people and the government together – individually and collectively.

HIS EXCELLENCY the Governor-General Anand Satyanand opened this conference with his thoughts on the ambiguity of the place of the people within New Zealand’s flexible constitutional arrangements.

He left delegates with a challenge, echoed by Sir Geoffrey Palmer, that in light of falling voter turnout, effort needs to be made to reaffirm the principles underlying democracy and our constitution in order to engage all New Zealanders.

Over the next two days the discussions engaged with this very challenge from many different angles; from the unfulfilled need for a responsible press to ensure the accountability of our political elite and the informed participation of all people, to the need for strong institutions of justice to ensure such participation.

Professor Margaret Wilson gave a keynote address on the position of equality in our current constitutional framework and the discord between myth and reality in our discourse of egalitarianism. We were drawn back to the flexible nature of our constitution and the effect this has on the position of political parties, constitutional dialogue at the interface between the political elite, and the people.

Several speakers participated, in person or by video link, to explore the nature of participation beyond the New Zealand context: addressing sub-state participation in international law; US foreign policy and the rule of law; non-state actor participation in WTO investment arbitrations; and indigenous peoples’ participation as independent actors in the international law arena.

This was followed by the keynote address by Professor Jeremy Waldron of New York University who engaged with the overarching theme of the conference with a challenging address on who/what are the ‘people(s)’, provoking robust debate over the legitimacy of identity-based groups as opposed to territorial-based groups.

The opening discussions on the second day addressed the engagement of non-dominant groups, from the perspectives of Māori, people with disabilities, women and homosexuals. An overarching analysis of the state on non-dominant group participation was coupled with an overview of first-hand experiences of the frustrations of participating with government, indicating that formal structures for participation may breed complacency despite a lack of genuine and meaningful opportunities to engage with government in practice.

Top: Sir Anand Satyanand addresses the Conference
Bottom: Tai Ahu at the Powhiri

History lives

Dr Grant Morris



This was followed by an exploration from Professor Peter Cane of the very formal constitutional provisions for participation.

The discussion returned to the fluid nature of New Zealand's constitutional regulation of participation and the questions this raises about the underlying normative concepts, including the judicial regulation of who participates and the equality of participation.

Significant debate was had in the final two sessions about what was practicable and desirable in terms of participation from citizens' assemblies to select committees, at both central and local government levels.

One panel analysed the cost of consulting and participating relative to the effectiveness of participation in leading to positive reform and good governance. The tensions between the zero-sum nature of political participation and more collaborative participation was also highlighted.

The conference generated much debate, many questions and challenges to guarantee the life of our democratic system by working to enhance the degree and quality of the engagement and participation of the people(s) in government.

28TH ANNUAL CONFERENCE OF THE AUSTRALIAN AND NEW ZEALAND LAW AND HISTORY SOCIETY

11-13 December 2009

Wellington, New Zealand

LEGAL HISTORY SCHOLARSHIP is alive and well in New Zealand and Australia.

Every four years the Australian and New Zealand Law and History Society (ANZLHS) holds its annual conference in New Zealand. In 2009 it was Wellington's turn and Victoria's Law School hosted approximately 100 delegates, making it one of the largest gatherings in the society's history. Most came from Australia and NZ and there was also representation from the UK, US, Canada and South-East Asia.

The conference was held in the historic Old Government Buildings which, as the former location of the Cabinet and most of New Zealand's civil service, are a key link to New Zealand's legal history.

The conference began with a mihi whakatau welcoming the delegates to Wellington and to the Law School. The conference consisted of 64 presentations and a keynote address. The presentations had a strong emphasis on issues relating to indigenous peoples in New Zealand

and Australia although papers ranged from "The Politics of Primogeniture in Nineteenth-century England" to "Interpretations of International Humanitarian Law during the Second World War".

Professor Stuart Banner from UCLA presented the keynote address on Saturday afternoon entitled "Historians, Judges and Indigenous People". The address focused on the experiences of Native American people in the US court system and raised fascinating questions about the treatment of history by the courts and by those involved in legal arenas such as New Zealand's Treaty settlement process and Australia's Native Title litigation. Professor Banner's presentation was made possible by a generous grant from the New Zealand Law Foundation.

The conference dinner at Shed 5 on Wellington's Queen's Wharf was great fun and impressively nearly everyone turned up to hear presentations starting at 9.15 the following morning!

Overall it was a very successful conference, enriched by so many delegates from overseas.

Summary by Dr Grant Morris (on behalf of the conference organising committee)

History reports itself

Dame Sian Ellis,
 Dame Alison Quentin-Baxter,
 Dr David Williams
 Sir Ivor Richardson



LEADING CASES CONFERENCE
 24-26 June 2010
 Wellington, New Zealand

“The Lost Cases website is more than a gift to the law and history of New Zealand. It is a model for other jurisdictions, and allows us to engage in comparative legal history without stepping outside into the cold. It is another great step towards the history of the British legal empire.”

Professor Emeritus Bruce Kercher,
 Macquarie University

THREE YEARS OF LEGAL HISTORY research funded by the New Zealand Law Foundation culminated in the Leading Cases conference this year at Victoria’s Law School.

The conference highlighted important decisions of the early Supreme Court, with the majority drawn from the four-and-a-half thousand decisions recovered by the research.

In 2007, a team from Victoria University of Wellington’s Faculty of Law (Associate Professor Shaunnagh Dorsett, Professor Richard Boast and Professor Geoff McLay) along with Dr Mark Hickford and Dr Damen Ward from Crown Law, received a substantial grant from the New Zealand Law Foundation for the research, as well as a smaller one from a central University research fund.

The team asked New Zealanders to search attics, notebooks and family records for early legal history: “Some of the records lay in archives and with law societies, but some were in private collections – for example, judge’s notebooks, an important source of information – are often handed down to family members,” says Project Leader, Shaunnagh Dorsett.

Dr Dorsett says: “We have been astonished at the response. The four-and-a-half-thousand decisions recovered are from 1842 to the middle

of 1869. The amount of material we have gathered has far exceeded our expectations and there still remain the cases from 1870 through till 1883.”

In a parallel project, Professor Richard Boast is writing a book on the significant decisions of the Native Land Court, which is to be published by Brookers in late 2011.

Internationally renowned legal historian Professor Jim Phillips, from the University of Toronto, started the conference proceedings with a free public address, the second Salmond Lecture (also supported by the New Zealand Law Foundation).

Also presenting a paper, with her son, was New Zealand’s Chief Justice, Dame Sian Elias. Former President of the Court of Appeal, Sir Ivor Richardson, was another eminent speaker.

Papers from the conference ranged from cases looking at tricky issues of constitutional law, to the legality of early land purchases, to the commercial law of whaling, to an early breach of marriage promise that seems to have so shocked early Wellington that the newspaper did not mention it!

The papers will be published in the *Victoria University Law Review*.



Barristers behaving badly...

The Lost Cases research team discovered many colourful stories, but perhaps few members of the early legal profession were as interesting as Hugh Cokeley Ross.

ON A SUMMER EVENING EARLY IN 1844, Wellington Barrister Hugh Cokeley Ross, fired a shot at a fellow lawyer William Brewer. A week later Brewer died from the infected bullet wound. What began as a disagreement over a decision in the Wellington County Court led to New Zealand's first death by duelling, yet Ross escaped charges or responsibility for his colleague's death.

Born in Aberdeen, Scotland in 1795, Ross qualified as a barrister, solicitor and conveyancer at the Courts of Westminster in England before immigrating to Australia in 1822. In Hobart, Ross and his legal partner George Cartwright represented the Bank of Van Diemen's Land. During his 20 years in Australia, Ross also acted as solicitor-general and crown solicitor for a brief period in the early 1830s, while continuing his own practice.

Running into financial difficulties in 1840, Ross 'borrowed' from Crown debts and absconded to Western Australia; he was captured and extradited back to Van Diemen's Land where he stood trial for embezzlement of £2,021 of Crown funds. He was tried in the Supreme Court in March 1842 but was acquitted on a legal point.

Once free, Ross quickly fled the controversy surrounding his arrest and trial, immigrating to Wellington where he set up a legal practice on Lambton Quay.

Less than two years passed before Ross again found himself in the middle of another legal dispute. In February 1844 Ross was defending Arthur McDonogh, police magistrate, in the Wellington County Court against a conviction of 'illegally retailing ... a certain quantity of spirituous liquors'. A dispute arose between Ross and William Brewer, another Wellington solicitor, over whether Ross had agreed to waive a notice in McDonogh's trial.

William and his brother Charles had arrived in New Zealand in February 1840. Both practised as lawyers and by 1844 Charles had been appointed as County Court Judge in Nelson. Their sister Kate followed in 1843 with her husband, Justice Chapman, who was appointed Supreme Court Judge for the Southern District.

According to Chapman it was Ross who challenged Brewer to a duel on the evening of February 26 1844. The men met near Pimble's brickyard in Honeyman's Gully in Thorndon (near what is now Anderson Park). Brewer fired his shot in the air, however Ross did not follow suit; the bullet from his pistol hit Brewer in the groin. Brewer was seriously wounded and was attended by Dr Dorset, the surgeon present at the duel. Dorset summoned help and took Brewer to a nearby house.

