

Eden Crescent

FACULTY OF LAW ANNUAL 2013

A portrait of The Hon Justice Robert Stanley Chambers, a middle-aged man with grey hair, smiling. He is wearing a dark pinstriped suit jacket, a white shirt, and a blue and black striped tie. The background is a blurred bookshelf filled with books.

The Hon Justice Robert Stanley Chambers

Auckland Law School obtains
more space and better facilities

Law Revue attracts
international interest



THE UNIVERSITY
OF AUCKLAND

NEW ZEALAND

Te Whare Wānanga o Tāmaki Makaurau



Eden Crescent

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From the Dean

It has been a very busy year for our staff and students. Auckland has had considerable success in law student competitions, including reaching the grand finals of both the World Human Rights Mooting Championship in Pretoria and the International Commercial Mediation Competition in Paris. We did extremely well at the Australasian Law Student Championships (winning the client interviewing competition and reaching at least the quarter-finals of all other events) and won four of the five competitions at the New Zealand Law Students' Association Championships. Auckland will represent New Zealand at the Jessup Moot Competition in Washington DC for the sixth time in the last seven years.

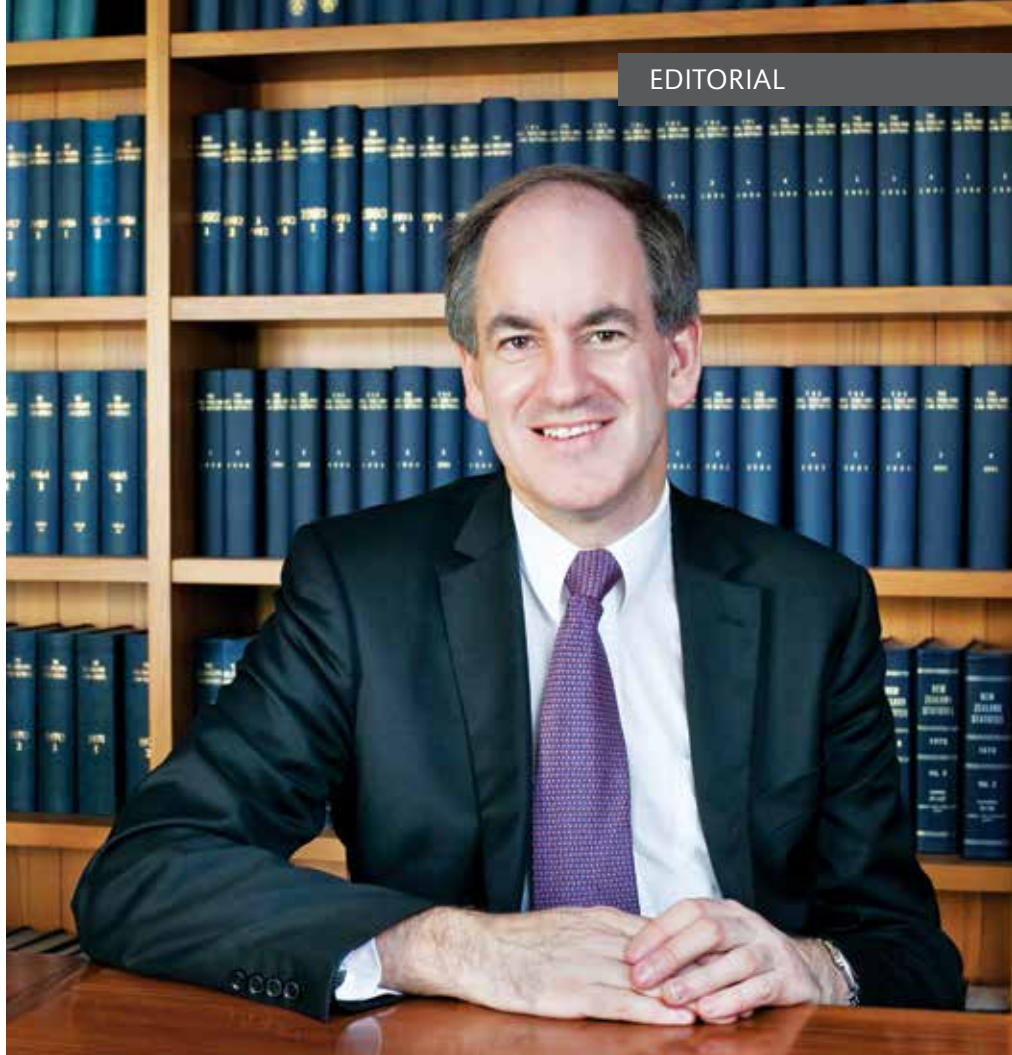
Our students epitomize Auckland's philosophy of academic rigour coupled with enthusiasm for the law. Large numbers take part in the annual Law Revue, singing, dancing, and satirising the profession and the Faculty. One of the video clips from this year's Law Revue has had over two million hits on You Tube and has considerably raised the social media profile of the Auckland Law School!

During the last year we have hosted visits from a range of distinguished academics, judges and public officials. Highlights have included the visits of Lord Phillips (the first president of the British Supreme Court), his colleague Lord Mance, Professor Trevor Hartley (the 2013 Legal Research Foundation Scholar), and the Attorneys-General of the United States and of England and Wales.

As you will see in the magazine, we have been delighted to welcome Sir Anand Satyanand back to the Faculty as a Distinguished Fellow. We have celebrated Peter Watts being made a QC, Warren Brookbanks being awarded an LLD and Maya Mandery her PhD. As occurred last year, the Auckland Law School won three of the four New Zealand Legal Writing Awards. Janet McLean won the JR Northey Memorial Book Award for her book *Searching for the State in British Legal Thought*.

We have appointed four new full-time academic staff since the last edition of this magazine. Our strength in corporate and commercial law has been enhanced by Francis Dawson re-joining the Faculty after many years in practice and Susan Watson joining us from the Commercial Law Department in the Business School. Nina Khouri and Arie Rosen have also been appointed to the Faculty and bring considerable strengths, including in mediation and dispute resolution, and in jurisprudence and legal philosophy.

The Law School has gained more space and better facilities during the last year as a result of taking over more of a building located across the road from the other Law School buildings in



Eden Crescent. This has enabled a law student centre to be established as a one-stop shop for student information and support, for the law clubs and societies to be co-located in the same area, and for the law student common room and café to be extended. It has meant that we now have better seminar rooms and more office space for staff, visitors and distinguished guests. The Law Faculty has obtained twenty per cent more space and will be better able to grow in the ways expected of a leading law school. In May, this year, we held an awards ceremony to recognise prize and scholarship recipients, the winners of mooting and other student competitions, and law student leaders. I presented over 100 awards which recognised our students' outstanding academic and other achievements. Over 400 people attended the awards ceremony and I know the students appreciated the attendance and encouragement given by many members of the profession and the judiciary.

This was the last occasion on which I got to speak with Sir Robert Chambers. Rob was one of the Law School's most distinguished alumni. He graduated with an LLB (Hons) in 1975 and then completed a doctorate at Oxford University. On his return to New Zealand he lectured Torts at the Law School for several years while beginning in practice. Throughout his career he made a valuable contribution to legal writing, contributing chapters to *Salmond and Heuston's Law of Torts* and to the *Law of Torts in New Zealand*.

Peter Watts recalls: "Rob was a welcome presence at the Law School throughout my nearly 30 years here. He loved to amuse and be amused; mischievous sometimes, but always benevolent. In 2011 when I promoted the FMB Reynolds Scholarship for postgraduate study by New Zealand lawyers at Oxford University, Rob was the very first person to donate, making suggestions as to who else might, and asking how progress was going. He cared greatly about universities, and not just the two he had attended."

Rob attended and supported many of our events and contributed to the life of the Law School in innumerable ways. Ever since I became Dean he was generous with his time, his friendship and his sage counsel. We will miss him greatly.

The Faculty and I are extremely grateful for all the support we have received. Many of you have helped adjudicate our competitions and moots, have attended our major events, contributed to our establishing new scholarships and prizes, assisted some of our best students to participate in international competitions, and have been willing to speak to students about your careers and ways in which you have used your law degrees. This has been a very successful year for the Law School, as can be seen in the pages of this magazine, and the support given by our alumni has helped contribute to this.

Andrew Stockley
Dean of Law

The Hon Justice Robert Stanley Chambers



This is an abridged version of the eulogy delivered by the Rt. Hon. Dame Sian Elias, Chief Justice of New Zealand at the Auckland Town Hall on 27 May 2013. A full version can be found on the Law School's webpage under the item "News".

Sudden death always wrong-foots us. When it comes early to someone talented and widely loved, it is difficult to think beyond the loss - the waste - the contributions not to be made, the friendship and fun not to be shared, the living undone. Then there are the conversations left in mid-air, the things unsaid, the fragments of Robert scattered around our homes, offices, and lives, which we expected to pick up and return or speak to him about.

It is necessary to start by acknowledging the loss because it hangs over us all. But this is not a time to dwell on loss. Robert himself was the sunniest person imaginable. We are here to acknowledge a life well-lived and to express appreciation for all this remarkable man was to us personally and to the community he served so well.

All things came early to Robert because of his prodigious talents and energy. And if death also has come early by ordinary standards, well, *his* standards were not ordinary ...

The Chambers family

Growing up as a Northern Slopes boy in Seaview Road in the 1950s seems to have been idyllic. The sections were big. The neighbours were close family friends and stayed put for decades - families such as the Fraters, Halls, Agars, Hagens and Pollards. There were patches of bush in which huts could be built. There were a few sheep. There were tennis courts. There was a bach at Manly at a time when the Whangaparooa remained in farms and there were more close friends there, including the Baragwanaths. Robert sailed a P-Class, No 149. The family were parishioners at St Marks and supporters of the National Party. There were tennis parties and dinner parties, although Robert was to remark at his mother's funeral (by which time he was something of a food snob) that he thought she let herself down a little when she served flummery to her guests.

As a late child, Robert was close enough in age to his nephews and nieces to be a pied piper for them. The photograph albums show him the bigger boy in a circle of little children, reading to them, tickling the babies, leading them in play. He never lost his playfulness. He never lost his way with children or young people. It set him up to be a wonderful father to his children. And he always made time to play or to instruct and help schoolchildren, university students and young practitioners.

In Robert's early background is I think the key to the man he became. He was secure and loved. He was someone at ease in his own skin. He had no need to impress. He knew he was good. He had sound values. He was a keen observer of people and liked what he saw. He was kind and appreciative of all sorts. Like Kipling's *The Elephant's Child* he was "full of 'satiableness'" and he never lost it. He was imaginative and conservative, a combination that is not an oxymoron and is greatly underappreciated.

The scholar and his habits

After Parnell and King's, Robert came to Auckland University and law where he found a lasting passion in the puzzles law throws up and in its practical impact on the lives of real men and women in our society. He graduated with LLB (Hons) in 1974.... He obtained an embarrassment of honours: junior and senior scholarships in law, the AG Davies Scholarship, the Sir Alexander Johnstone Scholarship, the Commonwealth Scholarship, the New Zealand Law Society Scholarship. Not having been in that sort of swim myself, I didn't know there were so many scholarships one could aspire to. I suppose one can't really, unless one is a Robert Chambers.

In 1974-75 Robert was a clerk at the High Court in Auckland. The position had only just been introduced. That it was such a success was no doubt because of the calibre of the early clerks... When Robert went to Oxford he was replaced by two clerks, and of the calibre of Bruce McLeod and Mike Taggart.

In the next few years, while I lapsed into maternity, Robert emerged on the world stage at Oxford. He achieved the signal distinction of being invited at an impossibly young age - still in his mid-twenties and still a doctoral candidate - to co-edit the 18th edition of *Salmond on Torts*. How he came to be invited to be the first co-editor with the formidable R.F.V Heuston is instructive because it shows that Robert, although he always wore his talents lightly and never put on airs, was quite conscious of his own quality. Robert had mentioned to his tutor at Oxford that he thought it sad that John Salmond's great work of legal scholarship had languished in recent editions and become "rather tired". The remarks got back to Heuston who, as editor of editions 11 to 17, might have taken umbrage but instead, after checking out the abilities of the precocious young student, invited him to participate as assistant editor in a project that would modernise the text. Robert gained High Honours at Oxford. He became Savesen Fellow in 1978. His DPhil, awarded in the same year, was on the subject of "The Law of

Nuisance and the Rule in *Rylands v Fletcher*". Robert managed to write 270 pages on the subject. I think he had hopes that one day in the Supreme Court he would be able to vindicate his view that all *Rylands v Fletcher* cases were nuisance cases, and all nuisance cases were negligence cases. At least, I *think* that was the gist of it.

Robert married Claire Taylor in the New College Chapel in 1977... In the photographs, Robert, looking impossibly young and with long curling hair, stands holding a top hat. He always liked a little ceremony.

Legal practice in Auckland

Back in New Zealand after Oxford, Robert worked for a few months only at Wilson Henry before going to the Bar in February 1981, an unheard of step for a practitioner in his 20s. He joined David Baragwanath and Bob Fisher in small space adjacent to their suite. And very much to my good fortune there was a tiny office in Robert's space, which I took over in March 1981 when I decided there had to be life after maternity. And with small gaps, Robert and I have been together ever since....

... That time in practice at Southern Cross was I think the happiest time in my professional life. With colleagues of the calibre of David, Bob and Robert, the law was exciting and fun. In David's chambers, all law derived from Magna Carta or Broome's Legal Maxims. In Bob's it was a little more down to earth. Robert himself always paid tribute to the lessons of analysis and conciseness he had learned from John Henry in his early time in the profession. Robert's contribution to our enjoyment in practice was immense. Although deadly serious about his work, he was always playful at other times.

During this time, Robert and Claire had two wonderful sons, David and Christopher, of whom he was immensely proud. Claire describes him as a wonderful father, always ready to play with the boys and show them deep and enduring love. Nothing changed in that respect after Robert and Claire parted amicably in 2000...

Robert's career at the bar was everything that could have been predicted. He appeared in leading cases which became leading cases only because he had the perception to see that the law needed to move and the capacity to convince courts that they should. In his work he gave the same attention to little cases and little people as he did to the bigger ones. He had a great sense of fairness and a concern for those who are disadvantaged. He was always a great supporter of women in the legal profession and did not minimise the challenges they faced, which he was never slow in describing as injustice.

Robert took silk while under forty. John McGrath recalls that Robert was not shy about making the point in his letter of application that younger appointments were necessary. Of course, he prevailed. He never lost the capacity to be excited about law and always managed to bring imagination as well as deliberation to advocacy and later to judging.

Robert worked hard in the service of the Auckland District Law Society and the New Zealand Law Society. He worked on many subcommittees of both and rose to be President of the Auckland District Law Society and Vice President of the New Zealand Law Society.

The Judge

Robert was appointed as a High Court judge in 1999. At the swearing in, the then President of the Auckland District Law Society, now Minister of Justice Judith Collins, said that all of us had looked for Robert to become a judge of the High Court since he was about 12 years old....

Robert's idea of judging was not divorced from real life. I never heard him mutter about the dialectic or the normative. He wasn't of the Wittgenstein school. As Bernard Brown said to me, Robert wasn't interested in balancing angels on ingrown toenails. His was muscular jurisprudence, pressed in to serving the needs of modern New Zealand society but consciously grown from stock that was tried and true.

Robert would have preferred to spend longer on the High Court, but with the setting up of the Supreme Court in 2003, he had to step up to the Court of Appeal. I think of that 2003 intake as providing a Court of Appeal of all the talents.

When a new High Court judge, Robert had remarked that even the finest legal minds on the Court of Appeal were often unable to apply themselves to hard thinking of the type looked to in top academic writing because of pressure of work. But it has to be said that in his own work as a Court of Appeal judge he never cut corners and always had time for proper analysis. His contribution to the work of the court over the next 10 years was substantial.

In 2012 Robert was appointed to the Supreme Court. He was born for that position. In the Supreme Court he had the opportunity to judge without the pressures of the Court of Appeal. No one doubts that he would have developed there into the finest New Zealand appellate judge of his, or perhaps any, generation.



Outside judging

Robert was the most sought after and best after dinner speaker. He was very funny indeed - something that certainly puts those of us paying tribute to him at a disadvantage. He worked really hard at his speeches, finding out all sorts of useful bits of information. For example, he ferreted out some very bad school boy poetry written by the young Peter Blanchard, which he used to hilarious effect on a number of occasions. I found in his papers a list of what he has labelled, quite politically incorrectly, "Irish medical terms". Things like "fibula" - a "small lie", and "pap smear" - a fatherhood test. It includes "enema" which Robert gives as "not a friend". Well, I am sure there are no enemas of Robert's here.