The bullet wound was not fatal and Brewer was thought to be improving over the ensuing days. Chapman wrote to his father that Brewer 'appeared to be doing so well hopes were entertained of his recovery but on the Saturday bad symptoms came on, on Sunday he became delirious and on Monday evening at about 7

o'clock he expired'. The bullet wound became infected and gangrene set in, eventually killing Brewer a week after the duel had taken place.

Brewer had no children but left a wife who, suffering from consumption and a poor financial state was taken in to live with Chapman and his wife at their new home in Karori. Chapman was charged with the task of relaying news of Brewer death to family in Australia and England.

An inquest was called and the coroner heard evidence in the week following Brewer's death, however the *New Zealand Gazette* and *Wellington Spectator* reported on 9 March that the inquest had ended with the coroner concluding that 'the evidence did not prove by whom the wound was inflicted'. Witness statements place both Ross and his second, Major David Stark Durie, at the scene yet neither were called as witnesses to the inquest and no charges were made against Ross.

That Ross was not charged or named in the incident was seen as highly suspicious by the public and incited local papers to denounce duelling as a 'barbarous practice' of the 'intelligent class' which was regrettably still socially sanctioned. The editorial argued that the colony was in a period of transition which would soon see the custom suppressed in favour of resolving disputes in a judicial setting.

Ross continued to practise law in Wellington during the 1840s while also serving as a lieutenant in the militia in 1846. He retired in the 1850s to the Rangitikei River region with his family. He died on 27 August 1869 aged 73.

Taking the pulse – a constitutional checkup



Father Frank Brennan

RECONSTITUTING THE CONSTITUTION CONFERENCE

New Zealand Centre for Public Law in association with the Institute of Policy Studies

2-3 September 2010

Wellington, New Zealand

IT HAD BEEN NEARLY A DECADE since academics, officials, business leaders and representatives of civil society gathered at Parliament for a major conference on ‘Building the Constitution’.

The aim of the 2000 conference was to bring together a representative cross-section of New Zealand society, including people with a range of relevant expertise, to explore the foundations of the constitution, debate how it might be developed, and consider some of the critical issues that would need to be resolved if there was to be a new constitutional ‘settlement’.

At that time, New Zealand was undergoing a significant transition in terms of its identity and its sense of independence, and various long-standing political norms were being challenged. Debates about the role of the Treaty of Waitangi, our relationship with the international community and our identity within that community had led many to call for a written constitution of New Zealand.

The 2000 conference did not produce a roadmap for future constitutional development and many who took part regretted that. However, it did identify issues that would need to be addressed if major constitutional change were to be attempted.

The purpose of the 2010 conference was to build on the 2000 conference and discuss relevant issues that have arisen over the past decade.

Domestic developments, such as the creation of the Supreme Court, the passage of the Foreshore and Seabed Act 2004, New Zealand’s involvement in the international debate over climate change, the controversy over the regulation of electoral finance, and the continuing debate over the design of the electoral system (including the merits or otherwise of proportional representation and separate Māori representation), have all had an impact on New Zealand’s legal and political culture.

Various recent events, too, highlight that constitutional issues are far from settled. These include the discussion of the appropriateness of the Chief Justice’s comments in regard to offending and prison reform, comments by the Prime Minister favouring a fixed four-year parliamentary term, the government’s decision

to hold a further series of referenda on the electoral system, and the reform of Auckland’s governance.

Equally important, the National and Māori Parties have agreed to establish a group to review various constitutional matters and it should be possible for the conference to contribute in various ways to this group’s work programme.

Quite apart from this, calls for a conversation on the constitution have come from beyond New Zealand in the form of international treaties on indigenous rights and important environmental issues such as climate change. The UN Committee for the Elimination of Racial Discrimination (CERD), for example, noted in 2007 that New Zealand lacks a constitution to protect indigenous and other human rights, and stressed the need for an ongoing ‘constitutional conversation’ aimed at addressing the status of the Treaty of Waitangi in New Zealand law.

Given the significant developments since 2000, together with the range of constitutional issues currently being debated (and/or soon to be debated) in the public domain, there is a strong case for a serious public discussion on the future of New Zealand’s constitution. This conference provided such an opportunity. Moreover, the focus of the event was not only

Rt Hon Jim Bolger, Dean Knight,
Hon Michael Cullen
Professor Robert Hazell,
Professor Heinz Klug



on the issues which will shape New Zealand's future but also on how New Zealanders should be engaged in a constitutional reform process.

The keynote speakers surpassed expectations. Professor Klug presented an insight into constitution-making, having been an active participant in South Africa's anti-apartheid struggle and its constitution-making process. He has recently published a book on the South African constitution.

Professor Robert Hazell examined the recent constitutional developments in the UK, and Father Frank Brennan gave an overview of the Australian public outreach in regard to the incorporation of a Bill of Rights Act into Australian law.

A key aim of the Conference was to inject greater discussion of constitutional issues into the public domain and it is anticipated that the ideas presented and discussed will influence future policy and law in this area.

This conference was available to a world-wide audience via a live stream on the NZCPL website and more than 300 followed the conference this way. It was also open to the public free of charge. Seventy people took advantage of this and followed the Conference proceedings from the public gallery.

Celebrating 20 years of the Bill of Rights

The 20th anniversary of New Zealand's Bill of Rights was celebrated at Victoria University's Centre for Public Law on 26 August.

SIR KENNETH KEITH, former Supreme Court judge and currently judge at the International Court of Justice in The Hague, and Rayhan Langdana, a 17-year-old Wellington College student, discussed the Bill of Rights – Sir Kenneth from the aspirations for the legislation at its inception, and Rayhan its meaning for a young person today.

Rayhan also spoke on the Bill of Rights at the Reconstituting the Constitution conference. He said of his generation:

“We cannot really comprehend a way of life in which our lives could be at risk because of our race or religion: these rights have prevented such a situation here. Therefore the fact that they are taken somewhat for granted by the youth is not an indictment upon my generation as a whole; on the contrary, it is simply a mark of how effective the Bill of Rights has been in creating a safe society.

“We youth are a valuable resource. We are eager to learn and, because of the society we've been brought up in, we have good

values. However, we run the risk of becoming detached from reality. In New Zealand we don't have internal problems as big as other countries. For most of us, our biggest concern is schoolwork or relationships; things that matter but can be resolved on an individual level.

“Elsewhere, people our age are fighting for their country and for their religion. They face national problems; they don't have a hand in their destiny.

“In order to harness our potential (which I believe there is a lot of), we should become more involved in Parliament. I think the voting age should be lowered by one year. This will make us more politically aware and active.

“It will mean that the running of the country will be something real. We need to be challenged; we need to feel like our opinions are valid. I just think that our society is so safe, so democratic, so equal that very soon, my generation could gain a seriously skewed outlook on life and an utter lack of perspective.”



“We youth are a valuable resource. We are eager to learn and, because of the society we've been brought up in, we have good values... To harness our potential, we should become more involved in Parliament.”

17-year-old Wellington College student, Rayhan Langdana

The two of us: Canada and New Zealand

CANADA & NEW ZEALAND: CONNECTIONS, COMPARISONS AND CHALLENGES

The New Zealand Centre for Public Law, the School of Political Science and International Relations, the High Commission of Canada in New Zealand and the New Zealand Institute of International Affairs

9-10 February 2010

Wellington New Zealand

This international conference explored and celebrated 70 years of diplomatic relations between Canada and New Zealand and reflected on the strong parallels within the relationship and how the two countries interact on a global stage.

One of the conference organisers, Dr Fiona Barker, says that the comparisons between the two countries are so striking it's surprising they haven't been explored in depth before.

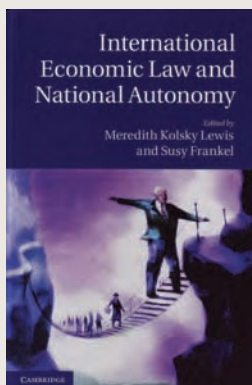
"We are both moderately small countries, often in the shadow of bigger neighbours. We share similar settler histories and indigenous issues. The debates about national identity and biculturalism versus multiculturalism are also the same. This is the first conference to really explore these issues."



A particular law highlight was a public speech from High Court judge, Hon Justice Joe Williams, on the search for a national identity in Canada and New Zealand in the context of a fading Empire. This was one of four or five sessions that

had a strong legal theme, including a number on comparative indigenous people's rights and the impact of the Canadian Charter of Rights and Freedoms and the development of jurisprudence under the New Zealand Bill of Rights.

Publication from inaugural NZCIEL Conference



In 2010 Cambridge University Press published *International Economic Law and National Autonomy* – a book of essays developed from the inaugural conference of the New Zealand Centre of International Economic Law, held in December 2007. The book includes the following essays:

Part I: International Economic Law: Conceptions of Convergence and Divergence

Robert Howse "The end of the globalisation debate – continued"

Yuka Fukunaga "Global economic institutions and the autonomy of development policy: a pluralist approach"

Jason Beckett "Fragmentation, openness, and hegemony: adjudication and the WTO"

Part II: WTO Treaty Interpretation: Implications & Consequences

Tracey Epps "Demanding perfection: private food standards and the SPS Agreement"

Susy Frankel "Eroding national autonomy from the TRIPS Agreement"

Alberta Fabbriotti "The WTO and the RTAs: a 'bottom-up' interpretation of RTAs' autonomy over WTO law"

Henning Grosse Ruse-Khan "'Gambling' with sovereignty: complying with international obligations or upholding national autonomy"

Part III: Responding to International Economic Law Commitments

Meredith Kolsky Lewis "Safety standards and indigenous products: what role for traditional knowledge?"

Rafael Leal-Arcas "The GATS and temporary migration policy"

Pinar Artiran "A different approach to the external trade requirement of GATT Article XXIV: assessing 'other regulations of commerce' in the context of EU enlargement and its heightened regulatory standards"

Part IV: Transformations in International Economic Law

Ko-Yung Tung "Foreign investors vs sovereign states: towards a global framework, BIT by BIT"

Jane Kelsey "How 'trade in services' transforms the regulation of temporary migration for remittances in poor countries"

Kate Miles "Reconceptualising international investment law: bringing the public interest into private business"

Visitors to the Faculty 2010

JANUARY

Graeme Austin, Honorary Fellow in the Law Faculty and the J Byron McCormick Professor of Law, University of Arizona College of Law, has spent much of 2010 with the Faculty and was appointed Professor in November 2010.

Richard Gaskins, Proskauer Chair in Law and Social Welfare, Brandeis University. Professor Gaskins is a regular visitor. His areas of research are American legal culture, legal rhetoric, environmental policy, law, social policy and philosophy.

Verena Murschetz, Professor, University of Innsbruck, taught LAWS 395 (European Union Law) in the 2009-2010 Summer School.

Charles Rickett, former member of the Faculty and Sir Gerard Brennan Professor of Law, TC Beirne School of Law, University of Queensland. His teaching interests include equity, banking law, restitution, theories of obligations and legal ethics. He has published widely in these areas.

Francesco Schurr, Professor, University of Liechtenstein, taught LAWS 395 (European Union Law) in the 2009-2010 Summer School.

FEBRUARY

Stuart Kaye, Professor, University of Melbourne Law School, spent two months sabbatical at the Faculty. His research areas include law of the sea and international law. During his visit, he gave a public lecture for the International Law Association: "2009 Great Continental Shelf Scramble".

Yves Louis Sage, Head of Law, University of French Polynesia. He is a practising French avocat and has a long association with Victoria, including teaching on a number of occasions. His particular interests are in the fields of Private International law and Intellectual Property law. Dr Sage is Editor in Chief of the *Revue Juridique Polynésienne/Comparative Law Journal of the Pacific*, with which the *VUWLR* has an ongoing arrangement for joint publications.

MARCH

Kees van Raad, Professor of Law, University of Leiden and chairman of the International Tax Center Leiden.

APRIL

Angela Williams, Lecturer, University of Sussex, visited to conduct research for her monograph project: "Climate Change, Law and Justice" forthcoming in 2011.

Sheikh Solaiman, Senior Lecturer in Law, University of Wollongong. The major area of his research interest is securities regulation and his doctoral thesis focuses on investor protection in securities markets.

MAY

Mary Boyce, University of Hawai'i, Mānoa, worked on the Legal Māori Project with Māmari Stephens.

Sir Bruce Robertson, retired Judge of the Court of Appeal, has been with the Law Faculty since May. He is currently completing a research project with the PVC and Dean of Law, Professor Tony Smith.

JUNE

Justice Edwin Cameron – see page 8.

Jim Phillips, Professor at the University of Toronto, gave the Salmond Lecture for 2010: "Why Legal History Matters".

JULY

Lin Feng, a former LLM student of VUW and now Director of the Centre for Chinese and Comparative Law, School of Law, City University of Hong Kong, was working on a research project.

Mark Hickford, Crown Law, completed some research. Mark is with the Department of Prime Minister and Cabinet.

Mark Perry, Associate Professor, University of Western Ontario, visited as a guest lecturer in Patent Law and Innovation.

AUGUST

The Right Hon The Lord Walker of Gestingthorpe – see page 8.

Rochelle Dreyfuss, Pauline Newman Professor of Law, New York University School of Law, visited as a guest lecturer in Patent Law and Innovation. Rochelle also gave a public lecture

for the NZCIEL: "The Patentability of Genetic Diagnostics in US Law and Policy".

Li Luo, Professor at Renmin University, was the Dan Chan Fellow 2010. During her visit she gave a public lecture: "Intellectual Property Enforcement Mechanisms of China".

Graham J Zellick CBE QC, Professor and President of the Valuation Tribunal for England, was the NZ Law Foundation 2010 Distinguished Visiting Fellow. During his visit he gave a staff seminar: "The creation of a unified coherent tribunal system" and a public lecture "The investigation of possible miscarriages of justice and the quashing of wrongful convictions". See page 8.

SEPTEMBER

Dr Luigi Palombi, Centre for Governance of Knowledge and Development, The Australian National University, was a guest lecturer in Patent Law and Innovation. Dr Palombi gave a public seminar for the NZCIEL: "Gene Patents: Why you should care who controls your genes".

NOVEMBER

Liz Campbell, Lecturer, University of Aberdeen Law School.

DECEMBER

Professor Christoph Beater-Graber, University of Lucerne.

Miriam Cherry, Associate Professor, University of the Pacific, McGeorge School of Law, Sacramento. Miriam is researching social responsibility (both real and false) among multinational companies, the ways in which businesses function in cyberspace/virtual worlds and the impact this will have on both workers and businesses.

Professor Daniel Gervais, Vanderbilt University Law School, Nashville, Tennessee.

Sir Anthony Mason AC, KBE, QC, former Chief Justice of the High Court of Australia, presented the annual Robin Cooke Lecture: "Human Rights: Interpretation, Declarations of Inconsistency and the Limits of Judicial Power".

Dr Daphne Zografos, University of Reading Law School, UK.

Research Centres and Events 2010

NEW ZEALAND CENTRE FOR PUBLIC LAW Events 2010:

JANUARY/FEBRUARY

THE TREATY DEBATE SERIES

Evolution and Not Revolution Reaction over the last 30-40 years to growing Māori activism

Professor Paul Spoonley and Dr Ranginui Walker

Professor Mason Durie and Colin James

In association with Te Papa

FEBRUARY

CONFERENCE

We, the People(s): Engagement and Participation in Government

Organised with the support of the New Zealand Law Foundation and the New Zealand Ministry of Foreign Affairs and Trade

See page 14

APRIL

PUBLIC SEMINAR

Constitutional and Electoral Reform in Tonga

Mr 'Asipeli 'Aminiasi Kefu, Solicitor-General, Tonga

In association with the New Zealand Institute of International Affairs

PUBLIC LECTURE

Developing and Indigenous Jurisprudence

Hon Justice Baragwanath, Court of Appeal

MAY

PUBLIC OFFICE HOLDERS LECTURE SERIES

Role of the Speaker of the House of Representatives

Hon Dr Lockwood Smith

PUBLIC SEMINAR

Ritual, Law, Justice and the Question of Time and Space

Dr David Marrani, University of Essex

PUBLIC LECTURE

The UN Declaration on the Rights of Indigenous Peoples

Professor Federico Lanzerini, University of Siena

In association with the International Law Association

JUNE

PUBLIC LECTURE

Civilians on the battlefield: Challenges for the IHL in the 21st century

Dr Nils Melzer, ICRC Geneva

In association with the International Committee of the Red Cross and the International Law Association

JULY

PUBLIC LECTURE

The Constitution, Political Powers and AIDS

Justice Edwin Cameron, Constitutional Court of South Africa

See page 8

AUGUST

PUBLIC LECTURE

Treating like cases alike and unlike cases differently: some problems of anti- discrimination law

The Right Hon Lord Walker of Gestingthorpe

See page 8

PUBLIC SEMINARS

Direct (Anti-)Democracy

Professor Maxwell Stearns

In association with the Law and Economics Association of New Zealand (LEANZ)

Celebrating 20 years of the Bill of Rights: Two Perspectives

See page 19

SEPTEMBER

CONFERENCE

Reconstituting the Constitution

In association with the Institute of Policy Studies

See page 18

PANEL DISCUSSION

Canterbury Earthquake Response and Recovery Act 2010: Constitutionally Concerning?

Chair Professor Tony Smith, Dean of Victoria's Faculty of Law, with Dr Rayner Thwaites and Dean Knight (Faculty) and Henry Clayton (Russell McVeagh)

NEW ZEALAND CENTRE OF INTERNATIONAL ECONOMIC LAW

The NZCIEL continued to provide a venue for discussion and debate on matters relating to international economic law in 2010.

The field of international economic law encompasses all those parts of public international law which regulate international economic relations. It also includes private international law which regulates cross-border commercial transactions, including the law relating to transnational trade (in goods, services and intellectual property), the liability of multinational enterprises and international dispute resolution.

In general terms, these areas of the law are all concerned with the impact of globalisation upon the law. These themes are at the heart of the research activities of NZCIEL.

In 2010 Cambridge University Press published *International Economic Law and National Autonomy*, a book of essays developed from the Centre's inaugural conference of 2007. *See page 19*

The NZCIEL is also part of the New Zealand Law Foundation Regulatory Reform Project (see page 2) and will be producing an edited collection of essays from its 2009 conference, *Free Trade Agreements: Where do we go from here?*

We thank the Ministry of Foreign Affairs and Trade and the Ministry of Economic Development for their ongoing support of the NZCIEL's activities. Special thanks also to Henry Hughes, Patent and Trade Mark Attorneys; Charles Finny, Saunders Unsworth Ltd and Daniel Kalderimis, Principal of Chapman Tripp, for their involvement and support of the NZCIEL.