Robert was someone who lit up any room at a party. He loved playing tricks and was very competitive in playing games. He was always ready with word-plays and avid for gossip...

Rob and Deb

When Robert and Deb came together, Robert's happiness was apparent to all. Their wedding a decade ago was a great joy for all privileged to be there. And nothing changed in the precious years since. Only a few months ago, Helen Winkelmann, who does not shrink from making personal remarks, demanded rather aggressively of Robert whether he thought it was normal for someone to be as happy. I think Robert knew well that such happiness was rare. He and Deb had in common their shared love of law and their wide circle of friends. But they also loved each other utterly. And Deb brought into Robert's life Caitlin and Zelda, whom he loved unreservedly and who enriched his life immeasurably. He was a very lucky man and he knew it. And although all our hearts go out to Deb, David, Christopher, Caitlin and Zelda, all those of us who loved Robert have our own spirits lifted, even at this time, in knowing how happy he was.



All things came early to Robert because of his prodigious talents and energy. And if death also has come early by ordinary standards, well, *his* standards were not ordinary ...

Left: Robert with his sons, (from left) David and Christopher.

Below, from left: Dee McOnie, Robert, Deborah Chambers, Chris Chambers, Zelda Hollings and Caitlin Hollings.



Auckland Law School obtains more space and better facilities

Since moving to Eden Crescent, the Auckland Law School has occupied three buildings- the Davis law library and two buildings either side of it. In recent years the Law School has also occupied the seventh floor of the building on the corner of Short Street and Eden Crescent. Dean Andrew Stockley commented shortly after arriving to head the Law School that the size and layout of its buildings meant that the Faculty had become fragmented and squeezed. The Law School needed more space to accommodate new staff appointments, increase its research profile, postgraduate and international numbers, and to host more visiting academics and research fellows.

Earlier this year the Faculty was allocated 20 percent more space and will be better able to grow in the ways expected of a leading law school. The most visible manifestation of this has been the establishment of a student centre on the entry-floor level of the Short Street building. A consolidated student and admissions centre has been set up so as to provide a “one stop shop” type service for students where they can receive advice and support and be directed to academic staff as appropriate. This has involved co-locating the Faculty’s undergraduate and postgraduate student advice and student support staff, including the Maori and Pasifika advisers. The admissions centre allows prospective and current students to receive advice and assistance from the same location.

The increase in space has also meant that the law student clubs and societies (including the Maori and Pasifika law student associations and the Equal Justice Project) now have better rooms and are located beside the new student and admissions centre. Other advantages for students include better seminar rooms and the creation of communal PhD and LLM research work space. More space has consequently been freed up in the Eden Crescent buildings. This has created more room for students to gather and wait around lecture theatres, and a significantly expanded student common room and café. The Faculty also has more space for visiting academics and research and distinguished visitors.

Students have reacted positively to the various changes. Fourth-year student Sam Comber describes the recently opened student centre as “a welcome addition to the exclusive little ‘law corner’ of the University campus”.

Another fourth-year student Lucy Mitchell says the student centre is a much-needed addition to the Law School: “Assignment hand-in and collection is now a much easier and less stressful task because over-crowding issues have been sorted out. But, more importantly, the centre provides students with an information hub,” she adds. “All the support services and assistance that I am sure were previously available are now more accessible, simply because they’re easier to find.”



New appointments

Claire Charters

Dr Claire Charters is one of those superstar people. Not only does she have degrees from some of the best universities in the world, but she has a formidable work record, is a mum of two beautiful children and just happens to be nice and completely down to earth.

Claire's journey started in the mighty town of Rotorua. She is a mix of Ngati Whakaue, Tuwharetoa, Nga Puhī and Tainui descent. After high school, Claire migrated southwards to the home of the Highlanders, the Captain Cook tavern, Castle Street and Mark Henaghan (the huggable Dean of the Otago Law Faculty) where she studied law and German. Claire says that her decision to study law was on the basis that it simply seemed more sensible than her initial first preference of study: literature. Despite clearly having a knack for the legal discipline (Claire went on to graduate with first class honours), law was not initially her cup of tea. It wasn't until her final honours year where she focused on indigenous people's rights that she began to realise the relevance of law and its important sociological and political function. This interest in indigenous peoples' rights became a passion that stuck.

Since graduating from Otago University, Claire has been an advocate on indigenous peoples' rights in various forms for over a decade. She has had a number of barristerial and advisory roles acting for Ngati Whakaue (with her dad), other iwi, non-governmental organisations and international indigenous organisations. She has appeared before the Privy Council, the UN Committee on the Elimination of Racial Discrimination, the UN Human Rights Council and the UN General Assembly and has been contracted to advise governmental institutions around the world.



Claire was appointed as a lecturer at the Victoria University Law Faculty in 2002 and gained an extensive teaching and publication record. It was also there, in the hallowed halls of the old Government building, that she met and fell in love with another young budding Maori academic by the name of Andrew Erueti. This Maori legal power-couple went on, not only co-author a book, but also to co-create two beautiful children (Max in 2010 and Mia in 2013).

Not content with racking up degrees from Otago, in 2000 Claire was the recipient of a Fulbright Award that allowed her to pursue a Master of Laws at New York University School of Law. Claire also spent time on a fellowship at Yale University and in 2011 she received her PhD from the University of Cambridge, United Kingdom. Claire's doctoral thesis examined the legitimacy

of indigenous peoples' norms under international law.

Claire returned to New Zealand and joined the Auckland Faculty of Law in July 2013. She has hit the ground running and has already injected her positive energy and new ideas into the Faculty. One of Claire's goals is to work towards establishing a clinical programme that allows students to engage in practical indigenous rights issues domestically, in the Pacific and beyond. Claire's appointment is welcomed by all, but in particular by Te Tai Haruru (the Maori academic staff of the Faculty of Law) and Te Rakau Ture (the Maori law students association).

Nga mihi maioha ki a koe e te rangatira!!

Natalie Coates



Nina Khouri

It took us more than a decade, but the Faculty of Law finally won back Nina Khouri when she joined us as a senior lecturer at the start of this year.

In one sense, Nina never really left the academic world. During her years as a commercial litigator, most recently with Gilbert Walker and prior to that at Russell McVeagh, she still found time to lecture in Jurisprudence (2008) and teach her flagship course, Negotiation, Mediation and Dispute Resolution from 2009-2011. She was appointed as a visiting associate professor with the University of Western Ontario in Canada from 2011-2012, where she taught contract law, legal research, writing and advocacy, and dispute resolution.

Although Nina has experience in teaching across a broad range of subjects, her passion lies in dispute resolution. In this regard, her extensive work as a commercial litigator combines with her academic expertise in the area. As a litigator, she has made regular appearances in the High Court, Court of Appeal and the Supreme Court on a wide range of civil disputes. But, starting from her undergraduate days, Nina developed a special interest in other methods of dispute resolution, particularly negotiation and mediation. This, along with legal theory and international law, was the focus of her study at NYU where she read for her Master of Laws, graduating in 2006. Qualifying as a mediator, she mediated in New York and in London before returning to practice in New Zealand. From 2007-2013, Nina served on the Board of LEADR NZ Inc, New Zealand's non-profit mediation organisation responsible for promoting best practice and public policy in mediation. She remains a consultant with Gilbert Walker and also mediates disciplinary cases for the

Francis Dawson



New Zealand Law Society.

Arriving at the Law School at the start of the year, Nina has gotten to work with her characteristic energy and quiet determination. She has been teaching evidence, legal ethics and a specialist Master's course on mediation. She has ambitious plans for developing a strong and internationally respected programme in dispute resolution, which will marry research into theoretical issues with a clinical education programme and thus start to bridge the gap in this area between academia and the legal profession. A key project in this regard was leading a team of Auckland Law School students to the International Chamber of Commerce International Commercial Mediation Competition in Paris in February 2013, with the team being placed second overall. This was the first time a team from New Zealand had participated in the competition.

Nina is also busy on a personal level. Married to the lovely Tim, they are parents to 18-month-old Nadia, who boasts a gorgeous Canadian passport issued to allow her return to New Zealand with her mum and dad at the ripe old age of 5 weeks!

Welcome back to the Law School Nina! It's great to have you on board.

Treasa Dunworth

Francis came from Oxford to the Auckland Law School as a lecturer in 1973. He established himself as a fine teacher and researcher in contract, company law and company finance. With other powerful minds, including Brian Coote and David Vaver, he formed the nucleus of a rigorous contract and commercial interest group through the 1970s and into the next decade. Whenever one spoke to lawyers in the city about employing recent graduates they would ask "What was his or her mark in contract? That's the measure".

After spending 1986-88 with the venerable McGill University in Quebec, Francis moved into practice in Auckland, first with Rudd Watts and Stone (morphing into Minter Ellis Rudd Watts), swiftly becoming a partner, then establishing Dawson Harford and partners in 2004. Although court appearances could be only occasional he made a distinct mark on the law reports: see *Chapman v Pendergrast* [1988] 1 NZLR 177, at 186.

It was for thirty years a case of "the profession's gain, our loss". Yet whenever one encountered Francis one got the impression of a first-rate commercial lawyer still inordinately interested in what was going on in academia. I remembered his writings, notably on contractual remedies and his (ongoing) editorship of *Benjamin on Sale*, and dared to hope this scholar-practitioner might be lured back to our fold. Excellent colleagues come and go and are missed, but the loss of one whose intellect nourishes philosophical and historical perspectives can be a grievous one and likewise the loss of a rigorous yet empathetic critic. My conscience was jogged on that score when recently a Law School visitor complimented me on a history-based note I had penned in the mid-1980s. I ought to have told him it was seventy-five percent Francis Dawson and twenty-five percent me. (Francis, then the journal's case-note editor, had required me to rewrite it at least three times).

The same thoroughness was displayed in his preparations for cricket and hockey activities, even social ones, to which he brought special talents to Auckland. Francis played the game, he didn't "potter". Likewise his books and other writings are not works that indulge frippery.

It was with delight that his former colleagues and many new ones welcomed Francis' appointment to a Chair earlier this year. I'm sure it isn't a coincidence that Emeritus Professor Brian Coote has been spotted several times in the vicinity of Marina House since Francis moved in.

Francis is married to Gill Goodwin, a distinguished senior securities, banking and corporate practitioner. We trust we shall see more of her now that her husband is again ensconced among us and *The English Reports*. To students, staff - and to *professores emeritii* - Francis' door is always open.

In a variety of ways the Law School's international profile in corporate and commercial law is further strengthened by his appointment. He comes back to us from a world of hard and complex realities. He brings to his teaching and writing a philosophy which frames the epic economic fluctuations of the past forty years. Not least he sees his work through the prism of history. My self-interest rejoices in regaining the daily society of another colleague to whom compurgation, *idebitatus assumpsit* and the common callings are not figments of a dark art, and for whom "Doctor" and "Student" remain, as St. German¹ intended, readily interchangeable positions.

The door stays open.

Bernard Brown

¹ St. German (or Germain), c. 1460-1540, *Doctor and Student*, see "St. German's Doctor and Student", *Seldon Society* 91. Cp. Francis Dawson, "Making Representations Good". (a conversation between Professor and Student) in (1980-82)1 *Canterbury LR* 329.

Susan Watson



In February this year the Faculty of Law was delighted to welcome Professor Susan Watson as a new Professor of Law, specializing in company and commercial law.

Susan adds real strength to an already vibrant cadre of commercial and company lawyers in the Faculty. With Professor Francis Dawson, also appointed last year, the Faculty is the national centre of excellence in the field, befitting its location in the commercial centre of the country. Susan also brings to the Law Faculty her cross-disciplinary links with the academics in the Business School, the business community, and lawyers working in business. She is also an experienced supervisor of PhD students, something academic lawyers in law faculties often lack.

Susan is deeply absorbed in all matters related to company law and business. She brings a committed law and economics approach to legal questions. A recent conversation I had with her started thus: "What makes company law so much fun is ..." Even to me, someone a bit vague about exactly *what* the corporate veil is, she brought these matters instantly to life and made them sound really quite fascinating, although I do confess to glazing over after the first few examples.

Susan's research interests are eclectic. Current research projects include: an historical and empirical inquiry into how boards of directors actually operate; an examination of legal structures that enable companies to succeed and endure; contributing to the American theoretical debate about the origins and development of companies; and an economic approach to enhancing the corporate conscience in the no-fault environment. Susan has contributed significant parts to a good number of major books, edited a number of collections and published research articles on a host of topical issues, such as partial privatization, corporate governance after the global financial crisis, and related party transactions. A must-have for all company lawyers is the second edition of the important Thomson and Reuters text *Company and Securities Law in New Zealand* (2012), which Susan co-edits and for which she is responsible for ten chapters. She is a director of the Research Centre for Business Law and joint editor of the *New Zealand Business Law Quarterly*.

Our students are enjoying engaging and expert instruction from a recipient of the Business School's Teaching Excellence Award, gained in part in recognition of her lead in the redesign of the compulsory commercial law course taught in the Business School and editing and co-authoring the course text, *Law for Business*. In the Faculty of Law she teaches both undergraduate and postgraduate company and contract law.

The University of Auckland is Susan's tūrangawaewae. Having been awarded her undergraduate honours and postgraduate law degrees, she joined the Business School's department of commercial law in 1992 after a significant period in legal practice. She rose from lecturer to professor and served as both Head of Department and an Associate Dean, before being appointed Professor of Law in the Faculty of Law last year. Our readers who studied law courses in the Business School will remember Susan with affection. She also has adjunct appointments at Vanderbilt, Bond and Tilberg universities, and is an honorary research fellow at Monash University.

Since arriving, it seems that Susan has scarcely stood still. With a wealth of leadership and administrative experience within a large faculty and university-wide, it is perhaps not surprising that, in no time at all, she is on the Faculty's management team and has been appointed Deputy Dean!

Susan has two lovely, bright young daughters - one who is attempting to pass undercover as one of our students - as well as a large extended family hailing in the recent past from Whangarei. She has an optimistic, amused approach to life and is notable for a delightful sense of humour, which her new colleagues are enjoying.

Jo Manning

Richard Scragg joins the Law School



Richard Scragg has joined the Faculty as a Teaching Fellow. Richard was Dean of the Canterbury Law School from 2007 to 2012 and was also acting Pro-Vice-Chancellor of the College of Business and Economics for a period in 2012. He retired from Canterbury Law School at the end of 2012 after 20 years as a faculty member.

His book, *The Principles of Legal Method in New Zealand*, is now in its second edition. He has also been a co-author or major contributor to *Legal Research and Writing in New Zealand* (Oxford University Press), *Introduction to Commercial Law* (Butterworths), and *Commercial Law in New Zealand* (Lexis Nexis), among other publications. Richard taught Legal Method and Legal Ethics in the second semester. In a welcome to new staff, Richard said he was happy to be somewhere where one was able to assume that the ground would be stable.

Sir Anand Satyanand appointed a Distinguished Fellow

One of the Auckland Law School's most prominent alumni, Sir Anand Satyanand, has accepted appointment as a Distinguished Fellow in the Faculty of Law.

Sir Anand was the 19th Governor-General of New Zealand and has been a lawyer, judge and Ombudsman. He obtained his LLB degree from Auckland in 1970 and worked as a lawyer for the next 12 years, including in the Crown Solicitor's Office and as a partner in Shieff England, where he specialised in criminal law, revenue law and judicial review cases. During this time he was a member of the Criminal Law Reform Committee and the District Court Rules Committee. He also served on the council of the Auckland District Law Society.

Sir Anand was appointed a District Court judge in 1982. While a judge he was involved in the development of judicial orientation and professional education programmes and served as Chair of the Prison Board and a member of the National Parole Board.

In 1995 Sir Anand was appointed as a parliamentary Ombudsman, a position he held for 10 years. He was subsequently New Zealand's Governor-General from 2006 to 2011. Sir Anand was the first Governor-General with Indian and Pacific ancestry and the first Roman Catholic Governor-General. He has recently been appointed chair of the Commonwealth Foundation.

Dean Andrew Stockley welcomed Sir Anand's appointment as a Distinguished Fellow of the Law School: "Sir Anand is a great friend and supporter of the Law School. He has been patron of our fundraising appeal and many of the staff remember his having spent time in the Faculty as a visiting District Court judge."