*Susy Frankel & Meredith Kolsky Lewis
Co-Directors NZCIEL*

Events 2010:

JANUARY

PUBLIC LECTURE

Old and New Net Wars Over Free Speech, Freedom and Secrecy or How to Understand the Hacker and Lulz Battle against the CO\$
Gabriella Coleman

JULY

PUBLIC LECTURE

Open Connectivity, Open Data: Two Dimensions of the Right to Seek, Receive, and Impart Information
Jonathon Penney, InternetNZ Senior Research Fellow in Cyber Law 2009

PUBLIC SEMINAR

Regulatory Cooperation in FTAs
Tracey Epps, Ministry for Foreign Affairs and Trade

AUGUST

PUBLIC LECTURES

Intellectual Property Enforcement Mechanisms in China
Professor Li Luo, Dan Chan Visiting Fellow

The Patentability of Genetic Diagnostics in US Law and Policy
Rochelle Dreyfuss, Pauline Newman Professor of Law, NYU School of Law

SEPTEMBER

PUBLIC LECTURE

Gene Patents: Why you should care who controls your genes
Luigi Palombi, ANU

DECEMBER

CONFERENCE

Trade, Intellectual Property and the Knowledge Assets of Indigenous Peoples: The Developmental Frontier
Keynote Speaker: Tony Taubman, Director, Intellectual Property Division, World Trade Organisation

FACULTY OF LAW

Events 2010:

FEBRUARY

CONFERENCE

Canada and New Zealand: Connections, Comparisons and Challenges
In association with the High Commission of Canada in New Zealand, Victoria University and the NZ Institute of International Affairs
See page 20

PUBLIC SEMINAR

The “new” constitutional framework of the European Union after the entry into force of the Treaty of Lisbon – One step forward, two steps back
Professor Dr Verena Murschetz (University of Innsbruck) and Professor Dr Francesco Schurr (University of Liechtenstein)

MARCH

LAUNCH

Wellington Community Justice Project
Guest Speaker: Judge Andrew Becroft
See page 5

PUBLIC LECTURE

2009 Great Continental Shelf Scramble
Professor Stuart Kaye, University of Melbourne
In association with the International Law Association

PUBLIC SEMINAR

Moving towards Regional Arrangements for the Conduct of Governance beyond the State: Developments in Asia Pacific
Dr Richard Burchill, Director, McCoubrey Centre of International Law, UK
In association with the International Law Association

APRIL

PUBLIC ADDRESS

Resolving International Disputes: The Role of Courts
Judge Kenneth Keith, International Court of Justice
In association with the New Zealand Institute of International Affairs

MAY

LAUNCH

Victoria University of Wellington Law Review – student issue

PUBLIC LECTURE

The International Law Options to halt Japanese Whaling in the Southern Ocean
Professor Donald Rothwell, ANU College of Law
In association with the International Law Association

JUNE

CONFERENCE

Leading Cases
See page 16

THE SECOND SALMOND LECTURE

Why legal history matters
Professor Jim Phillips, University of Toronto

JULY

DEAN'S RECEPTION

To honour competitions and prizewinners
See page 30

FACULTY LUNCH

With Justice Edwin Cameron

AUGUST

PUBLIC LECTURE

The investigation of possible miscarriages of justice and the quashing of wrongful convictions
Professor Graham Zellick, New Zealand Law Foundation Distinguished Visiting Fellow
See page 8

SEPTEMBER

BEEBY COLLOQUIUM

From 1960 to 2010 – international law now and then
Judge Kenneth Keith, International Court of Justice
In association with the Ministry of Foreign Affairs and Trade and the International Law Association

DECEMBER

ROBIN COOKE LECTURE

Human Rights: Interpretation, Declarations of Inconsistency and the Limits of Judicial Power
Sir Anthony Mason, AC, KBE, QC

COLLOQUIUM

How New Zealand Negotiates Trade Agreements

A diverse range of speakers from business and government including MFAT, MED, MAF, the Ministry of Fisheries and the New Zealand Customs Service.

Alumni Achievements 2010

Katherine Belton (LLB Hons 2009) received a full scholarship to pursue an LLM in international dispute resolution at Queen Mary College, London.

Nicholas Edlin (LLB Hons 2005) has recently published his first novel, *The Widow's Daughter*. It is based in Auckland during WW2 and deals with the relationship between the locals and the American soldiers stationed in the city. Nicholas is currently working as a lawyer in London.

Amelia Evans (LLB Hons 2007) was awarded a Fulbright Scholarship and the Frank Knox Memorial Fellowship from Harvard, where she is studying for an LLM.

Christina Inglis (LLB 1993, LLM 2000) was appointed to the District Court. She was admitted to the bar in 1993.

Hon Justice Rhys Harrison (LLB 1971) was appointed to the Court of Appeal.

Vikramaditya Khanna (LLB Hons 1993) is currently a Professor of Law at The University of Michigan. He is a term member of the Council of Foreign Relations and a member of the American Bar Association Criminal Justice Section Ad Hoc Task Force on Corporate Monitors.

Jessica Lai (LLB Hons 2007) has taken up a fully-funded PhD position at the University of Lucerne.

Fiona McDonald (LLB 1999) has successfully completed her JSD from Dalhousie.

Mike Mitchell (LLB 1970) was appointed the Cook Islands High Commissioner to New Zealand.

Mark O'Donoghue (LLB Hons 1981) was appointed Crown Solicitor for Tasman.

Hon Justice Mark O'Regan (LLB Hons 1975, LLM 1980) has been appointed President of the Court of Appeal.

Mary Peters (LLB 1985) was appointed to the High Court in Auckland.



Judge Ian Borrin (LLB 1958) is increasing his generosity to the Faculty of Law by establishing a Visiting Fellowship In Law. Its aim is to bring scholars, academics and members of the judiciary from overseas to the Law School for short-term periods. This will enhance the Law School's profile with presentations and seminars, and its research capacity through interactions with staff and postgraduate students.

*Judge Borrin has been a longstanding and major supporter of the development of the Victoria University Law Review and other publications, such as Professor Richard Boast's award-winning book *Buying the land, selling the land*.*

Judge Borrin will endow the Visiting Fellowship in perpetuity in his will, and the Faculty is honoured that he has agreed that the Fellowship should carry his name.

Nicole Roughan (LLM 2006) is working as a tutor at Cambridge University.

Jane Standage (LLB Hons 2007) and winner of the VUW medal for Academic Excellence, has won a Hauser Scholarship to New York University.

Andrew Stockley (LLB 1989) has been appointed Dean of Law at Auckland University.

Paula Tesoriero (LLB 1998), a Wellington lawyer, won two awards at the Dominion Post Sportsperson of the Year Awards. For the second year in a row, Paula was named Sportswoman of the Year and received the award for Athlete with a Disability. Paula won the gold medal at the 2008 Summer Paralympics in Beijing for her world record in the women's 500m time trial.

Nick Whittington (LLB Hons 2006) received a Pegasus Scholarship to study in London.

Hon Hugh Williams QC (LLB 1963, LLM 1967) received a knighthood in the Queen's Birthday Honours List.



Obituaries 2010

THE RIGHT HONOURABLE SIR GORDON BISSON (1918-2010)

Born and schooled in Napier, Right Honourable Sir Gordon Bisson studied law at Victoria University College in the late 1930s. He won the Sir Michael Myers Prize in Contract and Property Law and competed his LLB in 1941 after he had entered the Royal New Zealand Navy on the outbreak of World War II. His five years of war service were in the Pacific and with the Royal Navy during the Normandy invasion. For his brave actions on 6 June 1944 on HMS Warspite he was mentioned in despatches. He ended his war service as a Lieutenant Commander.

In 1946 he joined his father's firm, Bisson Moss, in Napier and was in practice there for 32 years, being Crown Solicitor from 1961. He was appointed to the Supreme Court (now the High Court) in 1978 and became the first resident judge in Hamilton. He was appointed to the Court of Appeal in 1987 and served there, with a stint in the Privy Council, until his retirement in 1990.

Thereafter he sat occasionally as a temporary judge in the Court of Appeal and served on the appeal courts in Samoa and Kiribati. It was fitting that his judicial career ended where his legal work had begun, in the Pacific, and this work marked by his being made a Companion of the Order of Samoa.

While in practice, Don Bisson (as he was popularly known) held high office in the Hawkes Bay District Law Society and in the New Zealand Law Society, the New Zealand section of the International Commission of Jurists, and the Hawkes Bay Medico-Legal Society, and, while a judge, the New Zealand Law Foundation.

These are the bare bones of a lengthy career of real public service in war and peace, in the practising profession and as a judge. Don Bisson is one of that remarkable group of young New Zealanders who, in their 20s, faced and survived the challenges and horrors of a world conflagration and, with that experience, became leading and exemplary members of the profession. Those experiences brought with them a real sense of what it was to be a New Zealander, what was distinctive, and, in time, resulted in major developments in legal and social policy. Those differences began to appear



from the 1960s in legislation as well as in the courts.