Sir Anand will spend two days a month at the Law School during term time and is looking forward to interacting with staff and students. He will take part in lecture and seminar programmes and will be able to offer insights from his time in legal practice as a judge, Ombudsman and Governor-General. He looks forward to helping judge student competitions and to assisting with the Law School's legal writing programme. As a Distinguished Fellow, he will also have the opportunity to advance his own writing during the periods he spends at the Law School.



Farewells

Mohsen Al Attar

When Mohsen joined the Faculty of Law in 2007 he quickly established a reputation as someone who cared as passionately about the students and their empowerment through education as he did about justice. He became a key member of our law and society team, teaching the first year course that had become part of the general education programme. The students loved him. Many went to their enrolled stream and then to his, testing the fire safety rules of the lecture theatres to their limits.

For Mohsen, pedagogy was the combination of philosophy, research and practice. For several years he worked with a team, securing a Vice-Chancellor's teaching improvement grant, to develop innovative e-learning facilities for students in Law and Society. His elective courses on international law, Islamic law and the making of a Third World pushed the traditional boundaries by exploring new learning and assessment strategies. He was always opening new opportunities for students, co-authoring several journal articles with students who researched for him. He invested energy into the Pasifika workshop programme. This commitment to teaching was recognised with the LexisNexis Excellence in Teaching Award from the Australasian Law Teachers Association.

As part of the international movement of legal scholars known as TWAIL - Third World Approaches to International Law - Mohsen's research and teaching were driven by a quest to find new responses to the challenges that have confronted critical legal scholarship for decades. This approach



is intrinsically cross-disciplinary, as well as comparative and international in its scope. His writing engaged critical issues in contemporary debates on globalisation, colonisation and the Third World, which informed his elective courses.

This philosophy also meant Mohsen immersed himself in the life of the broader University during his five years in the Faculty. He was a staunch member of the Tertiary Education Union, including during the industrial dispute in 2011 and 2012. His outreach included Continuing Education courses, participation in student-sponsored debates and support for the student-initiated group "We are the University".

Mohsen's contributions on Islam in the media and amongst diverse Auckland communities, including the Human Rights Commission and the Office of Ethnic Affairs, also fostered more informed and responsible debate.

Eventually, living on the other side of the world from his young daughter Sahara proved too hard.

After a year as a visiting professor at McGill in Montreal, while on leave without pay from Auckland, Mohsen has taken up a permanent position much closer to home at Queens University in Belfast. We wish him well and thank him for his dynamic contribution to the Law School and the University.

Jane Kelsey

Promotions

Katherine Sanders

News of Katherine's promotion to senior lecturer this year was received with delight - but not surprise - by her colleagues and students. Katherine is a true academic - and readers won't need to be told that, coming from a fellow academic, this is meant as a compliment!

The story of Katherine's career is a story of people and ideas. Despite being a quiet student, Katherine's promise was picked up early on by her teachers Professors Michael Taggart and Janet McLean. Katherine in turn was inspired by their teaching to develop her interests both in public law and in the history and theory of land and property law. The latter interest was further reinforced and nourished when Katherine worked as judge's clerk for the Right Honourable Justice Blanchard at the Supreme Court following her graduation. It was Mike and Janet's influence and mentorship that saw Katherine continue her studies at Yale with internationally renowned scholars Professor Carol Rose on property theory and Professor Jerry Mashaw on administrative law. Most recently, the Faculty and legal profession in Auckland shared in the benefit of these connections when Katherine helped organise and host a visit by Professor Carol Rose as the 2011 Cameron Fellow.



private land. Katherine was recently appointed the *New Zealand Law Review's* contributor of scholarly reviews of recent developments in land law. Her first contribution appeared last year ("Land Law" [2012] *NZ L Rev* 545).

Katherine is an immensely promising scholar and a very popular teacher. As well as teaching the core land and public law courses, she has developed a new elective course, *Contemporary Issues in Land Law*, which is very positively received by students. So how does a quietly spoken, scholarly teacher manage to enthuse students about a dry subject like land law? In part, no doubt, it is simply her personality - students like her and feel she wants them to do well. In addition to that, though, a lot of careful thought goes into it. Katherine says that she makes a point of delving beneath the large mass of technical statute and case law to explore the underlying legal principles and the social context using class debate following small group discussion. That in itself sounds rather forbidding, but Katherine presents it in

concrete and accessible terms. She emphasises the significance of property law in everyday life as a field in which laypeople - neighbours, purchasers, mortgagors and so on - encounter the law.

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One of the things Katherine took away from Yale is a very interdisciplinary approach to academic enquiry, which she is pursuing here by building connections with other departments. Recently she took a postgraduate seminar course with Distinguished Professor Dame Anne Salmond, in order to develop her knowledge of historical research methodologies. For that course she wrote a paper on the regulation of prostitution during the First World War which she will present at a legal history conference at Otago University later this year. The paper focuses on an infamous raid on a house in Kelburn and the subsequent trial. It explores contemporary uncertainties and fears about social change and its dangers and examines law as means of both social control and advocating social change.

Like most members of the Faculty, Katherine also has had experience in legal practice, and in her case this was in pursuit of the public law side of her interests. From 2007 to 2009, she worked as a solicitor with the Treasury Solicitor's Department in London - the English counterpart of our Crown Law Office.

Her combination of public law, legal history and land law interests provides the perfect base for exploring legal issues concerning Maori and resource management issues. Her most recent publication is "Public Access and Private Property: The Queen's Chain and the Custom of Recreational Access" [2012] *NZ L Rev* 273. This is a thorough and thoughtful scholarly analysis of the thorny issues concerning New Zealanders' widely assumed access rights to the so-called "Queen's Chain", canvassing both the New Zealand history and the English law of custom's approach to community recreational use of

In introducing this way of thinking to her students, she shares a turning point in her own intellectual journey for which she credits Justice Blanchard. He encouraged her to take an interest in the law on receiverships by pointing out that human rights law is not the only area of law that protects important interests of real people. When a company goes bust, a lot of peoples' lives are affected very severely and it is vitally important for them that the law regulates such situations in a fair way. The same is true, Katherine says, of much of land law - for instance, rules about mortgages.

Her commitment to, and success with, engaging teaching methods has already achieved recognition beyond her classroom. Following observation of one of her classes by a member of the Centre for Academic Development, she was invited to speak on a panel at one of the centre's seminars, entitled "Herding sheep: Interaction in large undergraduate lectures" - and further invitations followed from that.

Katherine's so evidently well-deserved promotion to senior lecturer last year coincided with her leave from the Faculty for the birth and care of her first child, her adorable little daughter Isobel. So this year we are delighted to welcome Katherine back as a new mum and a new senior lecturer, ready to take on the challenge of balancing both commitments with her usual dedication and enthusiasm.

Hanna Wilberg

Teacher extraordinaire - Khylee Quince

Khylee Quince was the first recipient of the recently re-established Faculty of Law Teaching Award, thereby setting a very high inaugural bar for future applicants.

Khylee has developed her own unique style of teaching since she was first appointed at the Law School. In her own words, her teaching philosophy is underpinned by her “experiences as a student, by principles of kaupapa Maori, and by evidence based research and experience as to what works”. Add to that an excellent knowledge of the law and an appreciation of how the law works - or doesn't work - in her specialist areas of research and teaching, as well as a good dose of humour, and you have students hanging on to her every word. Not only do they acquire a sound understanding of the law in her classes, they are encouraged to question and critique and to contribute actively to the advancement of a fair and just society for all.

Khylee moves effortlessly between big compulsory classes, smaller electives, honours seminars and LLM courses, meeting the challenges of teaching at different knowledge and skills levels and responding to the needs of individual students. Her open-door policy is truly an open door. Students are always welcome to drop by her office and she is extremely generous in sharing her knowledge, experience and insights with them, unlocking many complicated and intricate legal phenomena and igniting a desire and enthusiasm to learn more and tackle the difficult issues. Khylee has succeeded in striking the delicate balance between maintaining very high standards while making difficult areas of law accessible to students and encouraging them to undertake research in those areas.

In her 15 years of teaching Khylee has covered an impressive range of courses across several faculties: Criminal Law, Jurisprudence, Maori Land Law, Personal Property, Land Law, Women and the Law, Youth Justice, Advanced Criminal Law, Criminal Law and Policy, Comparative Indigenous Peoples and the Law, Medical Humanities, Sociology and Crime, Doing Time: Incarceration and Punishment, and Contemporary Criminology. Teaching across different disciplines has been an enriching and rewarding experience for Khylee - her two key aims in teaching law are to “promote accessibility and consideration of context” and she has certainly achieved that. But she has gone much further. By endeavouring to “teach in a way that promotes

accessibility of legal concepts, language and processes, without loss of meaning or nuance” and challenging “positivist claims to law's neutrality,” she requires students to “critically assess their perceptions of law and its place in society”. This resonates well with the critical conscience we seek to nurture in our law students, something that is also appreciated by the other faculties who have repeatedly invited Khylee back to teach on their programmes.

Excellent teaching is informed by excellent research and Khylee's teaching confirms this. Her research on Maori and the criminal law and criminal justice system, Maori jurisprudence, and youth justice has had a huge impact on a national and international level. More specifically, Khylee adopts a kaupapa Maori approach to teaching and learning, which includes the principles of tino rangatiratanga (self-determination), taonga tuku iho (cultural aspiration), ako Maori (Maori pedagogy), kia piki ake I nga raruraru o te kainga (socio-economic mediation), whanau (extended family structure), kaupapa (collective philosophy) and Te Tiriti o Waitangi (the Treaty of Waitangi). Having modelled her teaching theory and practice on these principles, Khylee continues to reflect on how they could improve her own performance and also be imported into mainstream legal teaching.

In her role as Associate Dean (Maori), Khylee has completely overhauled the mentoring assistance provided to Maori students. Consistent with the Maori view of community and the ability to manaaki (support/look after) people - which looks to the whole person, his/her whanau, hapu and iwi, as well as the circumstances of his/her life - Khylee's role extends far beyond the lecture room, involving a significant amount of pastoral care and support.

Khylee is unique: enthusiastic, involved, supportive, a true academic citizen and a treasured colleague. She is passionate about her teaching, as she is about Liverpool and the Warriors! Above all, she possesses that enduring quality of greatness: modesty. Kaore to kumara e korero e tana mangaro (A kumara does not speak of its own sweetness). We are very fortunate indeed to have someone of Khylee's calibre teaching at our law school.

Elsabe Schoeman



From left: Dr Andrew Stockley, Khylee Quince and Dr Elsabe Schoeman

Peter Watts becomes QC



From left: Mrs Pat Watts, Professor Peter Watts, Susanna Lees Watts, and Stephanie Lees

Members of the judiciary and profession joined staff at the Faculty of Law in June 2013 to celebrate the appointment of Professor Peter Watts as Queen's Counsel. At the drinks reception, Dean Andrew Stockley noted that only a few academic lawyers had ever attained this rank and this was a signal achievement and an appropriate recognition of Professor Watts's outstanding contribution to the law and the work of the courts.

The Attorney-General had announced the appointment of 26 new silks on 17 May, the first new appointments for five years. Twelve of the 26 had studied at the Auckland Law School and they included Neil Campbell, a former Associate Professor at the Law School. The rank of Queen's Counsel is normally reserved for leading barristers and Professor Watts was one of only two of the 26 appointees who had the honour conferred under the royal prerogative for "extraordinary contribution to the law".

The Dean noted that Professor Watts is one of the Commonwealth's leading academic lawyers. He is internationally acknowledged for his expertise in commercial law, particularly in agency law, company law, equity, the law of restitution, and insolvency law. Professor Watts is the general editor of *Bowstead & Reynolds on Agency* (19th edn), the leading Commonwealth text in its field. Other books include *Company Law in New Zealand* (2011), co-authored with Neil Campbell and Chris Hare, and *Directors' Powers and Duties* (2009). He has written for many of the Commonwealth's leading law journals and his articles have been cited by judges in the House of Lords, the High Court of Australia, the Supreme Court of New Zealand, the Court of Appeal of England and Wales, and many other Commonwealth courts. He has been asked to advise the New Zealand Law Commission and the Law Commission of England and Wales on a range of private law and commercial law projects. He is regularly asked for opinions in complex commercial cases, is a barrister at Bankside Chambers in Auckland and a door tenant at Fountain Court Chambers in London. The Dean noted that the Faculty was immensely proud of everything Professor Watts had achieved and the great contribution he made and was continuing to make to the development of the law.

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Professor Watts's speech in reply thanked those across his time as a student at the University of Canterbury through to the present who had, in one way or another, played a role in his developing a national and international profile in commercial law. He singled out in particular, Professor Francis Reynolds, emeritus Professor of Oxford:

"On one of his visits to the Auckland Faculty in 1989, [Francis] encouraged colleagues to submit pieces for the *Law Quarterly Review*. I submitted a case note on two New Zealand Court of Appeal decisions, which he liked very much. He then gave me the coveted task of writing the note on the famous restitution decision, *Lipkin Gorman v Karpnale* (1991), which in turn led to my being his author of choice for analyses of House of Lords and Privy Council decisions in the area of company law and restitution. Then he recommended in 2008 that I take over *Bowstead & Reynolds on Agency*, of which he had been author since 1968. It is this prestigious job that has led to my invitation to become a door tenant at Fountain Court, in the Temple, London. So, plainly I am greatly indebted to Francis."

Doing it the German way!

Maya Mandery

Maya is one of the most “international” members of the Faculty of Law - born in England, raised and schooled in New Zealand, undertaking postgraduate study in Germany (LLM and PhD), and then back to New Zealand to join the Auckland Law School.

She has crossed many borders, many times. But, not only has she crossed geographical borders, in her PhD thesis Maya crosses the legal divide between the Anglo-Common Law systems and the Civil Law systems with a thesis on “Party autonomy in contractual and non-contractual obligations: A European and Anglo-common law comparative perspective on the freedom of choice of law in the Rome I Regulation on the law applicable to contractual obligations and the Rome II Regulation on the law applicable to non-contractual obligations”. After successfully defending her thesis (with a title of almost 50 words!) in an oral examination, Maya was awarded the PhD *summa cum laude* - congratulations, Maya!

Maya did her PhD study through the University of Cologne, courtesy of a prestigious Dr Carl-Arthur Pastor-Stiftung Scholarship, where she was supervised by Prof Dr Heinz-Peter Mansel, director of the *Institut für internationales und ausländisches Privatrecht* and editor of a leading German private international law journal, *Praxis des internationalen Privat- und Verfahrensrechts*. Her chosen area of study can be described as knotty, complex and intellectually demanding, but Maya is not known for shying away from a challenge! On the contrary, she approached her PhD study with characteristic grit and determination, patiently working her way through the myriad of German commentaries on the German Civil Code, as well as the EU Regulations. Add to that the range of Anglo-common law jurisdictions she studied and one begins to get an idea of the scope and potential impact of her thesis.

In the Anglo-common law world party autonomy - choosing the legal system that will govern a legal relationship - is well known in the field of contractual obligations but almost completely absent from non-contractual



obligations, including tort. Having painstakingly gathered every shred of evidence that may point to some acceptance of party autonomy in tort in Anglo-common law systems, Maya’s thesis now constitutes the most comprehensive analysis ever undertaken on this point. Of course, this is informed and enlightened by the preceding critical analysis of German law and the EU Rome Regulations, which adds the value of comparative perspective. Bearing in mind that Germany is the cradle of modern private international law, the German part of Maya’s thesis is an indispensable prerequisite for any study in this area of the law. Because it is difficult to access for non-native German speakers, Maya’s thesis will become a valuable source of reference for future Anglo-common law conflicts scholars. But, even more significantly, her thesis provides a theoretical framework within which

to develop the principle of party autonomy for tort in Anglo-common law systems. In this regard her thesis makes a huge contribution to existing private international law scholarship in this area and adds value to current academic discourse.

What makes Maya’s feat even more remarkable, is that she completed her PhD thesis while carrying a full teaching load and being mother to her teenage daughter, Jada. Her achievement is testament to her total commitment to everything she takes on, her ability to motivate herself and focus on the task at hand, and the high standards she sets for herself. I had the privilege of reviewing the Anglo-common law section of her thesis and I was impressed with its scope and depth, as well as her insight into the subtleties of private international theory. For such a young academic, she has a very mature approach to legal scholarship.

Herzlichen Glückwunsch, Maya! We are very proud of you.

Elsabe Schoeman

New Ombudsman values academic links

University of Auckland Law Professor Ron Paterson began his five year term as Ombudsman on 4 June 2013, and plans to maintain close relations with the Law School. Working with Chief Ombudsman Dame Beverley Wakem, Professor Paterson will share the workload of a very busy office, dealing with complaints of maladministration by public agencies and Official Information Act 1982 requests.

His experience as Health and Disability Commissioner (2000-2010) and as chair of the New Zealand Banking Ombudsman Scheme (2010-2013) has given him a wealth of experience in complaint handling, and his work as a Deputy Director-General of Health (1999-2000) gave him valuable insights into the workings of central government. He says:

“The role of Ombudsman is an important part of our public institutions. It’s an independent role; as an Ombudsman you are an officer of Parliament rather than reporting to a Minister. The role recognises the importance of that independence to enable effective checks on administrative action. I look forward to the new challenges and to helping ensure fairness and openness in public administration. I see the broader education and public watchdog aspects of the Ombudsman’s role as vital”.



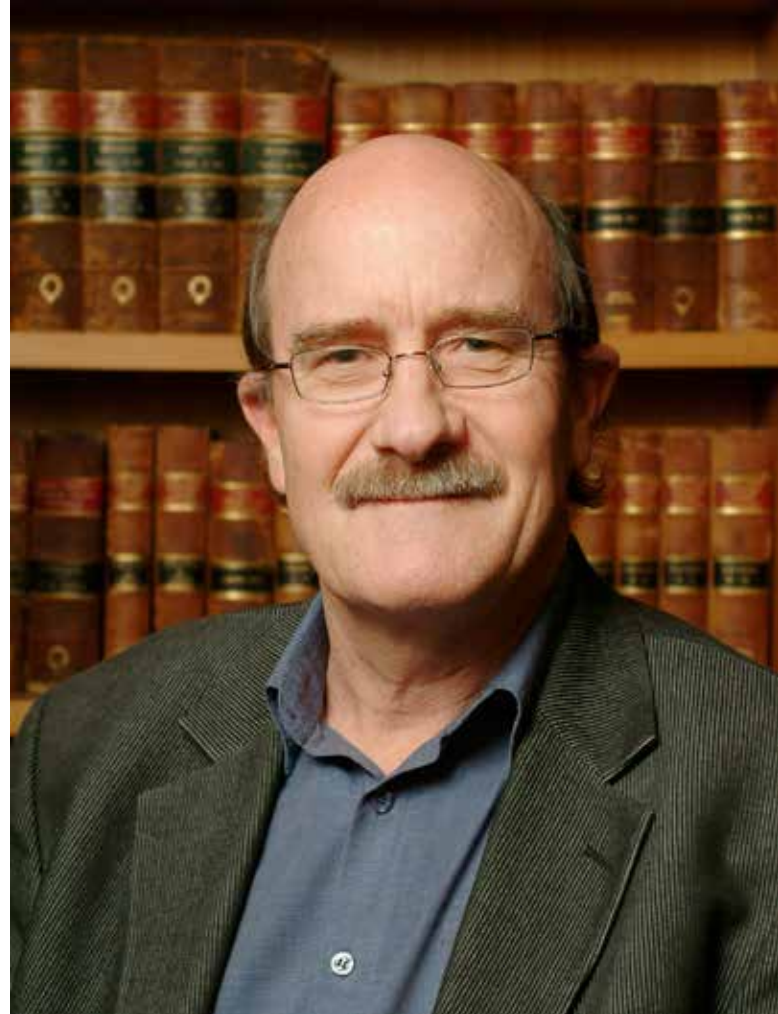
Warren Brookbanks awarded Doctorate of Laws

In 2013 Professor Warren Brookbanks was awarded the degree of Doctor of Laws. The degree is awarded for an original contribution of special excellence to the history, philosophy, exposition or criticism of the law. The LL.D degree is awarded on the basis of published work, but may include unpublished work. Warren's academic work spans the 31 years he has been teaching at the Auckland Law School. His co-authored textbooks, Simester & Brookbanks, *Principles of Criminal Law* (4th edn) and Bell & Brookbanks, *Mental Health Law in New Zealand* (2nd edn) are used within the six New Zealand law schools and by professionals working in those fields. In addition, the co-edited books *Psychiatry and the Law* (2007), *Criminal Justice in New Zealand* (2007), and Warren's recently published text *Competencies of Trial: Fitness to Plead in New Zealand* (2011) were submitted, together with a folio of published articles, to complete the LL.D application.

Over the years Warren, in addition to his research and teaching responsibilities, has presented at numerous international conferences. He is also a regular presenter at conferences and seminars in New Zealand organized by the New Zealand Law Society and the Institute for Judicial Studies. Warren sits as an academic member of the District Court Judges Education Committee. Assisting the judiciary in the development and exposition of the law is an important aspect of his wider contribution to the legal community. He has written numerous opinions for legal practitioners dealing with difficult and complex areas of the law. His legal analysis is often reflected in decisions of the courts, either through the submissions of counsel or in the citation of his legal writing. In recent years his writing on issues around unfitness to stand trial has been a significant influence on the development of the law in this area.

For the last 13 years an interest of Warren's has been in the legal paradigm of therapeutic jurisprudence. This is a law reform model which recognizes that the law, through its operation, can produce "anti-therapeutic", or psychologically damaging outcomes. These effects can often be ameliorated through simple changes in legal processes and through a better understanding of the psycho/social impacts of the law itself. This new movement in the law is also accompanied by conscious efforts of key players to minimize the need for adversarial solutions to legal problems, and to reduce the often corrosive effects of adversarial justice.

In the future Warren anticipates that much of his research energy will be devoted to commentary on issues at the interface between criminal law and psychiatry and law, where significant law change has occurred or is anticipated. His involvement in the Australia and New Zealand Association of Psychiatry, Psychology and the Law, of which he is a past president, has been a significant influence and impetus for his work in the psychiatry and law area. These interface areas involve significant human rights and public safety concerns, where achieving a balance between the two competing interests is not always easy. Warren's recent writing on preventive detention and coercive care addresses some of these concerns. He anticipates that future editions of *Principles of Criminal Law* will also keep him busy for some time to come.



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Auckland success in legal writing awards

The Auckland Law School did extremely well in the Legal Research Foundation's legal writing awards, winning three of the four awards (the same three awards it also won last year).

Professor Janet McLean won the top prize, the JR Northey Memorial Book Award, for her book *Searching for the State in British Legal Thought* (2012). A short insight into that project is provided in her writing below. Hamish

McQueen, a recent graduate, who is currently clerking for the President of the Court of Appeal, won the Sir Ian Barker Published Article Award for "The peculiar evil of silencing expression: The relationship between charity and politics in New Zealand" (2012) 25 *NZULR* 124. Edward Willis, who is studying for his PhD, won the Unpublished Post-Graduate Paper Award for "Limits on constitutional authority".



New books

Peter Devonshire, *Account of Profits*, Thomson Reuters.

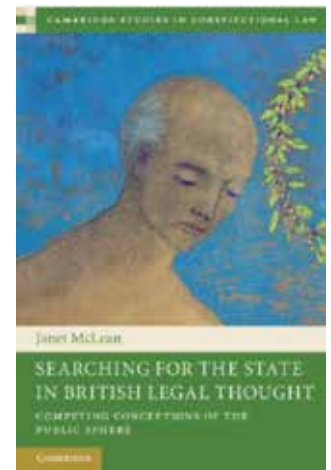
An account of profits is a powerful weapon in the litigator's arsenal. It is an underutilised remedy that can be granted in many cases where defendants have profited from their wrongs. It is the principal remedy for breach of fiduciary duty and breach of obligations of confidence. The remedy is also available in respect of certain common law wrongs and has an important role in cases of intellectual property infringement. In his book *Account of Profits*, Peter Devonshire analyses the remedy in context, identifying the key legal principles and their application.

In the foreword, the Hon Michael Kirby describes *Account of Profits* as "original, timely, practical and forward-looking" and "a book of great practical worth for lawyers in many countries where the common law and the law of equity still flourish".

Janet McLean, *Searching for the State in British Legal Thought: Competing Conceptions of the Public Sphere*, Cambridge University Press.

In *Searching for the State in British Legal Thought* Janet McLean explores how the common law has personified the state and how those personifications affect and reflect the state's relationship to bureaucracy, sovereignty and civil society, the development of public law norms, the expansion and contraction of the public sphere with nationalization and privatization, state responsibility and human rights. The book sets important jurisprudential debates in a wider social, political and historical context, thereby providing more than just an analytical account of the subject.

The book discusses writers such as Austin, Maitland, Dicey, Laski, Robson, Hart, Griffith, Mitchell and Hayek in the context of both legal doctrine and broader intellectual movements. Treating legal thought as a variety of political thought offers modern scholars of political thought a legal perspective that is frequently missing.



Received ideas

In what turned out to be one of my last conversations with Mike Taggart before his illness, the discussion turned to John Austin. I was trying to explain a particular interpretation of John Austin's work when Mike interrupted with "But who read Austin, why did they read him and did his work have any impact on the law or lawyers themselves?"

Mike's question went to the heart of my research project which tries to uncover the ways in which the law and its institutions have been able to receive and often resist salient political and other theories. The project, still on-going, is by no means fully realised in my book *Searching for the State in British Legal Thought* (2012) which discusses some of the major debates

about the nature of the public sphere and their impact on law through the nineteenth and twentieth centuries. To give you some idea of the complexities attached to answering these questions, let's take the example of John Austin himself.

Most of us will remember Austin as the jurisprudential figure with an absolutist take on sovereignty, the separator of law from morality and as the founder of legal positivism. But the story of how those ideas came to be the received view of many lawyers - at least until HLA Hart produced a new version of legal positivism - is much more complex.





John Austin was a diffident, self-critical figure. He took two years to prepare his lectures on jurisprudence at the University of London. When he finally came to deliver them the content was so difficult and the delivery so dry that students dwindled to a mere handful. This was a financial disaster given that he was paid per student and he did not last long in his post. But this period of his life did produce the classic work *The Province of Jurisprudence Determined* (1832) (PJD). Austin was so dissatisfied with it and regarded its defects as so great that he resisted all requests for a second edition. He became a chronic invalid supported by his formidable wife Sarah, herself a noted translator, until his death in 1859. No authenticated portrait of him exists, although the National Portrait Gallery has one of Sarah. So how did his work achieve the fame it did?

It was only after his lifetime that he achieved widespread recognition. Sarah Austin edited and arranged his *Lectures on Jurisprudence* for publication. In 1863, his old friend JS Mill reviewed PJD in the *Edinburgh Review*. Unlike earlier reviews, which had concentrated on his utilitarianism, Mill reinterpreted the work, choosing to focus on the separation between law and morals by which it was to become known. It was a time when the study of law was being reinvigorated as a discipline in the English universities and the Inns of Court, and Austin's general theory of law lent these endeavours academic credibility as a contribution to a "legal science" that could rival continental and US legal education and scholarship. New interpreters sprang up such as TE Holland whose *Elements of Jurisprudence* owed a great deal to Austin but who wrote in a much more accessible common law style. Austin's assiduous widow cultivated Sir Henry Maine and others who gave prominence to his ideas (if often to disagree with them).

Austin's general theory of law emerged at a time when there was an "analytical turn" in philosophy more generally. It was at the "right time" but what made it the "right theory"? The answer to this has to be more speculative. I think there were at least three crucial impacts that Austin's theories of sovereignty had on law itself. Its acceptance was never a given - even from among those working within his own tradition. For example, despite its claims to be a general theory, Austin's attempt to describe where

sovereignty lies in the UK constitution was never very convincing. It could not clearly distinguish between those who command and those who obey in a democratic constitution. Later utilitarians such as Henry Sidgwick, writing in 1891, criticised the theory as full of "contradictions" and "embarrassments" and suggested that Dicey had a better story about sovereignty being split between Parliament and the people. Crucially, however, Austin's theory lent itself very much to the British colonial enterprise. The idea that to be truly sovereign meant that a sovereign had to be independent of all other sovereigns quite accurately described the relationship of the UK Parliament to the various parts of the Empire over which it retained ultimate law-making power. It was this aspect of the theory, for example, which Markby emphasised in his lectures given in India. And despite Austin's disparaging comments about international law itself - it was only positive morality and not law - British international lawyers such as Westlake overtly adopted his separation between law and morality and emphasised the importance of supreme coercive power in service of the imperial expansion.

The other development that seemed to give traction to his views was a newly centralising bureaucracy. The idea that sovereign commands are delegated to the common law judges does not come easily to the common law mind. But Austin's views about sovereignty and authority lent themselves to the newly centralizing state apparatus which was suspicious of all rival sources of political authority. In this respect, his theories better explained practice by the end of the nineteenth century than they had when he first published them.

There are perhaps wider lessons here, and not only for those of us who have devoted ourselves to the scholarly life and sometimes doubt our contribution, but also for those bureaucrats who think that the task of measuring "research impacts" is to be entered into lightly and with a calculator.

Janet McLean

The postgraduate programme

The Auckland Law School postgraduate programme offers a broad, rich and flexible suite of opportunities for advanced legal research and training, ranging from the possibility of practitioners auditing individual LLM courses to meet their continuing professional development requirements, through to the Postgraduate Certificate in Law, the LLM by coursework or by major or minor thesis, and doctoral study in law.

The LLM by coursework programme has been refocused and reinvigorated for 2014, with the introduction of a large number of new courses offered by leading international experts and our own staff in the Faculty of Law and the Department of Commercial Law.

Our commercial offerings remain as strong and highly relevant as ever in 2014, starting with an intensive course in insurance law in February 2014 offered by Professor Rob Merkin. Rob is the Lloyd's Professor of Commercial Law at the University of Exeter and an Honorary Professor of Law in the Business School at The University of Auckland. He has a pre-eminent international reputation in the fields of insurance and shipping law. We are also pleased to welcome Professor John Armour, Hogan Lovells Professor of Law and Finance at Oriel College, Oxford. He will be teaching an intensive course on comparative company law in March, which will complement the ever-popular corporate governance course co-taught by Professors John Farrar and Susan Watson later on in the year.

Other new commercial law LLM courses offered in 2014 include an intensive course, Markets and Regulation, taught in July by Dr James Every-Palmer, a Harvard and Oxford graduate and leading expert on economic regulation and competition law, and a full-semester course on international commercial contracts, taught by Dr Maya Mandery. The significance of

transnational commercial law and its global implications is also highlighted in a ground-breaking intensive course offered for the first time by Dr Elsabe Schoeman on the human rights dimensions of international commercial law.

Environmental law has always been one of the strengths of the Auckland Law School LLM. In 2014 we are pleased to welcome Professor Joanne Scott from UCL, who will be teaching a comparative intensive course in March on European environmental law and governance, and highlighting the relevance of European environmental models and norms for New Zealand. A leading expert on environmental protection law, Joanne has been a Visiting Professor at Columbia Law School and Harvard Law School and a Jean Monnet Fellow at the European University Institute in Florence. Later in the year, Professor Christina Voigt from the University of Oslo, a graduate of the Auckland LLM programme herself, joins us again in October to teach an intensive course on climate change law.

On the international trade and public international law front, we are offering two exciting new courses in 2014. Penelope Nevill, a leading young English barrister at 20 Essex Street Chambers, will teach a course on international dispute resolution in August. Penelope has appeared as counsel in the International Court of Justice and the European Court of Human Rights. She also lectures on public international law at King's College London, and the law of armed conflict at the University of Cambridge. Treasa Dunworth will be offering a special intensive course in September on the law of international peace and security, which is specifically timed to examine the last century of progress in public international law since the start of World War I.



The full list of our 2014 LLM courses is set out next. The 2014 postgraduate prospectus and full course outlines are available on our website: www.law.auckland.ac.nz > Postgraduates.

If you need more information about the LLM courses offered by the Auckland Law School, please contact our Postgraduate Student Adviser at:

Law Student Centre
Level 2, 1-11 Short St
Auckland 1010
Phone: 0800 61 62 65 or +64 9 923 1973
Email: postgradlaw@auckland.ac.nz

If you are interested in embarking on a dissertation or thesis at LLM or PhD level, please contact me to discuss your research interests.