Don Bisson was a courteous, serious and hard-working judge. He was a member of the Court of Appeal at a time of major societal, ideological, economic and legal change. With his six colleagues, four of whom also studied or taught at Victoria, he faced major and, for practising lawyers, novel questions. Examples include the principles of the Treaty of Waitangi in the early litigation about State Owned Enterprises, major changes in employment legislation and the Bill of Rights. At his retirement, no doubt with such cases and the run of regular trials in mind, he had this to say about the law and, importantly, its limits:

“I have enjoyed my work. I firmly believe in the rule of law which shows its respect for the rights of the individual by protecting the

individual from arbitrary government and gives dignity to human life. There must be in a society an instinct for justice. Right, and not might, is the true foundation. There must be an instinct for liberty and to see that powers and rights are not abused. But the rule of law is not enough. People themselves must have moral values and a sense of discipline.”

With his lovely wife, Myra, to whom he was utterly dedicated, Don was a most charming and generous host to his many friends. His was a full and fulfilling life and the profession has benefited from his unflinching commitment to service.

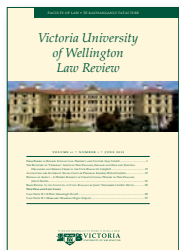
Judge Kenneth Keith

LLM (VUW) 1964, Hon LLD 1992

Sources: Peter Spiller, New Zealand Court of Appeal 1958-1996: A History (Thomson Brookers); Simon Foote (grandson).

Faculty Publications 2010

VUW LAW REVIEW



VOLUME 41, NUMBER 1 JUNE 2010

1 From Barbie to Renoir: Intellectual Property and Culture – *Susy Frankel*
15 The Recovery of “Criminal” Assets in New Zealand, Ireland and England: Fighting

Organised and Serious Crime in the Civil Realm – *Liz Campbell*

- 37 Accounting for Accidents: Social Costs of Personal Injuries – *Richard Gaskins*
- 51 Refusal of Assent – A Hidden Element of Constitutional History in New Zealand – *John E Martin*
- 85 Book Review: *In the Footsteps of Ethel Benjamin* by *Janet November Caroline Morris*

New Zealand Lost Cases:

- 89 Case Note: *R v E Hipu Shaunnagh Dorset*
- 97 Case Note: *R v Margaret Reardon Megan Simpson*



VOLUME 41, NUMBER 2 AUGUST 2010

Special Issue: Human Rights in the Pacific

EDITOR: Alberto Costi;
STUDENT EDITORS: Chris Murray & Anne O’driscoll

- 107 Foreword – *Alberto Costi*
- 113 The Red Cross and the Geneva Conventions – 60 Years On – *NZ Red Cross*
- 123 Tutti Fratelli? Perspectives & Challenges for International Humanitarian Law – *KJ Keith*
- 135 The Universality of IHL – Surmounting the Last Bastion of the Pacific – *Kelisiana Thynne*
- 149 Shelling, Sniping and Starvation: The Law of Armed Conflict and the Lessons of the Siege of Sarajevo – *KJ Riordan*
- 179 A Prosecution too far? Reflections on the Accountability of Heads of State under International Criminal Law – *Steven Freeland*
- 205 Regional Approaches to International Humanitarian Law – *Richard Burchill*
- 235 The “Spanish” Origins of International Human Rights Law: A Historiographical Review – *RP Boast*
- 273 Rethinking the Security Architecture of North East Asia – *Michael J Kelly & Sean Watts*

NEW ZEALAND JOURNAL OF PUBLIC AND INTERNATIONAL LAW

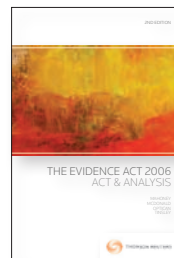


VOLUME 8, NUMBER 1 JUNE 2010

Special Conference Issue: 17th Annual Australia and New Zealand Society of International Law Conference: The Future of Multilateralism in a Plural World

- vii Foreword – *Joanna Mossop*
- 1 Opening Address by the Governor-General of New Zealand – *His Excellency The Honourable Sir Anand Satyanand GNZM QSO*
- 9 Prospects for the Multilateral Security System – *Colin Keating*
- 27 The International Criminal Law System – *Roger S Clark*
- 39 Reconciliation as Conflict Resolution – *Christopher C Joyner*
- 71 The Security Council’s Practice of Blacklisting Alleged Terrorists and Associates: Rule of Law Concerns and Prospects for Reform – *Christopher Michaelsen*

AUTHORED BOOKS



The Evidence Act 2006 – Act & Analysis

Elisabeth McDonald and Yvette Tinsley with Richard Mahoney and Scott Optican

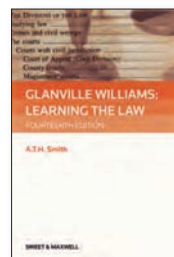
2nd ed, Thomson Reuters, Wellington, 2010, pp 626



The New Zealand Legal System: Structures and Processes

Paul Scott with Duncan Webb and Katherine Sanders

5th ed, LexisNexis, Wellington, 2010, pp 488

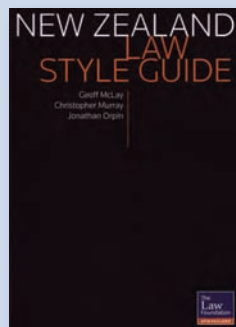


Glanville Williams: Learning the Law

ATH Smith

14th ed, Sweet & Maxwell, London, 2010, pp 273

The New Zealand Legal Style Guide



Geoff McLay, Chris Murray & Jonathan Orpin
(Thomson Reuters, Wellington, 2010)

Two of the three authors of this best-selling text – Geoff McLay and Chris Murray – are from Victoria’s Law Faculty.

The work is New Zealand’s first national, uniform style and citation guide and was published late last year with funding from the New Zealand Law Foundation. It has subsequently been adopted by New Zealand’s six law schools, three main legal publishers, major law reviews and a number of courts, including the Supreme Court and the Court of Appeal.

In the past, law schools, law firms, publishers and courts have all used their own idiosyncratic styles. This resulted in confusion and much time consuming work, as it required anyone writing about the law to constantly translate references from one format to another.

At the book’s launch, Hon Justice John McGrath praised the initiative and said: “The advantages we will all derive are consistency and clarity in the legal writing we all do”.

EDITED BOOKS AND SPECIAL ISSUE JOURNALS

Tony Angelo with Y-L Sage (eds) *Governance and Self-reliance in Pacific Island Societies: Comparative Studies (Gouvernance et autonomie dans les sociétés du Pacifique Sud: Etudes comparés)* (2010) *Revue Juridique Polynésienne* pp 344.

Tony Angelo, Alberto Costi, Xavier Cabannes, Mark Joyau, J-P Pastorel and Y-L Sage (eds) *Revue Juridique Polynésienne* Vol 16, 2010, pp 216.

Tony Angelo and Alberto Costi (eds) *NZ Association for Comparative Law Yearbook 15, 2009*, pp 184.

Bill Atkin *The International Survey of Family Law 2009 edition* (Jordans, Bristol, 2009) pp 515.

Bill Atkin *The International Survey of Family Law 2010 edition* (Jordans, Bristol, 2010) pp 418.

Richard Boast and Richard Hill (eds), *Raupatu: The Confiscation of Maori Land*, Victoria University Press, 2009, pp 290.

Alberto Costi (ed) *VUWLR Special Issue: Global and Regional Perspectives on International Humanitarian Law* (2010) 41(2) *Victoria University of Wellington Law Review* pp183.

Meredith Kolsky Lewis and Susy Frankel (eds) *International Economic Law and National Autonomy* (Cambridge University Press, Cambridge, 2010) pp 346.

Dean Knight and Tony Angelo (eds) *New Zealand Journal of Public and International Law: Special Conference Issue: MMP and the Constitution* (2009) 7(1) *New Zealand Journal of Public and International Law* pp 190.

CHAPTERS IN BOOKS

Tony Angelo with A Moyrand “Administrative Regimes of French Overseas Territories: New Caledonia and French Polynesia” in Tony Angelo and Yves-Louis Sage *Governance and Self-reliance in Pacific Island Societies: Comparative Studies (Gouvernance et autonomie dans les sociétés du Pacifique Sud: Etudes comparés)* (2010) *Revue Juridique Polynésienne* pp 193-206.

Tony Angelo “Rule of Law – Role of Law in the South Pacific” in Tony Angelo and Yves-Louis Sage *Governance and Self-reliance in Pacific Island Societies: Comparative Studies (Gouvernance et autonomie dans les sociétés du Pacifique Sud: Etudes comparés)* (2010) *Revue Juridique Polynésienne* pp 63-90.

Richard Boast “An Expensive Mistake: Law Courts and Confiscation on the New Zealand Colonial Frontier” in Richard Boast and Richard Hill (eds), *Raupatu: The Confiscation of Maori Land* (Victoria University Press, Wellington, 2009) pp 145-168.

Richard Boast “Individualization – an idea whose time came, and went” in Lee Godden and Maureen Tehan (eds) *Comparative Perspectives on Communal Lands and Individual Ownership: Sustainable Futures* (Routledge, Abingdon (UK), 2010) pp 145-166.

Susy Frankel “Eroding national autonomy from the TRIPS Agreement” in Meredith Kolsky Lewis and Susy Frankel (eds) *International Economic Law and National Autonomy* (Cambridge University Press, Cambridge, 2010) pp 99-115.

Susy Frankel “Intellectual Property in New Zealand and the TPPA” in Jane Kelsey (ed) *No Ordinary Deal: Unmasking the Trans-Pacific Partnership Free Trade Agreement* (Bridget Williams Books, Wellington, 2010) pp 163-175.