Paul Myburgh
Associate Dean (Postgraduate)



2014 LLM courses:

| Course code | Title | Point Value | Name | Institution |
|---|--|-------------|--------------------------------------|---|
| Intensives (Semester 1: 3 March - 6 June) | | | | |
| LAWCOMM 720 | Law of Insurance Contracts | 30 | Professor Rob Merkin | Lloyd's Professor of Commercial Law, University of Exeter and Honorary Professor of Law, The University of Auckland |
| LAW ENVIR 718 | European Union Environmental Law and Governance | 30 | Professor Joanne Scott | Professor of European Law, University College London (UCL) |
| LAWCOMM 736 | Comparative Company Law | 30 | Professor John Armour | Hogan Lovells Professor of Law and Finance, Oriel College, Oxford |
| LAWENVIR710 | International Environmental Law | 30 | Professor Klaus Bosselmann | Faculty of Law, The University of Auckland |
| Full and Part Semester courses (Semester 1: 3 March - 6 June) | | | | |
| LAWCOMM 705 | Commercial Leases | 30 | Associate Professor David Grinlinton | Faculty of Law, The University of Auckland |
| LAWCOMM 712 | Insolvency | 30 | Mike Josling | Department of Commercial Law, The University of Auckland |
| LAWGENRL 713 | Ideas of Land | 30 | Katherine Sanders | Faculty of Law, The University of Auckland |
| Intensives (Semester 2: 21 July - 24 October) | | | | |
| LAWCOMM 758 | Franchising Law | 30 | Professor Andrew Terry | University of Sydney |
| LAWCOMM 737 | Markets and Regulation | 30 | Dr James Every-Palmer | Partner, Russell McVeagh |
| LAWCOMM 709 | Corporate Governance | 30 | Susan Watson/John Farrar | Faculty of Law, The University of Auckland; Bond University |
| LAWGENRL 714 | International Dispute Resolution | 30 | Penelope Nevill | Barrister, 20 Essex Street Chambers and Affiliated Lecturer, University of Cambridge |
| LAWCOMM 741 | Secured Transactions | 15/30 | Mike Gedye | Department of Commercial Law, The University of Auckland |
| LAWPUBL 741 | International Peace and Security | 30 | Treasa Dunworth | Faculty of Law, The University of Auckland |
| LAWENVIR 723 | Climate Change Law | 30 | Professor Christina Voigt | University of Oslo |
| LAWPUBL 744 | International Commercial Law: The Human Rights Dimension | 30 | Dr Elsabe Schoeman | Faculty of Law, The University of Auckland |
| LAWCOMM 741 | Secured Transactions | 15/30 | Professor Mike Gedye | Department of Commercial Law, The University of Auckland |
| Full and Part Semester courses (Semester 2: 21 July - 24 October) | | | | |
| LAWCOMM 717 | Law of Agency | 30 | Professor Peter Watts QC | Faculty of Law, The University of Auckland |
| LAWPUBL 705 | Criminal Law and Policy | 30 | Professor Warren Brookbanks | Faculty of Law, The University of Auckland |
| LAWCOMM 713 | Intellectual Property Law | 30 | Paul Sumpter | Faculty of Law, The University of Auckland |
| LAWCOMM 739 | International Commercial Contracts | 30 | Dr Maya Mandery | Faculty of Law, The University of Auckland |

New Zealand Centre for Human Rights Law, Policy and Practice

Now in its second year, with Paul Rishworth having joined Kris Gledhill as a co-director, the Centre has held a series of events and is looking to increase its profile further in 2014. Two of this year's events are described here.

The constitutional conversation

In June the Centre held a symposium on the place of human rights in the New Zealand constitution, this being one of the matters on which the Constitutional Review Panel has been tasked with reporting on to the Deputy Prime Minister and Minister of Maori Affairs. Dr Ranginui Walker, a member of the Panel, was in attendance. Ced Simpson, Executive Director of Amnesty International, suggested the question of whether we need additional protection for human rights should be explored by asking those whose rights might be compromised. He added that New Zealand has signed many international rights instruments that are not yet properly reflected in domestic law and the opportunity should be taken to modify this. Various workshops conducted during the symposium brought suggestions of such additional rights, from the perspective of people with disabilities, youth, women, and in the context of economic interests.

Paul Rishworth and John Hannan of DLA Phillips Fox, a former lecturer in the Auckland Law School, supported the status quo - that is, a Bill of Rights that is not "supreme law". They contended that human rights were well supported in our current constitutional framework. They noted that the substance of the rights enjoyed by New Zealanders was as good as in countries with a much greater formal level of protections for rights, such as in the USA. Moreover, progress on human rights matters in New Zealand was often significantly ahead of - and at least contemporaneous with - states with more elaborate constitutional regimes.

There were also debates about the mechanics of securing rights. Dr Wayne Mapp, now a Law Commissioner, expressed the view that there should be an expanded and consolidated Constitution Act. Royden Hindle, formerly the chair of the Human Rights Review Tribunal, suggested that there be a new Constitutional Court that would be able to rule on matters relating to human rights, and also on the Treaty of Waitangi.

Suing government for discrimination

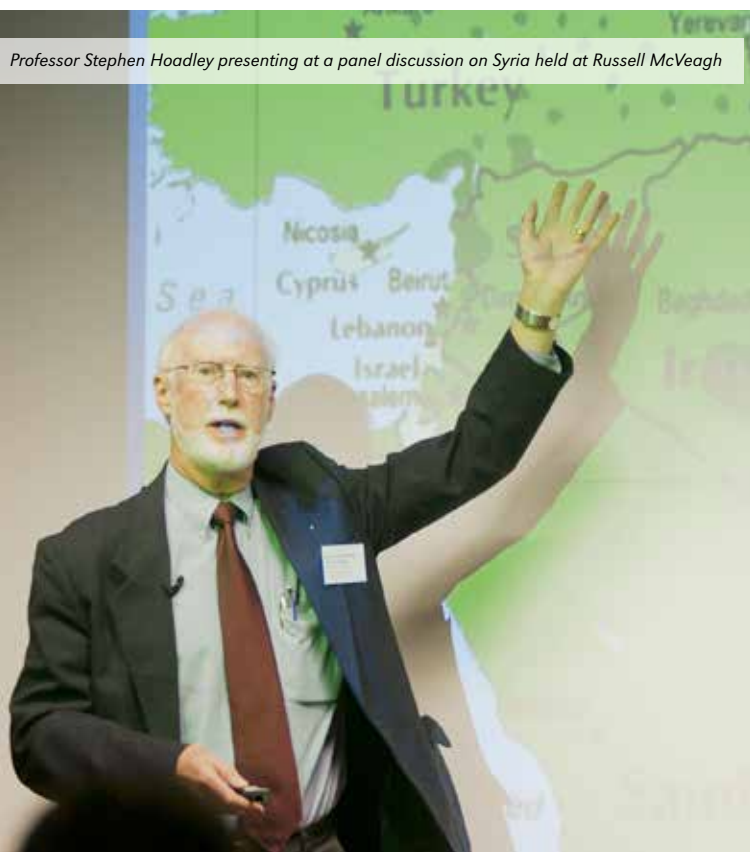
A second seminar in July looked at the *Family Caregivers Case* (*Ministry of Health v Atkinson* [2012] 3 NZLR 456 (CA)), which held the government's practice of not paying for the care provided by parents to their adult disabled children - but paying only for caregivers who were not relatives - was discriminatory. This was a major case, keenly contested by the Crown at all levels on the basis that a parent's care to a child was properly regarded as being natural support for which payment was inapt and, indeed, problematic (due to its tendency to commercialise the family relationship).

The Government did not appeal the decision of the Court of Appeal to the Supreme Court, but enacted legislation that only partially implements it - the new legislation specifically authorises policies for payment that take into account matters such as family relationship and that permit family members to be paid at lower rates than others. The legislation includes an ouster clause that prevents any subsequent legal challenge to the new regime.

Frances Joychild QC (counsel for the *Atkinson* plaintiffs) and Dr Jim Farmer QC (counsel for a litigant in a related case) each spoke about the *Atkinson* litigation and its legislative sequel. This led to a discussion about the place and operation of ouster clauses.

In other activities this year the Centre has co-hosted a seminar on access to justice with the Legal Research Foundation, held seminars on religion in schools, initiated an annual criminal law and human rights colloquium together with the Criminal Bar Association, and worked with Amnesty International to introduce a general discussion on human rights matters as part of the latter's annual general meeting.

Paul Rishworth



Professor Stephen Hoadley presenting at a panel discussion on Syria held at Russell McVeagh



Friend of the Law School passes away

Professor John Tiley QC, CBE 1941-2013

John Tiley QC, CBE, Professor of Tax Law at Cambridge, Fellow of the British Academy and the doyen of Commonwealth tax scholars, was a great friend of the Auckland Law School. He first visited Auckland in 1973, with his wife Jillinda, an expert on Roman law and a Fellow of Lucy Cavendish College, Cambridge. On that occasion they stayed for six weeks, living in a house in Mission Bay, and John contributed to the teaching of several courses on the LLB. They visited again in 2011, when John taught an advanced tax course on the LLM and delivered a most memorable lecture on tax avoidance under the joint auspices of the Law School, the Auckland Branch of the International Fiscal Association and the New Zealand Society for Legal and Social Philosophy. John and Jillinda were planning to visit again in 2014 - John was to represent the UK in the Law School's capital gains tax conference - but John died on 30 June 2013. More sadly still, he took his own life by stepping from the roof of the law faculty building at Cambridge.

Professor Tiley was born in 1941, the son of a tax inspector. He attended Winchester College and then Lincoln College, Oxford. He joined Cambridge as a Fellow of Queens' College in 1967 and remained there for the next 46 years. In 1990 he became Cambridge's first ever Professor of Tax Law and held that position until he retired in 2008.

Professor Tiley's influence has been immense. It is difficult nowadays even to imagine that half a century ago tax law was generally thought of as so impenetrable as to be beyond the capacity of humankind to reduce it to anything resembling intellectual coherence. Nonetheless, that was so; and Professor Tiley was a key figure in resolving the problem.

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But Professor Tiley's influence extends far beyond his own writings. In particular, he served as an unofficial mentor to younger tax scholars all over the world, including the author of this obituary. He encouraged them to write for the *British Tax Review*, of which he was for many years editor, and he taught them how to undertake the kind of work that would meet the review's exacting standards. He also in 2001 founded the Cambridge Centre for Tax Law, through which every second year from 2002 onwards he organised a conference on the history of tax law, hosted by Lucy Cavendish, Jillinda's college. To these he invited an eclectic group of 30 or so tax



academics, practitioners, judges and administrators from around the world and the fruits have been published by Hart as *Studies in the History of Tax Law*, vols 1 to 6. Professor Tiley was instrumental, too, in law reform. Most recently he was a member of the study group established by the British government to advise as to (a) whether the UK should enact a General Anti-Avoidance Rule or GAAR and (b) if so, what form it should take. The group recommended that a GAAR should be enacted - and one duly was, two weeks after Professor Tiley's death.

Professor Tiley will be missed by tax scholars, practitioners and judges around the world. He is survived by his wife, their daughter, two sons and six grandchildren.

Michael Littlewood

In 2013 the Auckland Law School had a series of interesting and distinguished visitors. A small selection of these visitors and their lectures or the colloquiums that they participated in is profiled here.

New Zealand Law Foundation Distinguished Visiting Fellow 2013

Lord Phillips of Worth Matravers



From left: The Hon Justice Robert Chambers, Lord Phillips, Justice Helen Winkelmann and Dr Andrew Stockley

The Auckland Law School arranged the visit of the 2013 New Zealand Law Foundation Distinguished Visiting Fellow, Lord Phillips of Worth Matravers.

Lord Phillips was the first President of the British Supreme Court, retiring in October 2012. Among many other significant judicial appointments he has been Master of the Rolls, Lord Chief Justice of England and Wales, and - before the establishment of the Supreme Court - Senior Law Lord.

Lord Phillips delivered a public lecture on the origin and development of the Supreme Court of the United Kingdom in 2009. The court replaced the House of Lords as the highest appellate court in the United Kingdom, other than for Scottish criminal cases. Lord Phillips also considered some of the key cases that have come before the court and the dialogue between the Supreme Court and the European Court of Human Rights in Strasbourg.

Lord Phillips also gave a student lecture which critically considered the origin and development of trial by jury in the United Kingdom. Among a number of interesting points that he made was the function of the jury in providing legitimacy to the decisions made within the criminal justice system. It is noteworthy, for example, that whilst the media might attack decisions made by judges, decisions made by juries are rarely criticized in the same fashion. Even if the outcome is not popular it is assumed that it was the best outcome possible given the evidence that was available at the time.

Lord Phillips concluded a busy schedule with a staff seminar exploring the use of closed material evidence by courts in the United Kingdom.

It is noteworthy, for example, that whilst the media might attack decisions made by judges, decisions made by juries are rarely criticized in the same fashion.

2013 Legal Research Foundation Visiting Scholar

Professor Trevor Hartley

Professor Trevor Hartley from the London School of Economics was the Legal Research Foundation Visiting Scholar for 2013. Professor Hartley is an internationally renowned conflicts scholar, specialising in European Union law and cross-border commercial litigation. During his visit to Auckland, he presented a student seminar on “Libel Tourism”, a staff seminar on “Choice of Court Clauses” and a public lecture on “Arbitration and the Brussels I Regulation”. Professor Hartley also delivered the keynote address at the Legal Research Foundation’s conference on “International Litigation”.

In an area of law known for “eccentric professors who theorize about mysterious matters in a strange and incomprehensible jargon” (William L Prosser, “Interstate Publication” (1952-53) 51 *Mich L Rev* 959, 971), Professor Hartley is refreshingly clear in his presentation of the complex and intricate private international law rules and principles governing cross-border commercial litigation. In his



book, *International Commercial Litigation: Text, Cases and Materials on Private International Law* (2009), he adopts a functional approach (Preface, xxxi):

“Law should serve economic and social objectives: it is not an end in itself, based on supposedly self-justifying principles. This does not mean that logic has no place: it has a function, that of promoting certainty ...

... The convoluted reasoning of some cases in the past that has extended legal logic beyond the wildest imaginings of any reasonable lawyer has no place in a modern system of private international law.”

Professor Hartley’s knowledge of English common law and civil law systems, as well as the practical effect of European Union Regulations, makes him one of the leading commentators in this area of the law. The Auckland Law School is grateful to the Legal Research Foundation for sponsoring Professor Hartley’s visit.

Elsabe Schoeman

The Chief Justice of Hong Kong - Honourable Mr Geoffrey Ma

The Chief Justice of Hong Kong, Honourable Mr Geoffrey Ma, delivered a public lecture on the future of the English common law in Hong Kong to a full lecture theatre. He noted that it was a nostalgic experience for him to walk the halls of the Law School, reminding him of his earlier days at Birmingham University in the 1970’s.

China had always regarded Hong Kong as a part of its territory apart from the period of British rule (1841-1997). In 1841 Hong Kong had a population of approximately 6,000 - it was described as a “barren rock” with few villages and was ceded to the British Crown in perpetuity. Britain colonised Hong Kong in 1841 for finance and trade. With a legal infrastructure needed for trade and provision of a regulatory regime, the common law was introduced.

Hong Kong returned to the sovereignty of China in 1997 but the common law continues to play a key role in the administration of justice in Hong Kong. In his talk, the Chief Justice explained how the law of the People’s Republic of China is very different from that in Hong Kong. It has a civil law tradition but no truly independent judiciary.

In response to the issue of the future of the common law in Hong Kong, Chief Justice Ma signalled 2047 would be an important date. A joint declaration between Great Britain and Hong Kong in 1984 talks about maintaining things “unchanged” for 50 years. This poses the question: Is the common law going to survive after 2047?

Chief Justice Ma believes that if a system of law delivers what it intends to a community, it should continue. If the common law system in Hong Kong continues to give the community confidence in trade there is no need to increase the influence of the Standing Committee of the National People’s Congress in Hong Kong affairs.



The Attorney General for England and Wales



From left: Edward Willis, Dr Andrew Stockley, the Rt Hon Dominic Grieve, Camille Butters and Professor Bruce Harris

The Right Honourable Dominic Grieve QC MP gave a public lecture entitled “An Attorney in the Digital Age”. Dominic Grieve has been Attorney General for England and Wales and Advocate General for Northern Ireland since 2010. The Attorney General is the chief legal adviser to the British government and has a number of independent public interest functions, as well as overseeing the Law Officers’ departments. These are the Crown Prosecution Service, the Serious Fraud Office and the Crown Prosecution Service Inspectorate.

As Attorney General for England and Wales, Dominic Grieve described his role as two-fold. Firstly as chief legal adviser to the government, where he must confront (and disappoint!) his colleagues when he has to tell them their policies are illegal, however good they may be. Secondly as the “guardian of the public interest”, representing the Crown in nationally significant cases, and at the International Court of Justice.

He went on to note the impact of modern technology, especially the internet, in terms of presenting new challenges for the jury trial system. The Attorney referred to the English case of a juror (Frail) befriending a cleared defendant (Sewart) on Facebook and disclosing the jury’s deliberations while the trial against a co-defendant was still in progress. Both were later found to be in contempt. He also discussed the case of Theodora Dallas, the “googling juror” who had researched a defendant’s past on the internet and shared the information with her fellow jurors.



Dominic Grieve described his role as two-fold. Firstly as chief legal adviser to the government, where he must confront (and disappoint!) his colleagues when he has to tell them their policies are illegal, however good they may be. Secondly as the “guardian of the public interest”, representing the Crown in nationally significant cases, and at the International Court of Justice.

The US Attorney General

The United States Attorney General Eric Holder delivered a public lecture on “International cooperation and the priorities of the US Department of Justice” to a capacity audience.

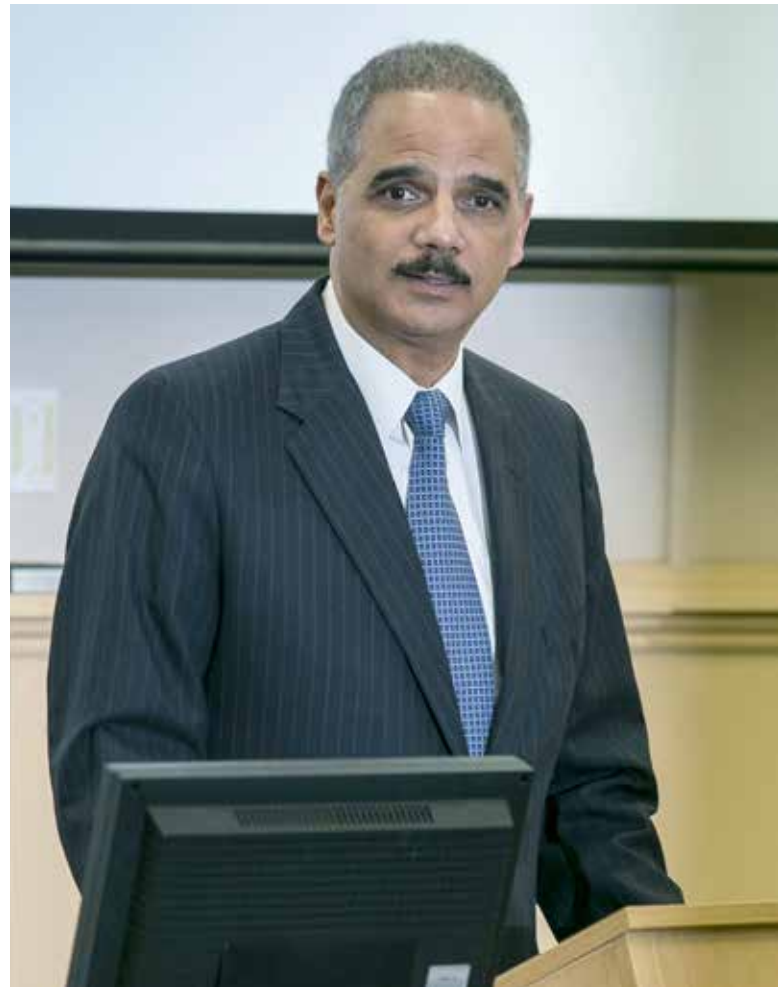
The Attorney General is a member of President Obama’s Cabinet and is responsible for the Department of Justice. Eric Holder took office as the 82nd Attorney General of the United States in February 2009. He had previously served as a judge of the Superior Court of the District of Columbia, a United States attorney and Deputy Attorney General.

Attorney General Holder was in New Zealand for a meeting of the Quintet of Attorney Generals from Australia, Britain, Canada, New Zealand and the United States. In his lecture he noted that the quintet meetings provide an opportunity to exchange ideas to address common domestic and international challenges. He said:

“This week, we’re sharing best practices for protecting some of the most vulnerable members of society - and prosecuting those who commit acts of sexual violence against women and children. Together, we will examine how we can improve domestic investigations and prosecutions of these serious crimes, as well as how we can increase our joint response to transnational sexual violence. . .”

Attorney General Holder talked about the Department of Justice’s efforts to safeguard and improve voting practices and to promote the highest standards in the enforcement of all civil rights protections:

“We’re combating exploitation, discrimination, intimidation, and bias-motivated violence. And we’re taking significant measures to address repugnant practices like human trafficking - and to prevent the gun, gang, and drug-fueled violence that afflicts too many communities across the United States, and too often decimates the lives of our most vulnerable citizens: our children.”



Lord Mance

Lord Mance visited the Faculty of Law in April 2013 and gave a lecture on international law cases which have come before the British Supreme Court. These have mainly concerned Iraq or the “war on terror” and many of them have also involved interchanges with the European Court of Human Rights under the European Convention on Human Rights.

Lord Mance has been a judge for 20 years. He became a law lord in 2005 and has been a member of the British Supreme Court since it was established in 2009. He was accompanied by his wife Lady Justice Arden who has also been a judge for 20 years and is now a member of the English Court of Appeal.



From left: Piers Davies, Professor Klaus Bosselman, Gregory Thwaite, Dr Andrew Stockley, Lady Justice Arden, Lord Mance, the Rt Hon Dame Sian Elias, Professor Paul Rishworth and Dr Caroline Foster

Seminar on international environmental law



From left: Professor Ken Palmer, Natalie Coates, Dr Caroline Foster, Dr An Hertogen, Professor Cymie Payne, Daniel Nilsson, Jane Verbitsky, Lucy Stroud and Marcus Roberts

... states would be required to exercise “due diligence” in regulating the companies they sponsor, and in doing so to act on the basis of the precautionary principle.

Cymie Payne from Rutgers University spoke at the Faculty in June on the subject of states’ responsibilities for the actions of sponsored mining companies exploring or exploiting the deep seabed in areas beyond national jurisdiction. Cymie represented the International Union for the Conservation of Nature (IUCN) in the Advisory Opinion of the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea 2011. Robert Makgill, who had also represented the IUCN, contributed his views and Dr Caroline Foster provided a commentary on the international environmental law concept of due diligence.

In essence, the Advisory Opinion clarified that states would be required to exercise “due diligence” in regulating the companies they sponsor, and in doing so to act on the basis of the precautionary principle. Mindful of the deep water horizon blow-out in the Gulf of Mexico in 2010, participants in the seminar sought to assess whether due diligence would be sufficient to ensure appropriate environmental protection. The responsible state could even be a small state, such as Nauru or Tonga, whose interest in sponsoring exploration in the Pacific had prompted the Advisory Opinion. Participants considered how such states might set about implementing the due diligence obligation.

Participants also asked why the Seabed Disputes Chamber had decided to orient the Opinion around a due diligence obligation. In fact, the 1982 United Nations Convention on the Law of the Sea says that states must actually “ensure” that sponsored companies comply with the convention’s environmental rules. Reasons why the chamber might have interpreted the obligation to ensure as an obligation only to exercise due diligence included the desire to bring the US into the fold.

The US has still not ratified the convention, but is bound by customary international law relating to protection of the environment, which experts say may include due diligence obligations to control sources of harm to the global environment. The chamber’s approach would help maintain unity in international environmental law and the law of the sea.

Caroline Foster

Mindful of the deep water horizon blow-out in the Gulf of Mexico in 2010, participants in the seminar sought to assess whether due diligence would be sufficient to ensure appropriate environmental protection.



World experts on children’s legal rights meet to support the voices of children

Leading children’s legal rights experts from around the world met at a colloquium hosted by the Faculty in March to support improvements in how legal systems listen to children and young people. The colloquium marked the twentieth anniversary of New Zealand’s ratification of the United Nations Convention on the Rights of the Child (UNCRC).

New Zealand’s youth justice system is internationally acknowledged for its success in keeping young people out of the criminal justice system and in dealing with them in family group conferences.

However there is criticism of proposed Family Court reforms which fall short of international standards and do not reflect best practice in other countries.

Alison Cleland, former practising family lawyer and senior lecturer at Auckland’s Faculty of Law says:

“New Zealand is seen as a world leader on issues relating to the United Nations Convention on the Rights of the Child, but there are some serious concerns about potential breach by removing ‘lawyer for child’ from the bulk of family law cases under the Family Court Proceedings Bill.”

Seventeen child law experts from Canada, USA, South Africa, UK, Australia and New Zealand gathered to discuss topics including child abduction, adoption, domestic abuse, relocation, family proceedings, child protection and youth justice. The keynote address was given by Professor Elaine Sutherland, Professor of Child and Family Law at University of Stirling, Scotland.

The colloquium also heard from Distinguished Professor Linda Elrod from American’s Washburn University School of Law, who discussed child abduction. Invited observers to the event included Dr Ian Hassall, a former New Zealand Children’s Commissioner.

New Zealand is seen as a world leader on issues relating to the United Nations Convention on the Rights of the Child, but there are some serious concerns about potential breach by removing ‘lawyer for the child’ from the bulk of family law cases under the Family Proceedings Bill.

Law Revue attracts international interest



They say inside every lawyer is a dead poet. Yet judging from the wealth of creative talent we see in the Law Revue every year, it appears the poetic spirit is alive and well in our ranks.

For the uninitiated, The University of Auckland Law Revue is the annual comedy show written and performed by a cast of around 60 law students. The whole process lasts 6 weeks and culminates in 3 shows before the mid-semester break in semester 2 (which perhaps explains the sudden decline in lecture attendance each August).

However, as directors of the show this year, planning for the Revue began back in 2012.

The title "director" is somewhat misleading - the directors in fact play numerous roles, including directing, producing, scriptwriting, choreographing, casting and....you get the idea.

This year, we faced some new challenges. In April, the Engineering Revue managed to set fire to our usual venue, the Maidment Theatre. We were left scrambling as we attempted to find a new theatre in time. We set our sights on SkyCity Theatre, a beautiful 700-seat theatre where we dreamt of a show bigger and better than ever before. Sadly, nothing in life comes free and our dream show was no exception. Between paying the higher than usual theatre fees and a raft of other unforeseen costs, there were times we felt we'd bitten off more than we could chew.

Fortunately, our sponsors came through for us in spades. We were incredibly lucky to have the support of law firms Minter Ellison Rudd Watts, Russell McVeagh, Chapman Tripp, Mayne Wetherell and Morrison Kent as well as Deloitte, SkyCity and our own fantastic Law Faculty. Their support allowed us to focus on what we do best: comedy.

The hardest part is always coming up with good material. We made a conscious decision to move away from the offensive humour the show had become notorious for.

That being said, the hardest part is always coming up with good material. We made a conscious decision to move away from the offensive humour the show had become notorious for. The cast writes the Revue, and it was great to see them take this direction and run with it, dramatically changing the tone of the show.

Common topics for lampooning include politics, the Medical and Engineering Faculties, lecturers and law school generally. This year, stand-out skits included a political rendition of "One Day More" from *Les Misérables*, a cover of "Royals" by Lorde called "Lawyers" (you'll see a musical theme developing here) and a Monty Python-esque take on the GCSB debacle.

The Law Revue is most famous however for its video skits, or "AVs". We were incredibly lucky to have the very talented Milon Tesiram (also a law student, although we're convinced he's the next Spielberg) offer us his services filming. Two AVs were produced: "Snap Chat" (as in the smartphone app, Snapchat) to the tune of "Smack That" by Akon and a gender-flipped feminist parody of the hit song "Blurred Lines" by Robin Thicke called "Defined Lines".

For those who haven't seen the original "Blurred Lines" video, it depicts three fully clothed men chasing three naked young women around a white studio. While this may sound like your typical pop music video, it's generated a lot of controversy, especially because the song's lyrics have been interpreted as encouraging rape, with lines such as "I know you want it" and "I always wanted a good girl/the way you grab me/must wanna get nasty". We couldn't help but take a jab at it!

Some choice lines from our version include "Need a universal role reversal/In real life, not a dress rehearsal/Gotta resist all the gender roles/Time to put misogyny on parole" and "I apologise if you think my lines are crass/Tell me how it feels to get verbally harassed". Our primary aim with the video was to make people laugh: there's something undeniably hilarious about guys prancing around in underwear doing girls' bidding. However, we hoped that, when the laughter died away, people might be left with something more to think about.

Perhaps thanks to Miley Cyrus' then recent VMAs fiasco, "Defined Lines" went viral. Within two days, it racked up 300,000 views before being taken down by YouTube for containing 'inappropriate content'. It was reinstated within a few hours, and the rest is history.

As is done every year, we put these AVs up on YouTube so that our friends who hadn't been able to attend the show could see what we'd been up to.

Perhaps thanks to Miley Cyrus' then recent VMAs fiasco, "Defined Lines" went viral. Within two days, it racked up 300,000 views before being taken down by YouTube for containing "inappropriate content". It was reinstated within a few hours, and the rest is history.

Perhaps if we'd known the video was going to get this big, we would've done some things differently, such as changing a few lyrics and a few shots that people have found offensive. Most surprising though is the positive reaction we've received for the video. Particularly here in New Zealand, it's sparked a lot of debate about the role of women in society and people have been incredibly supportive. While none of the women involved are planning on deviating from their intended career choices, they are very proud to have done something that can inspire other women with confidence.

Overall, the reaction to the Revue has been incredibly positive. At the end of the day, the point of the show is to make people laugh and to help us remember that there is more to life than the vacuum of law school we sometimes get trapped in. Seeing our friends giving us a standing ovation at the end of the final performance, we're satisfied that we achieved that.

Peter Bristow, Zoe Ellwood, Stefan Jammes and Olivia Lubbock
Law Revue Directors 2013



Top law student heads to Oxford

James Ruddell is the inaugural winner of the FMB Reynolds Scholarship, which assists a New Zealander to study for the Bachelor of Civil Law degree at Oxford. The scholarship was initiated by Professor Peter Watts with the support of Oxford law alumni. It is named for Professor Francis Reynolds, an Oxford professor who has been a visiting lecturer on the Auckland LLM programme. James has also been awarded a Banking and Financial Services Law Association (BFSLA) scholarship worth over \$30,000.

Earlier this year, James received the Auckland District Law Society Prize for the Best Undergraduate Law Student at Auckland University. His achievements in his BA have been no less than in law. He received a senior prize in history and in politics in 2010.

Dean Andrew Stockley congratulated James on his achievements, noting that in addition to his academic accomplishments James had taken a full part in the wider life of the Law School and the University. He was educational vice-president of the Auckland University Law Students' Society in 2011 and was also one of the student leaders of the Equal Justice Project that year. James managed a team of 20 students who contributed legal advice and assistance to individuals and community groups on a wide range of topics including some related to the Bill of Rights and the Human Rights Acts. In 2012 James was editor in chief of the Auckland University Law Review and he has also had some of his own work published.

James's contributions to the community include having been chief executive of SavY, a student-run charitable trust which runs financial literary workshops in high schools. During his term in 2012, James increased the number of workshops and schools involved in the programme, expanded it from Auckland to include Hamilton, and made important reforms to the way in which the organisation is administered.

James is a keen debater and public speaker and represented Auckland at all the New Zealand inter-university debating competitions and in 2012 at the world university debating championships in Botswana. He has coached school pupils, including the Northland Regional Schools Debating Team in 2010.

James's intended subjects at Oxford are commercial remedies, restitution of unjust enrichment, corporate insolvency and conflict of laws.

Auckland law students win silver in world mediation advocacy competition



From left: Nina Khouri, Alice Wang, Nupur Upadhyay, Adam McDonald and Kimberley Eccles

The University of Auckland has achieved second place overall in the International Chamber of Commerce (ICC) international mediation competition, held in Paris, in February. The team comprised Nupur Upadhyay, Adam McDonald, Alice Wang and Kimberley Eccles. The team's coach, Nina Khouri, was delighted with the result.

Now in its eighth year, the ICC competition saw 66 university teams from 31 countries working with top mediators from around the world to solve complex international business disputes. The competition requires students to employ their advocacy, negotiation and problem-solving skills through mediation conducted under the ICC Amicable Dispute Resolution (ADR) rules. Teams are scored on their ability to advance their own interests while collaborating with the mediator and the other party to reach a mutually beneficial outcome.

Auckland was runner-up to a team from Poland in the grand final which was held in front of a large audience at La Maison du Barreau, the headquarters of the Paris Bar Association. The Auckland team also won the prize for the best mediation advocacy skills.