Carwyn Jones “Maori Dispute Resolution: Traditional Conceptual Regulators and Contemporary Indigenous Processes” in M Brigg and R Bleiker (eds) *Mediating Across Difference: Indigenous, Oceanic and Asian Approaches to Conflict Resolution* (University of Hawaii Press Honolulu, 2010).

Dean Knight “The (continuing) regulation of prostitution by local authorities” in Gillian Abel, Catherine Healy and Lisa Fitzgerald (eds) *Taking the Crime Out of Sex Work: New Zealand Sex Workers’ Fight for Decriminalisation* (Policy Press, Bristol, 2010) pp 141-158.

Meredith Kolsky Lewis “Safety Standards and Indigenous Products: What Role for Traditional Knowledge?” in Meredith Kolsky Lewis and Susy Frankel (eds) *International Economic Law and National Autonomy* (Cambridge University Press, Cambridge, 2010) pp 169-191.

Elisabeth McDonald and Yvette Tinsley “Alternatives to Prosecution: Retorative Possibilities for Victims in Aotearoa/New Zealand” in Helen Gavin and Jacquelyn Bent (eds) *Sex, Drugs and Rock & Roll: Psychological, Legal and Cultural Examination of Sex and Sexuality* (e-book, ID Press, Oxfordshire, 2010) (www.inter-disciplinary.net/publishing/id-press/ebooks/sex-drugs-and-rock-roll) pp 145-157.

David McLauchlan “Reliance Damages for Breach of Contract” in Jeff Berryman and Rick Bigwood (eds) *The Law of Remedies: New Directions in the Common Law* (Irwin, Toronto, 2010) pp 33-76.

Geoff McLay “Remedies for Breaches of ‘Public’ Obligations: The Equality Principle meets the Welfare State and the New Constitutionalism” in Jeff Berryman and Rick Bigwood (eds) *The Law of Remedies: New Directions in the Common Law* (Irwin, Toronto 2010) pp 387-413.

Joanna Mossop “Regulating uses of marine biodiversity on the outer continental shelf” in Davor Vidas (ed) *Law, Technology and Science for Oceans in Globalisation* (Brill, Martinus Nijhoff Publishers, The Netherlands, 2010) pp 319-337.

Caroline Sawyer “Nationality and the Right of Abode” in Gina Clayton (ed) *Textbook on Immigration and Asylum Law* (4th ed, Oxford University Press, Oxford, 2010) pp 65-95.

Rayner Thwaites “A co-ordinated judicial response to counter-terrorism? Counter-examples” in Mark B Salter (ed) *Mapping Transatlantic Security Relations: The EU, Canada and the War on Terror* (Routledge, New York, 2010) pp 236-258.

JOURNAL ARTICLES

Gordon Anderson “‘The Sky Didn’t Fall In’: An Emerging Consensus on the Shape of New Zealand Labour Law?” (2010) 23 *Journal of Labour Law* 94-120.

Richard Boast “‘So Long Lying Idle without a School’: *Wi Parata, Wallis and Whitireia*, 1848-2008” (2009) 7 *NZ Journal of Public and International Law* 237-272.

Richard Boast “The ‘Spanish’ Origins of International Human Rights Law: A Historiographical Review” (2010) 41 *Victoria University of Wellington Law Review* 235-272.

Joel Colon-Rios “The Legitimacy of the Juridical: Constituent Power, Democracy, and the Dilemmas of Constitutional Reform” (2010) 48 *Osgoode Hall Law Journal* 199-245.

Joel Colon-Rios “The End of the Constitutionalism-Democracy Debate” (2010) 28 *Windsor Review of Legal and Social Issues* 25-55.

Susy Frankel “From Barbie to Renoir: Intellectual Property and Culture” (2010) 41 *Victoria University of Wellington Law Review* 1-14.

Susy Frankel, “Digital Copyright and Culture” (2010) 40 *The Journal of Arts Management Law and Society* Special Issue: Cultural Policy in New Zealand: The Helen Clark Years 140-156.

Claudia Geiringer “On a Road to Nowhere: Implied Declaration of Inconsistency and the New Zealand Bill of Rights Act” (2009) 40 *Victoria University of Wellington Law Review* 613-647.

Carwyn Jones “Indigenous Legal Issues, Indigenous Perspectives and Indigenous Law in the New Zealand LLB Curriculum” (2009) 19 *Legal Education Review* 257-270.

Nessa Lynch “Restorative Justice Through a Children’s Rights Lens” (2010) 18 *International Journal of Children’s Rights* 161-183.

David McLauchlan “Remoteness Re-invented?” (2009) 9 *Oxford University Commonwealth Law Journal* 109-139.

David McLauchlan “Contract Interpretation in the Supreme Court – Easy Case, Hard Law?” (2010) 16 *NZ Business Law Quarterly* 229-267.

David McLauchlan “Deleted Words, Prior Negotiations and Contract Interpretation” (2010) 24(2) *NZ Universities Law Review* 277-301.

Nicole Moreham “Breach of confidence and the misuse of private information – how do the two actions work together?” (2010) 15 *Media & Arts Law Review* 265-273.

John Prebble, Zoë Prebble and others “Approaches to Tax Avoidance Prevention in Seven Asian Jurisdictions – A Comparison” (2009) 15 *Asia-Pacific Tax Bulletin* 22-39.

John Prebble and Zoë Prebble “Comparing the General Anti-Avoidance Rule of Income Tax Law with the Civil Law Doctrine of Abuse of Law” (in Japanese) trans Professor Fumihiko Komamiya, Niigata University [2009.8] *Journal of the Japan Tax Association* 293-320.

John Prebble with Craig Elliffe “General Anti-Avoidance Rules and Double Tax Agreements: A New Zealand Perspective” (2009) 19 *Revenue Law Journal* 48-70.

John Prebble with Nicola Fritsch and Rebecca Prebble “Real Estate Investment Trust Regimes Viewed Through the Lens of the United States Paradigm” (2010) 64 *Bulletin for International Taxation* 211-223.

John Prebble with Nicola Fritsch and Rebecca Prebble “Real Estate Investment Trusts in the United Kingdom” (2010) 64 *Bulletin for International Taxation* 259-270.

John Prebble with Nicola Fritsch and Rebecca Prebble “Real Estate Investment Trusts in Germany” (2010) 64 *Bulletin for International Taxation* 320-329.

John Prebble with Nicola Fritsch and Rebecca Prebble “A Comparison of Selected Features of Real Estate Investment Trust Regimes in the United States, Germany, and the United Kingdom” (2010) 64 *Bulletin for International Taxation* 367-380.

John Prebble “Tax Avoidance, International Tax Arbitrage and New Zealand as a Haven for Foreign Capital and Income” (2010) 15 *Yearbook of the New Zealand Association for Comparative Law* 103-116 and (2010) 16 *Revue Juridique Polynésienne* 169-180.

John Prebble with Craig Elliffe “Tax Treaties and Tax Avoidance: Application of Anti-Avoidance Provisions” (2010) 95a *Cahiers de Droit Fiscal International* 575-595.

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John Prebble and Zoë Prebble “The Morality of Tax Avoidance” (2010) 20 *Creighton Law Review* (Symposium Issue: Estate Planning, Moral, Religious, and Ethical Perspectives) 693-745.

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Student Prizewinners 2010



Each year outstanding students receive prizes to reward their talent and commemorate their achievements.

COMPETITION WINNERS

Mooting

Winner: Stephen Whittington

Finalists: Glen Prentice, Yogesh Patel, Polly Higbee

Client Interviewing

Winner: Yogesh Patel

Finalists: Genevieve Taylor, Nick Chapman, Jess Braithwaite

Negotiation

Winners: Sarah Wilson, Nigel Smith

Finalists: Edward Cade, Dale Scott

Witness Examination

Winner: Polly Higbee

Finalist: Glen Prentice

Australasian Debating Competition

Stephen Whittington

Ella Edginton

Sebastian Templeton

FACULTY OF LAW PRIZEWINNERS

Coleman-Brown Memorial Award

Scarlett Cayford

Cullen Prize in Employment Law

Yasmin Moinfar, Rachel Collings, Hannah Carter

Faculty of Law Prize in Legal System

Chloe Fleming

Chris Highfield Memorial Prize in Judicial Law

Conrad Reyners

Chris Highfield Memorial Prize in Public Law

Hannah Blumhardt

A H Johnstone Scholarships in Law

David Bullock

Samuel Humphrey

LEADR Prize in Dispute Resolution

Adam Meek

Archibald Francis McCallum Scholarship in Law

Kierra Krumdieck

NZ Law Review Prize

David Bullock, Samuel Humphrey

Genevieve Taylor

Mario Patrono Prize in Legal System

Lauren Brazier

Robert Orr McGechan Memorial Prize

Anne O'Driscoll

Colin Patterson Memorial Prize

Daniel Semren

Quentin-Baxter Prize in International Law

Sarah Cates

Quentin-Baxter Prize in Public & International Law

Ruiping Ye

Lord Cooke of Thorndon Prize

David Bullock

AJ Park Prize in Intellectual Property

Dirk Lenz

Bernard Randall Prize in Family Law

Richard Versteeg

Thomas Reuters Prize in the Law of Contract

Zoe Harris

Thomas Reuters Prize in Jurisprudence

Scarlett Cayford

Chapman Tripp Prize

Grace Thomas-Edmond

VicBooks Award for Best Tutors

LAWS 211 Amelia Keene

LAWS 212 Kate Yesberg

LAWS 213 Stephanie Woods

LAWS 214 Amy Whittaker

LAWS 301 Oliver Searle

Val Gormly Memorial Prize

Yasmin Moinfar

The Australasian Intersarsity Debating Championship winners, Victoria team members pictured are, from far left, Seb Templeton, Ella Edginton and Stephen Whittington, and, second from right, Richard D'ath

Student Achievements



THE JOYNT SCROLL

Victoria University again won the prestigious Joynt Scroll university debating competition, with a lot of help from law students.