New Zealand commercial mediator Geoff Sharp was on the rules committee at the competition. Having judged and mediated at the Paris competition for three years, he says it was superb to watch the Auckland team progress through the competition, and made him very proud to be a New Zealander. He comments:

"Although the competition has limited profile in New Zealand, it is huge for the European and US law schools and the Auckland team was the talk of the town - I received comment from a top tier London mediator saying he had never seen such a student performance in all his eight years of judging."

One of the key themes that emerged during the competition was the importance of commercial realism in the mediation sessions. Although collaboration was rewarded, there was a real battle of wills at play during the sessions. The judges wanted to see participants engaging with the difficult discussions presented by each dispute. Claude Amar, judge and commercial mediator articulated this view clearly, letting the students know in his feedback that "there should be blood on the table". The challenge though, was to ensure that blood was let with poise and diplomacy. This tension was keenly felt by the teams.

The team is grateful to the Faculty of Law for funding their participation in the competition, and to mediators Geoff Sharp, Suzanne Innes-Kent, Anna Quinn, Carol Powell, David Clark, Barbara McCulloch and Miriam Dean QC for generously donating their time to conduct practice mediations with the team in preparation for the competition.

Auckland law students win place in international humanitarian law mooting finals



From left: Ben Prewett, Anna Devathanas, Gretta Schumacher and Sara Chin

Three students from Auckland Law School represented New Zealand at the Red Cross International Humanitarian Law Moot Competition in Hong Kong in March.

Students Anna Devathanas and Gretta Schumacher, accompanied by researcher Sara Chin and coach Ben Prewett, joined 20 teams from around the Asia Pacific to compete for the regional title. The team made it to the quarter-finals, where they were beaten by the competition winners from the National Law University of Delhi. Gretta was named as the second best individual mooter. Anna Devathanas says:

"We were given a complex scenario. It dealt with individual criminal responsibility for biological experimentation, the use of child soldiers in armed conflict, and the employment of biological weapons. We argued both the prosecution and the defence in the preliminary rounds, and were then assigned sides as the competition moved forward."

Of their national win, student Gretta Schumacher gives credit to the Auckland Law School's strength in international humanitarian law.

Auckland law students are runners-up in world human rights moot competition



The fourth World Human Rights Moot Court Competition was held in December 2012 at the University of Pretoria, South Africa. The moot, which is supported by the Office of the United Nations High Commissioner for Human Rights and the Flemish Government, involved universities from all populated continents.

Auckland's team of Georgina Woods-Child (above, second from left) and Jeremy Wilson (third from left) made it into the grand final. Kris Gledhill (above left), who assisted Isaac Hikaka (above right) as the coach of the team, noted:

"There were a number of very good mooting teams at this competition. I judged eight rounds in the preliminary finals, and witnessed world-class advocacy from several students, including from the University of Namibia, the University of Lucerne, the University of New South Wales and Yale. So progressing to the grand final was a significant achievement."

The grand final placed the Auckland team against the Norman Manley Law School of Kingston, Jamaica, which had won the previous two competitions. Norman Manley again produced a very strong team and had the advantage of representing the applicant and so setting the agenda. However, as one of the judges was to say, Georgina and Jeremy presented as the "dream team" for the respondent, with their relaxed demeanour and calm manner of seeking to rebut a claim which had obvious merits to it.

In the end, the judging panel, which included Justice Monica Mbaru of the High Court of Kenya, Dr Aderlardus Kilangi, President of the African Union Commission of International Law, and Professor Christof Heyns, formerly of the University of Pretoria and now Special Rapporteur on Summary Executions and Extra-judicial killings, determined that the team from Jamaica was again the champion.

Georgina and Jeremy presented as the "dream team" for the respondent, with their relaxed demeanour and calm manner of seeking to rebut a claim which had obvious merits to it.



Auckland dominates New Zealand Law Students' Association competitions

Auckland law students were outstandingly successful at the New Zealand Law Students' Association 2013 annual student competitions, winning four of the five events and coming runner-up in the fifth.



Unsurprisingly Auckland won the cup for the best law school. Tim Conder and Nupur Upadhyay won the Bell Gully Senior Mooting Competition. Matt Būdler and Tiaan Nelson won the Junior Mooting Competition. Caitlin Hollings won the Minter Ellison Rudd Watts Witness Examination Competition. Andrew McLeod and Luke Sizer won the Russell McVeagh Client Interviewing Competition. Kimberley Eccles and Steph Panzic were runners-up in the final of the Buddle Findlay Negotiation Competition.

Nupur Upadhyay and Tim Conder were representing Auckland because they won the Stout Shield Moot for 2013. The Stout Shield Moot has been running at Auckland Law School since the 1940s and many former winners and participants have progressed to distinguished careers, including a number profiled in this magazine. Justice Priestley was a winner in the 1960's, competing alongside David Lange and Jim McLay in the final. James Elliot was another winner, as was Sir Anand Satyanand.

First place in client interviewing at the Australasian Law Students' Association competitions

Luke Sizer (right) and Philip Arnold (left), part of a seven-strong Auckland Law School cohort in Perth for the Australian Law Students' Association competitions, beat teams from throughout Australia and New Zealand to win the final in the client interviewing competition against the University of Queensland.

The challenging competition included three preliminary rounds, with the top eight teams going through to the quarter finals. Luke says:

"Each round involves a 'client', played by an actor, and we act as their lawyers. They are briefed with a script that frequently includes a difficult persona that we must deal with - belligerent, arrogant, stressed, anxious and so on. They also play coy around the situation, hiding key facts and details that we have to coax out. Lastly, they will generally have a major ethical issue that we must advise on... like adultery, drug taking and lying. Once we have that information, we give legal advice on their options and liabilities."

The duo are thankful for the support of Russell McVeagh, which covered their travel costs to Perth.

All four Auckland teams broke into the quarter-finals in their respective competitions, meaning that out of more than 40 universities across Australasia, the Auckland Law School was in the top eight for every competition entered. The other Auckland competitors were Kimberley Eccles and Steph Panzic, negotiation, Caitlin Hollings, witness examination, Gretta Schumacher and Tim Conder, mooting.



Student news in brief

Philip Bradshaw and **Eru Davies** won the National Maori Issues Moot. In addition to being the winning team, Philip was awarded best overall mooter - winning the Gina Rudland memorial cup. Philip and Eru were supported by a strong contingent of students from Te Rakau Ture, who also took the opportunity to visit with a Te Arawa hapu, Ngati Te Roro o te Rangi at Taharangi marae, Owhata Point. This hapu is currently engaged in a battle with the New Zealand Transport Agency and the Rotorua District Council over proposed compulsory acquisition of lands for highway development in Rotorua.

Recent graduates of the Auckland Law School have won a glittering array of scholarships, supporting post-graduate study at some of the most prestigious international law schools: **Sam Beswick** (BCom/LLB (Hons) 2010) will be undertaking an LLM at Harvard University. He is the recipient of a Frank Knox Memorial Fellowship, a Friedlander Foundation Scholarship, a Spencer Mason Travelling Scholarship in Law and a Barrie Connell Memorial Scholarship; **Edward Chen** will be undertaking an LLM at the National University of Singapore with the support of a Faculty of Law Graduate Scholarship; **Daniel Pannett** will be undertaking post-graduate study at the University College, London, supported by a Spencer Mason Travelling Scholarship in Law; **Benjamin Prewett** (BCom/LLB (Hons) 2011) will undertake an LLM at Stanford. He is supported by a Fulbright New Zealand General Graduate Award and a Spencer Mason Travelling Scholarship in Law; **Kyle Rainsford** (BSc/LLB (Hons) 2012) is enrolled in an LLM at the London School of Economics and Political Science; **James Ruddell** (profiled above) is undertaking a BCL at Oxford University, supported by the inaugural FMB Reynolds Scholarship and a BFSLA Scholarship; and **Sally Trafford** (BA/LLB (Hons) 2011) will undertake an LLM at Harvard on an Ethel Benjamin Scholarship and a Fulbright General Graduate Award.

The topic of **Sally Trafford's** LLM research project is "Economic inequality in New Zealand: A better future by bridging the gap". Currently a locum association at McCarthy Tetrault in London, Ms Trafford was a junior barrister at Shortland Chambers from January 2011 to October 2012. Before that she was a judges' clerk at the Court of Appeal from 2009 to 2011.

She comments:

"The central component of my proposed LLM programme is independent research that critically analyses the various options for tax law reform in New Zealand to address economic inequality, both in terms of preventing tax avoidance and in terms of redistribution. While perfect equality is unrealistic, it is clear that economic inequality is an issue in New Zealand, when 25 percent of New Zealand children are living in poverty... My experience working as a judges' clerk on significant tax cases, confirmed by data on economic inequality, also suggests that there is much that can be done to effect change in this area."

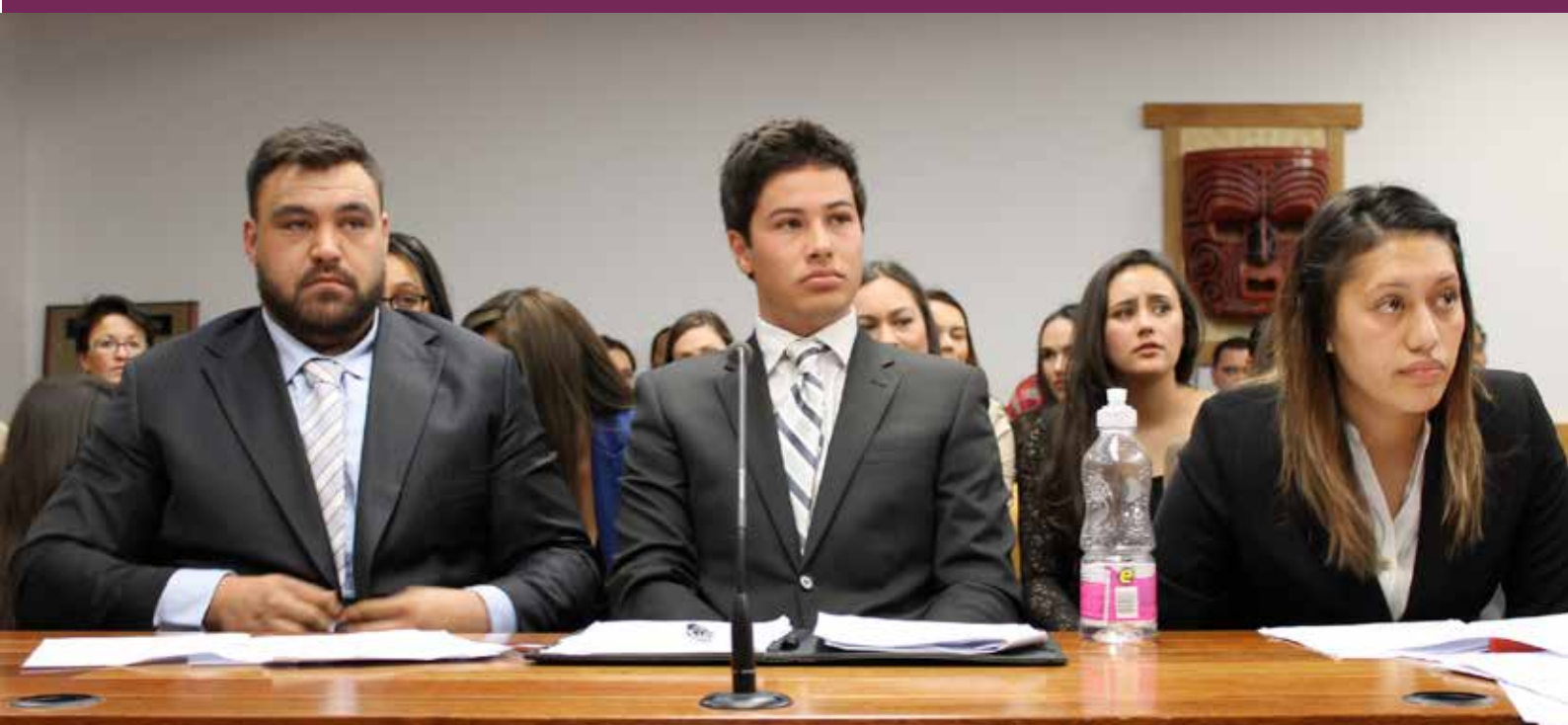
Sam Bookman has secured an internship with the Israeli Supreme Court.

Two Auckland law students have published articles in the most recent edition of the NZULR. Recent graduate, **James Ruddell** has published, "Statutory Interpretation, Parliamentary Intention and the General Anti-Avoidance Rule" (2013) 25:3 NZULR, whilst current student, **Sam Bookman**, has published "Providing Oxygen for the Flames? The State of Public Interest Litigation in New Zealand" (2013) 25:3 NZULR.

The 10th Greg Everard memorial moot competition was won by **Tim Conder**. The moot was presided over by Justice Murray Gilbert who attended law school with, and later worked alongside, the late Greg Everard. The Greg Everard memorial moot competition is sponsored by Kensington Swan and was established in memory of Greg Everard, an alumnus of Auckland Law School and a leading barrister.

A new prize has been established with the generosity of law firm Meredith Connell to recognise and reward excellence in the study of corporate finance law, a course taught at the Law School by Meredith Connell partner, Nick Williams.

Forty-eight students from the Law School will be spending part of their final year of study abroad. Destinations include the United States, Sweden, Canada, Mexico, Hong Kong and Germany. "We have consistently had about ten percent of our fifth-year students travel abroad to study, and over recent years this has steadily increased," says Stephen Penk, Associate Dean and senior lecturer. Alongside the University's "360 degree Auckland Abroad" exchange programme, the Law School has 24 law-specific exchange agreements with leading law schools throughout Europe, Asia and North America.



From left: Eru Davies, Philip Bradshaw and Mariarna Te Tai (Waikato University)



A legacy honoured with the Moana Schwalger Memorial Pasifika Student Scholarship

Law firm Meredith Connell, together with the Pacific Lawyers' Association, has established the Moana Schwalger Memorial Pasifika Student Scholarship in memory of Auckland Law School alumna, the late Moana Schwalger - a highly regarded Pasifika lawyer, member of the executive of the Pacific Lawyers' Association and colleague and friend of the partners and staff at Meredith Connell.

On 16 July 2012 Moana lost her 18-month battle with cancer at the age of 35. Simon Moore, QC, Crown Solicitor at Meredith Connell, says:

"Moana was an extraordinarily gifted and beautiful person in every sense of the words. She was a member of the executive for the Pacific Lawyers' Association, received the Auckland City Council Queen Elizabeth scholarship and Inland Revenue Pacific Island scholarship, alongside being the youngest Samoan to attain two degrees in the shortest timeframe. We hope to support talented young Pacific law students to reflect the qualities so plainly evident in Moana."

She was the first Pacific Islander to be appointed a Senior Crown Prosecutor by the Solicitor General and to become an associate at Meredith Connell. She was a member of the executive for the Pacific Lawyers Association (PLA) from 2010 to 2012. Her dedication was such that she remained involved and engaged even when going through her medical treatment. She was also, among other community activities, a volunteer at her local women's refuge and the Grey Lynn Community Law Centre. Nunu Tipi, Moana's sister-in-law, says:

"Moana was ferociously intelligent, honest and hardworking. It showed in her court work, and the judges knew they could have confidence in anything Moana put before them. To have the trust and respect of the judiciary is no small thing for a lawyer and Moana had it in abundance. She was extremely well regarded. We all know that the profession has lost a great lawyer and a future leader."

We hope to support talented young Pacific law students to reflect the qualities so plainly evident in Moana.

Moana started her conjoint LLB/BCom at the University of Auckland in 1996, graduating in 2000. In many ways she was an example for all Pasifika lawyers to follow. Building on her experience as a solicitor for the Inland Revenue Department, she went on to be one of the first Samoan women to gain a position as a Crown Prosecutor with Meredith Connell. Over a ten-year period she took major cases in both the District and High Court, as well as appearances in the Court of Appeal. She went on to oversee indictable taxation prosecutions for the Crown.

Moana was a devoted wife to Fa'amalua, and a loving mother to three beautiful children, Benedict (7), Grace Ioana (5) and Fa'amalua Junior (21 months).

The \$10,000 scholarship is intended to encourage postgraduate study by Pasifika students at the Auckland Law School. Recipients of the Moana Schwalger Memorial Pasifika Student Scholarship may be offered work experience with Meredith Connell.

Thanks to Nunu Tipi, sister-in-law to Moana Schwalger, for her contribution to this article.