It is the fifth year in a row that Victoria has won the tournament. The Joynt Scroll, now in its 108th year, is New Zealand's second oldest sporting competition, and is competed for annually by Auckland, Otago, Canterbury, Victoria and Waikato Universities.

This year's Grand Final was an all-Victoria affair, with the Victoria A and Victoria B teams squaring off against each other in Parliament's Legislative Council Chamber on the topic "That housewives and househusbands should be paid for their work". The Victoria B team, who affirmed the motion, won in a close 4-3 split decision.

The winning team comprised first-year Law and arts students **Asher Emanuel** and **Nick Cross**, alongside fourth-year Law and science student **Richard D'ath**. The runners-up were fifth-year Law and arts student **Jenna Raeburn**, and third-year philosophy students Udayan Mukherjee and Paul Smith.

Victoria's domination of the tournament was also reflected in the individual speaker prizes awarded. **Richard D'ath** was named as the best speaker of the tournament and captain of the New Zealand Universities Prepared Debating

Team. Udayan Mukherjee was also named as a member of the New Zealand team, and **Asher Emanuel** and Paul Smith picked up highly commended awards.

AUSTRALASIAN INTERSARSITY DEBATING CHAMPIONSHIP

Stephen Whittington and **Ella Edginton** are two Law students on the Victoria team which won the top honours in the world's second largest university debating tournament. Stephen is a sixth-year Law and Classical Studies student and Ella is studying Law and Politics.

The 2010 Australasian Intersarsity Debating Championship was held in Auckland. 100 teams from the Asia-Pacific region took part in the competition. Victoria successfully affirmed the motion "That the International Criminal Court should allow for the prosecution of crimes against the earth" in the Grand Final, winning in an 8-1 decision in front of nearly 500 people at the SkyCity Theatre.

This is the first time Victoria has won the tournament since 1998 and its fourth win since 1975. Victoria is the only New Zealand university to have ever won the tournament and has reached the Grand Final in three of the last four years.

The captain of the Victoria team, **Stephen Whittington**, was named as the second best speaker of the 300-person tournament and also

won the Jock Fanselow Cup for being the best speaker in the Grand Final. The winning Victoria team knocked a second Victoria team out in the semi-finals of the competition.

The captain of the second Victoria team, **Seb Templeton** (a fifth-year Law/Computer Science student) was named as the tournament's eighth best speaker.

AWARD-WINNING ESSAY

Ruiping Ye won the Legal Research Foundation's best Unpublished Student Paper Award for her paper "The demise of ultra vires in New Zealand: to be? not to be!" The paper was written as part of the Administrative Law LLM course and was supervised by Dean Knight.

PLACEGETTER

Stephen Rivers-McComb won second prize in the NZ Lawyer Student Writing Prize for his essay: "Negotiating the Foreshore and Seabed."

REPRESENTATIVE TO THE UN

Luke Roughton represented New Zealand at the Arms Trade Treaty negotiations at the United Nations. Luke is Oxfam New Zealand's control arms co-ordinator. The main reason for the NGO's presence at the negotiations was to ensure accountability and transparency in the process.

Student Activities

Law Camp 2010



Bakeoff Judges Pauline Castle (far left) and Pauline Nunns (middle) with VUWILSS Bakeoff winner, Bronwyn Kropp "Beehive or Behave"



VICTORIA UNIVERSITY OF WELLINGTON LAW STUDENTS' SOCIETY

By Nick Chapman

THE YEAR 2010 HAS BEEN AN extremely successful one for the Victoria University of Wellington Law Students' Society.

It started with a bang when the Law Students' Society held its first-ever Law Camp for second-year students. With little more than a couple of BBQs and a childish sense of wonder, we gathered up 100 students and whisked them away to a beautifully secluded spot in the foothills of the Rimutakas (read: Wainuiomata).

The camp was intended to help new law students interact with one another and ease the daunting task of entering Law School. Its effects have been obvious through the increased involvement of these students throughout the year.

The camp was the first of a series of events that the Law Students' Society held with the aim of fostering a greater sense of community. Old favourites such as the Law Ball, Quiz Night, Cocktail Night, the Leavers' Dinner, the (infamous) T-Shirt Night and various BBQs were again very popular, as were new events such as the Law Students' Society Tennis Open and the Charity Bake-off.

As well as organising social events, the Law Students' Society continued to advocate for Victoria's law students along with providing various educational opportunities. These included the annual competitions, the introduction of a new 200-level negotiation competition, the Law Students' Society Patron's Lecture, the Women in Law Evening and the Mentoring Programme and an expansion of the Talk Series to include speakers such as Lord Walker of Gestingthorpe.

In conclusion, the Law Students' Society is in a fine position and we eagerly look forward to seeing what incoming President, David Smith, and his team will achieve next year.

THE CHARITY BAKE-OFF

The Law Students' Society organised the first bake-off at Law School in 2010, with dazzling results.

Spokesperson Rupert Abraham says: "It was an extremely successful event, with 43 entries of great quality."

All entries were sold and the proceeds donated to the Home of Compassion Soup Kitchen. The winners were:

SUPREME AWARD

First place

Dinner for two at Logan Brown

Bronwyn Kropp: "Chocolate-Peppermint Masterpiece"

Runner up

Claire Hislop and Catherine Prior: "Apple of my eye" – an apple cake with crumble topping

Second Runner up:

Nick Meehan: "Tart au Chocolate"

CATEGORY WINNERS

Best Chocolate Cake

Jess Rapana and Nicky Bryan: "Beehive or Behave"

Best Biscuit

Haley Adams: "Gingerbread Unicorns"

Best decorated item

Haley Adams: "Cookie Monster Cupcakes"

Most creative item

Claire Hislop and Catherine Prior: "Late Night Inspiration" – a chocolate cake decorated as law books

Worst entry

The Terrace Thugs (Griffin Hunt and Joseph Fitzgerald): "Thug Poo" – a five-minute chocolate cake

Highly Recommended

Elizabeth Cherry: "Mini Cupcakes"

Julia Caldwell "Clapham Omnibus Cake"

The Dean rules – Grant Morris shows his form
Hon Justice Mark O'Regan, Nick Chapman



Clockwise from top left
Anne O'Driscoll, Sarah Desourdy-Hastings, Julia Caldwell, Ali Hamilton
Conrad Reyners, Dean Knight
Hannah Carson, Louis Leloir
Nick Chapman, Professor Tony Smith

BELL GULLY FACULTY VS STUDENTS CRICKET MATCH

The annual Victoria University of Wellington Law Students' Society cricket match between the Faculty and students was played out on a bright afternoon at Kelburn Park.

With the students successful in 2009, the Prof Bill Atkin-led staff team was out to reclaim some of its past glory. Once again the coveted Jackson Trophy (named after *Miller v Jackson* [1977] QB 966 and its lover of cricket) was up for grabs.

While the gentle strokes of lecturer Mark Bennett and recent graduate Benji Crossley placed the Faculty team in a strong position, it was not enough to overcome the brute force offered by some young students who were clearly out there to impress their lecturers.

Despite umpire Hon Justice Mark O'Regan offering a few decisions which may bring into question the judgments of the Court of Appeal, the students once again defeated their Socratic masters in a manner which will only provide more motivation for the Faculty team in 2011.

LAW BALL

On 7 August, Shed 5 on the waterfront transformed itself into Manhattan's famous Met Ball for the Victoria University of Wellington Law Students' Society Law Ball.

The theme, by popular demand, was the Upper East Side and the night was one of class and sophistication as everyone danced away to the different bands, lazed under the beautiful candle-lit flowers or flirted under the shadow of the Empire State Building ice sculpture.

The night was an epic success and Law Students' Society is hugely thankful for the support that it received, most notably from Shed 5, VUWSA and the sponsors of our competition for best-dressed, Crane Brothers and Karen Walker.

As with past years, the Ball was well attended with all 400 tickets selling out exceptionally quickly. It was a great opportunity for students to mix and mingle with members of staff as the whole of Law School put its hair up for what was a fantastic night of elegance, elan and wild dancing. It seems as if next year's ball just can't come soon enough. Start spreading the news.





LAW REVUE 2010: A TALE OF DEFAMATION, BETRAYAL AND SAUSAGES

By Lydia Nobbs

After many months of planning and rehearsing, *Law Revue 2010 – A Tale of Defamation, Betrayal, and Sausages (3D edition!)* came together in August over three nights of surreal madness.

The musical/theatrical showcase-extravaganza followed our three heroes into the world of L(h)awnia – where all likeness to things real or imagined was ‘purely coincidental’, the letter ‘H’ kept disappearing from words and something was definitely awry with the power of talkback radio waves.

Upon big brother Peter being turned into sausages, Susan and Lucy had to find their way through David Bowie’s labyrinth, petition Don Key and his tea party cabinet, and witness a battle of the wits over two poisoned sausages. Luckily they had a trustworthy faun to guide them through this messed-up fantasy world. And all is resolved when it turns out that cardboard ‘H’s’ are not vitriolic enough to create radioactive H-bombs, thus do not actually kill L(h)awnians.

If elements of the far-fetched plot premise resonated a little too familiarly with the audience, that’s probably because it was plainly ripped off from a hybrid of cult fantasy favourites, notably *Alice in Wonderland*, *Narnia*, *Princess Bride* and *The Labyrinth*. However, as the opening number explained, ‘writing stuff that’s new is hard, hope you don’t mind that – we give up and admit we just do clichés’.

Nothing was safe, from Taika Waititi, giant codpieces and powhiri, to Michael Laws, David Bain and the *Bohemian Rhapsody*.

But, just in case there was any doubt as to the scope of the Law Revue’s true nature, skits utilised the cast’s many talents to draw on all the topical goodness of vampires, Tranzmetro troubles and Sensodyne toothpaste commercials. The audience was unsure whether to react with hysterics and awe, or groans and disgust. Seemingly, under the cover of darkness, they all opted to laugh uproariously at the baldly offensive and frequently bad taste gags. Law Revue didn’t discriminate in its discrimination – no one was safe from being induced to laughing at themselves.

But really, the heart of the show is in its cast and support crew. The countless hours of rehearsals, opening-week panic when the band decided to pull out and the pain of being unable

to get repeat cycles of ‘Poi-E’ out of your head, are all worth it in the end. In exchange, you get much circle dancing, prune related in-jokes, the odd keg stand and the privilege of being part of something so enjoyable, with such incredibly talented people.

Such an experience would not come to pass without many big ‘thank-yous’. Firstly, to the theatre-going public, who performed their role to an exemplary standard, and without whom there is no reason for the Law Revue’s existence.

The show’s success was due in no small part to the invaluable support of our sponsors – Bell Gully, Chapman Tripp, Simply Legal, Simpson Grierson, Russell McVeagh, Thomson Reuters, the Wellington Branch of the New Zealand Law Society, VicVenues, VUWLS and Avatar Wines.

Finally, to all those who were involved in any way – not only the cast, support crew and production team, but also the flatmates, friends and family – whose support and forgiveness for occasional lack-of-sleep-induced madness is immeasurable.

Anyone with below average degrees of concern for their public dignity should certainly contemplate being involved in 2011. That is, if defamation suits have not put the enterprise into insolvency.

Law Graduates 2010

Qualifications granted by the Victoria University of Wellington
Council for the Law Faculty in 2010 at the time of publication:

MASTER OF LAWS

Baide, Ana Barbara [M]
Bammann, Mario
Barekzai, Nadja Carmen
Bellitto Grillo, Massimo [M]
Berger, Anna Katharina [M]
Bidois, Shane Thomas [M]
Budnich Villouta,
Juan Edmundo Ramon [M]
Carstensen, Wiebke [D]
Connell, Charlotte Louise [M]
Costanza, Livia Celine Denise
Donaldson, Stephen Michael [M]
Drasdo, Jens [M]
Duppelfeld, Monika [M]
Einhaus, Jan [M]
Evertz, Manuel [M]
Florian, Christoph [M]
Foerst, Michael Klaus Gottfried [M]
Frey, Regina [M]
Gaertner, Daniel Alexander [M]
Gauto Espinola, Maria Belen
Grossmann, Stefan [M]
Hangaly, Ruth Gisela
Hansen, Arne Frank [M]
Hetzl, Timo Hendrik [M]
Hudson, Kara Mae [M]
Jameson, Thomas George Vallentine
Jaus, Albrecht Eberhard [D]
Kassner, Norbert Florian Georg [M]
Kinley, Shane Peter
Kraus, Jennifer
Kuerten, Nils Arne [M]
Kühl, Melf-Jakob [D]
Liepert, Antonia Maria
Loeffler, Ines Moana [M]
Machoke, Stella Nyagonchera
Nori, Andrew Gabriel Hanaipeo [2/2]
Pitkovsky, Gilat
Prasad, Jayneeta Shivani
Preuss, Malte Tobias [M]
Rubio Rubio, Maria Fernanda
Saelzer, Marc Christopher [M]
Schiffer, Judith Katharina
Schnitzer, Jan [M]
Schön, Thomas
Schroeder, Nora Hedwig [M]
Schroeter, Katrin
Seidenspinner, Adrian
Semren, Daniel Slavko [M]
Simon, Amandine [M]
Steinhuebl, Philipp [M]
Stolp-Buchwald, Katrin Alexandra [M]
Stritzke, Florian Markus [M]
Teagle, Patrick Francis [M]
Thannheiser, Urs Sebald
Thiemann, Vera [M]
Weber, Bianca [M]
Williams, Jaclyn Elizabeth
Winkelmann-Krupp, Johanna [M]
Wissenbach, Johanna [M]

Wolz, Johannes Gerrit
Wunderlin, Philipp Nikolaus [M]

BACHELOR OF LAWS WITH HONOURS

Blake, Jennifer Laura [2/1]
Boyd, Jordan Edward Lyndell [1]
Edwards, Adam Thomas [1]
Eng, Jamie Andreas [2/1]
Hume, Patrick David [1]
Inverarity, Lani Margaret [1]
Keene, Amelia Tess [1]
McMullan, Sam Stephen [1]
Miller, Timothy Charles [1]
Newson, Maree Elizabeth [1]
Pilkinton, Simon Hearne [1]
Pirini, Mihiata Rose [1]
Strickett, Julia Jurisich [2/1]
Thomas-Edmond, Grace Kinza [1]
Tidey, Laura Diane [1]
Versteeg, Richard Hendrik [1]

BACHELOR OF LAWS

Aimer Seton, Alexandra Lucie
Allan, Kiri Lyndsay
Armishaw, Monique Abigail
Ash, Jenna Nicole
Babe, Jessica Ann
Backhouse, Sarah Helen
Baker, Hayley Michelle
Barker, Gabriella May
Barwick, Jessie Ruth Hines
Bayley, Gemma Maree
Beadle, Andrea Diane
Benjamin, Claire Rochelle
Berthold, Chantal Louise
Bhim, Geetanjali Swati
Bingham, Zac Ronald
Bird, Emily Hannah Street
Black, Kathryn Zoe
Booth, Miro Hazel
Bourke, Wendy Tessa Perdue
Bourne, Alexandra
Brosnahan, Anna St Clair
Broughton, Debbie Ann
Brown, Tony Duncan
Burkett, Daniel Leon
Burns, Andrew Lincoln
Butterfield, David Peter
Byers, Paul David
Campbell-Adams, Mathew James
Carey, Nicholas John
Carter, Hannah Rose
Cates, Sarah
Cayford, Scarlett Clare Holmes
Chambers, Sara Joy
Cheung, Edwina Ay-Jiun
Chiu, Vicky
Collins, Liam Stevenson
Collins, Nina Charlotte
Conway, Madeleine Jean Riddiford
Cooper, Megan Claire
Crossan, Rachael Alexandra Beagle

Crossley, Benjamin Ivan William
Curtis, Amanda Caroline
Davidson, Caroline Frances
de Farias, Rebecca Valda
Dengate Thrush, Phoebe Ann
Dennett, Annabel Mary Revell
Drury, Kathryn Rosemary
Dunlop, Robyn Marie
Eastwood, Rebecca Cassie
Eckersley, Kerrin Maie
Edmonds, Jack William
Egden, Amanda Susan
Ehrhardt, Penelope Ann Elisabeth
Farquhar, John Russell
Fernandez, John Anthony Cajetan
Fewkes, Chelsea Alexandra Joan
Fitzgibbon, Anna Bella
Fleming, Awhina Ani Houkamau
Forret, Craig William
Frank, Amanda Louise
Froude, Heather Ann
Fullbrook, Hollie Elizabeth
Gladwell, Lowry Andersen
Gordon, Nicholas James
Griffiths, Joseph Walter
Gunawan, Selvi
Hancock, Matthew Simon
Harcourt, Ruth Elaine
Hardacre, June Louise
Henderson, Michal Frances
Hendy, Elizabeth Nicola
Hermon, Lisa Maree
Hoare, Richard James
Hodge, Rebecca Kate
Hohneck, Terri Lorraine
Hollingsworth, Charlotte Lucy
Hunt, Piers Duggan
Hurring, Stephen Bryan
Huthwaite, Thomas Andrew
Hyde, Amanda Kathleen
Johnston, Debra Anne
Kaiwai, Payton James
Kerr, Ryan John
Kopua, Terry Jade Tamihere
Law, Connie May Shen
Lawrence, Georgia Jane
Laws, Jody Ann
Lawton, Jessica Audrey
Lefever Black, Lisa
Lenz, Dirk Henning
Liu, Yu
Livingstone, Carissa Margaret
Lloyd, Cerys Renee
Lo, Kar Yan
Lorier, David James
Mataio, Ngamarama E Ono Keu
Matheson, Emma Louise
McCormick, Jade Maree
McDonald, Katherine Louise
McGrath, Matthew Joseph
McIntyre, Jan Elizabeth
McLachlan, Iain Bruce
Mcluskie, Megan Louise
McQuilkan, Sam
Mee, Abigail Melissa

Milne, Kristina Lorraine
Moore, Arie William Leendert
Moore, Jennifer Sarah
Mordaunt, Siobhan Vera
Morgan, Matthew John
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