Warren Matiu Waetford

I first met Warren Matiu Waetford at the Maori student orientation in 1992 at Waipapa marae. We quickly became friends sharing the same subject majors - both embarking on conjoint degrees in arts and law. I also found we shared a love of music, Maori culture and language and a curiosity for the law.

Warren was one of seven sons raised in Pakuranga in a close-knit whanau with a strong faith and family values. His quiet self-confidence, sense of humour, sharp intellect and positive attitude made him instantly popular at Auckland Law School and amongst the Maori law students. Following a two-year mission in Australia, Warren returned to complete his studies and graduated from Auckland University with a conjoint degree in Law and Arts in 1998.

Warren was hugely talented and gifted musically and linguistically. A great pianist and vocalist; only those close to him were lucky enough to hear him sing and play piano, something he reserved for special occasions and his faith.

In 1999 he moved to Wellington to take up a graduate recruit position for the Ministry of Foreign Affairs. This was the beginning of a 10-year career representing New Zealand both at home and abroad. Warren held positions in MFAT's North Asia (Japan), international security and disarmament, and legal divisions, and he took up postings to Vienna and The Hague.

In 2003 I visited Warren in Vienna while he was working at the New Zealand Permanent Mission. Being in Europe opened up many opportunities for Warren to travel, learn the German language, sample the

local cuisine and enjoy the plethora of arts and classical music on offer in one of the world's leading arts cities. Even in his new environment Warren remained humble, grateful for all that life had to offer him and popular with colleagues and friends he'd made across the globe.

Following his posting to Vienna in 2005, Warren remained in Europe where he completed a Master of Laws in international law from Amsterdam University. During this time he developed a passion for climate change and environmental law. In 2008 he returned to MFAT to work in the legal division. In 2010 he took up a position at the United Nations Framework Convention on Climate Change in Bonn, Germany and in 2012 he moved to a position at the International Union for Conservation of Nature where he was highly regarded as an expert on climate change and reducing emissions from deforestation and forest degradation. On 3 November 2012, Warren died tragically in Cologne where he was living.

At only 38 years of age, Warren has left a lasting impression on all those whose lives he touched. He was sociable, well respected, a role model for young aspiring international lawyers, a loving family member, and a cherished friend to many.

I will always remember Warren for his warm heart, integrity and no-nonsense attitude and his ability to cultivate long lasting relationships with people of all walks of life.

Mahinarangi Maika.



Justice Priestley retires

This is an abridged version of a longer article. A full version can be found on the Auckland Law School's webpage under the item "News".

Justice John Priestley retires this year after 13 years as a judge of the High Court in Auckland...

Passing up the charms of his father's dental surgery and foregoing a career as a school teacher, Priestley enrolled in a BA in history and an LLB at the University of Auckland in 1962. The Law School was then based at Pembroke, the two-story building bordered on two sides by Albert Park, where the library was based. Lectures took place either in the clock tower or in the now demolished lower lecture theatre. Bucking the convention of the time - which was to enrol as a part-time student at law school and work as a law clerk at a law firm in the city during the day - he registered as a full-time student in both degrees for the first three years of his course. After an interview with the late Sir John Wallace, he clerked during the final two years of his law degree (1965-66) at Wallace McLean Bowden & Partners (now part of Kensington Swan). "In those days, everyone was a generalist," he notes.

Fate initially pushed him down a more academic path. In 1967, Dean Jack Northey inaugurated the Law School's honours programme. Justice Priestley was invited to become one of the Law School's first LLB (Hons) students. The requirements - three seminar courses, followed by a longer dissertation - seemed incompatible with the demands of near full-time practice, so his Honour returned to academic life, initially as tutor and then as junior lecturer. Among other awards and achievements, he won the Stout Shield for mooting in 1966 and in 1967, and was an inaugural co-editor of the *Auckland University Law Review*.

People with whom Justice Priestley shared his time at the Law School include a virtual honour roll of those who have shaped the modern New Zealand profession. Retired Court of Appeal judge and current president of the United Nations Special Tribunal for Lebanon Sir David Baragwanath and Jim Farmer QC graduated a short time before he did, while the Rt. Hon.

People with whom Justice Priestley shared his time at the Law School include a virtual honor roll of those who have shaped the modern New Zealand profession.

Dame Sian Elias, the current Chief Justice, finished shortly afterwards. Direct contemporaries included former Supreme Court judge Sir Noel Anderson (who, in response to a question from Bernard Brown in a 1962 legal history class, had the class in splits when he told them that the “wapentake” - an Anglo-Saxon hundred, or governance unit - was synonymous with “robbery with violence”), former Dean of the Law School and current Court of Appeal judge and president of the Law Commission Sir Grant Hammond, Professor John Prebble of Victoria University, Queen’s Counsel David Williams and Alan Galbraith, former Attorney-General and Deputy Prime Minister and current Permanent Representative to the United Nations Jim McLay, former Prime Minister David Lange and Sir Anand Satyanand ...

Justice Priestley has happy memories of professors at the Law School. His Honour describes Dean Jack Northey as “a total control freak” and “an iconic dean” - someone who, along with Professors Keith Sinclair (history)

a case. I think that skill of detachment has been helpful to me as a judge, particularly with criminal trials where judge and jury are frequently exposed to gruesome details and horrific conduct.” Baragwanath, his High Court colleague for seven years, remarks that “having the courage to do what is right made [Priestley] a first rate criminal judge, prepared to innovate to avoid injustice. In the High Court and frequent sittings in the Court of Appeal his acute intelligence, sound judgment and gift of lucid expression made for prompt, succinct and perceptive judgments admired by those of us who were his companions.”...

Since his time at university, the biggest change in the profession that Justice Priestley has observed is structural. In part, this has been driven by law schools’ evolution from part-time professional training schools to full-time academic institutions. In the 1960s and early 1970s, there had been a tension between “town and gown”. The profession, or “town”, had

“I ... have never lain awake in bed at night agonising over a case. I think that skill of detachment has been helpful to me as a judge, particularly with criminal trials where judge and jury are frequently exposed to gruesome details and horrific conduct.”

and Bob Chapman (political science) “ran the university”. He appreciates the fact that he was “very well taught”, reserving particular gratitude for George Hinde (who inculcated a lifelong interest in land law and equity), Brian Coote (contract law), Bernard Brown (as engaging and humorous a teacher of criminal law in the 1960s as he is now), and Don Dugdale (commercial law). He also remembers a young Sir Ian Barker teaching civil procedure. At the conclusion of his honours degree, Justice Priestley went to the University of Cambridge to pursue further studies in history before taking up a post-graduate scholarship in law at the University of Virginia’s law school, where he wrote a doctorate on matrimonial property.

On returning to New Zealand in the early 1970s, Justice Priestley joined Holmden Horrocks, then an eight-partner firm, and he became partner in 1975. About 50 percent of his work focused on family law, with the remainder devoted to opinions, vendor-purchaser work, and general common law matters... His Honour was a driving force in the creation of the family law committee and ultimately the family law section of the New Zealand Law Society and he was chair of the section for a time.

In 1982, he left Holmden Horrocks to go to the independent bar. “In Southern Cross Chambers we saw [Priestley’s] determination to protect those needing the law’s assistance in what was then seen as an unfashionable area of family law”, Sir David remembers. “His notable part in its transformation was rightly recognised by the grant of silk, in 1994.”

From the late 1980s on, Justice Priestley was appointed to various statutory bodies in a part-time capacity, including as a member of the Film Censorship Board of Review, the Deportation Review Tribunal as inaugural chair, and the Refugee Status Appeals Authority as deputy chair. Other highlights of his time in practice included his Honour’s successful involvement, with the late Paul Temm, in election petition cases in Hunua in 1978, which led to Winston Peters’ initial entry into Parliament, and Taupo in 1981, which led to an increase in the National Party’s majority.

In November 2000, Justice Priestley was appointed to the bench.... The elevation was “something of a surprise” to the judge, as “family law was never regarded as a route to fame and fortune”... His Honour credits the generalist nature of his early legal training and “the firm building blocks laid down at the Auckland Law School” as invaluable preparation for his time on the bench. Also helpful was the degree of detachment from clients’ predicaments, as required of all successful family lawyers. “I never had a problem with this and have never lain awake in bed at night agonising over

wanted part-time courses (ensuring a steady supply of law clerks) while the university - and particularly Jack Northey - saw greater merit in a full-time curriculum. Northey won. The growth in law school enrolments has also had consequences. In the late 1960s, the graduating class size at the Auckland Law School was about 40 and the University’s total enrolment around 6,000. Larger class sizes have, however, meant that the best students from Auckland are now more academically rigorous than in the 1960s, a fact underscored by the high quality of Justice Priestley’s clerks at the High Court (and his suggestion that there are many competent lawyers from the 1960s who may not have gained admission to law school today)....

Since his time at university, the biggest change in the profession that Justice Priestley has observed is structural. In part, this has been driven by law schools’ evolution from part-time professional training schools to full-time academic institutions.

The breadth and depth of John Priestley’s contributions to academia, the profession, and the judiciary - and, in Sir David’s words, “the warmth of his own humanity, as husband, father, colleague and friend” - mean that his time in retirement is certain to be in great demand.

Aditya Basrur



Jim McLay receives Distinguished Alumni Award

The Honourable Jim McLay LLB 1968 CNZM QSO, received one of six Distinguished Alumni Awards from The University of Auckland earlier this year.

The Rt Hon Paul East QC says that at an age and stage in life when many successful people take it easy, Jim McLay continues to work as hard as ever for his country.

“Not many are able to succeed in five different fields of endeavour. After establishing himself as a young lawyer, Jim entered politics culminating in his becoming Deputy Prime Minister, and then leader of the National Party. A successful business career followed. On the environmental front he led our anti-whaling efforts. Now, with his intellect and capacity for hard work, we are fortunate to have him represent our interests at the United Nations.”

Jim McLay is New Zealand’s Permanent Representative to the United Nations in New York, and has held the positions of Deputy Prime Minister, Leader of the Opposition, Attorney General and Minister of Justice throughout his career. He received the Queen’s Service Order (QSO) for public services in 1987 and was made a Companion of the New Zealand Order of Merit (CNZM) for services to conservation in 2003. The United States Advisory Committee on Antarctic Names and the New Zealand Geographic Board named an Antarctic glacier “McLay Glacier” in recognition of his IWC work.

The Honourable Jim McLay also hosted a reception for Auckland University alumni in New York in April. The reception was held at the Permanent Mission of New Zealand to the United Nations and was attended by about 50 US-based alumni. In a well-received talk, Jim McLay discussed New Zealand’s objectives at the United Nations, including its campaign to win a seat on the Security Council for 2015-16.



Paul Key made QC

In late February 2013, alumnus Paul Key was made a Queen’s Counsel in England and Wales. Paul graduated LLB (Hons) from the University of Auckland in 1990. A senior scholar, in his final year he was also named best mooter in the New Zealand mooting finals, proceeding to represent New Zealand in the Jessup International Moot Competition. He was the winner of the Cleary Memorial Prize. Paul subsequently obtained a WM Tapp Scholarship to Gonville and Caius College, Cambridge, to undertake a PhD. He completed this on the subject of estoppel as a defence in the law of restitution, for which he received the prestigious Yorke Prize in 1994.

After returning briefly to New Zealand as a barrister, Paul went back to London to qualify as a solicitor, where he worked with Herbert Smith. Having then requalified as a barrister, he was admitted to the Inner Temple in 1997 and became a member of the Essex Court Chambers. Essex Court is one of London’s largest and most prestigious commercial sets of barristers. Paul, like many other members of the set, specialises in commercial arbitrations, both domestic and international. He appears regularly also in the English courts, often on points of arbitration law. He teaches arbitration law at King’s College in London, having previously taught at the London School of Economics. Apart from his English and New Zealand qualifications, Paul also holds the necessary qualifications to practise in the New York state, and the three largest jurisdictions in Australia.

It is rare for a New Zealand educated lawyer to become a QC in England. Other Auckland-educated silks practising in London are Graham Eklund QC, of 4 New Square Chambers, who is currently a trustee of the UK Friends of the University of Auckland, and David Hislop QC of Doughty St Chambers. We extend our congratulations to Paul on this most impressive achievement.

Peter Watts



Judges Ema Aitken and Lisa Tremewan standing in front of artwork created for the Alcohol and Other Drug Treatment Court (Te Whare Whakapiki Wairua) by Associate Professor Steve Gibbs

Auckland alumni launch a new court initiative

During the height of a crack cocaine epidemic in Miami in 1989, the first drug court was born. One-time police officer turned lawyer, then judge of the Florida District Court, Stanley Goldstein, faced a daily caseload of drug-related offending. He frequently saw the same defendants reappearing after serving their sentences and came to realise that punishing the addicted offender made no real difference as they recycled back through the system.

Judge Goldstein decided to try coercing defendants into treatment while their case was still before the Court, rather than sentence them only to see them later return. This proved hugely successful. He also successfully developed a team approach, with the prosecution, defence and treatment providers working together in a non-adversarial and collaborative manner.

Today, in the United States alone there are more than 2,700 such “drug courts” and the model has been adopted in over 20 countries. Extensive research demonstrates that in the well-administered drug courts, there can be a reduction in recidivism of around 35 percent, along with the other obvious benefits.

On 8 November 2012, New Zealand’s first adult Alcohol and Other Drug Treatment (AODT) Court first sat. There are two “sister” courts, sitting at the Waitakere and Auckland District Courts, presided over by two Auckland alumni, Judge Lisa Tremewan and Judge Ema Aitken respectively. Also known as Te Whare Whakapiki Wairua (the house that lifts up the spirit - a name gifted by the Hon Dr Pita Sharples), the project is a five-year pilot programme, which will be subjected to a thorough independent review at the end of five years.

Judge Tremewan notes that: “Eighty to 90 percent of criminal offending in New Zealand is related to AOD misuse. While some may be abusers who can choose to stop and who might respond to punishment, a significant proportion are AOD dependent - unless and until that is addressed, then we will continue to see them reoffend. Sixty-six percent of prison inmates have significant dependency issues and the rate of reoffending for this group is extremely high”. Judge Tremewan suggests that “we have not previously really grasped the opportunity - or perhaps the obligation - to deal with these important issues more effectively”.

Participants are drawn from the standard criminal justice system. They must have pleaded guilty to charges for which they are facing up to three years imprisonment. There are detailed eligibility and exclusion criteria. The pilot programme is limited to 100 participants at any one time (50 at each court). Importantly, participants must agree to enter the programme and they can leave at any time and return to the mainstream criminal justice system for sentencing. They can also be exited for their failure to meet the Court’s strict requirements. Judge Ema Aitken explains, “participants must be willing to undertake the programme, involving intensive monitoring over a lengthy period, 12-18 months, with compulsory treatment and aftercare, and regular and random drug tests. This is typically a harder option for participants but they know they cannot do this alone and the Court is offering them a chance to change their lives. We see that the ‘carrot and stick’ approach really works”.

Judge Aitken notes that one of the hallmarks of the Court is having continuity of judge and team. “We know from research that having the same Judge speak directly to the participant each time they appear is extremely effective. For many of these participants, it is the first time they have had praise for progress made, let alone a meaningful and positive exchange with a person in authority”.

The Judges anticipate that the first graduations from the courts will occur in early 2014. Those graduates will then be sentenced, with their progress taken into account. Preceding the establishment of the courts, the Judges undertook extensive research, and visited overseas courts. They also attended National Association for Drug Court Professional (NADCP) conferences, where more than 4,000 attendees discuss the latest best practices. The Judges are deeply indebted to pioneering drug court judge, Judge Peggy Hora (retired) who has frequently visited them here, to mentor and assist - readers may recall that one of her visits was reported on in *Eden Crescent* 2011.

Judges Tremewan and Aitken opine that if these courts prove as successful as they anticipate, the approach may be replicated elsewhere in the country.

Treasa Dunworth

Combining stand-up comedy with legal practice

James Elliott on “walking the tight rope”

I caught up with James Elliott several weeks after bumping into him at the class of 88's 25-year reunion in March. James has had an unusual career - combining law (which employs a style involving the weighty, detached, and reasoned presentation of issues and is reputed - for those not at the criminal bar - to be financially rewarding) with stand-up comedy (which, by way of contrast, seeks to be funny, entertaining, unpredictable and frequently controversial, and is often anything but financially lucrative). As a person who has often struggled to reconcile practice in the visual arts with the functional practice of language and reason that is the law, I wondered how James had navigated such polarities in his own career. The tale he told me was one of inexplicable dissatisfaction in the midst of success, followed by a process of discovery, oscillation and, most recently, an eclectic synergy of skills, experience and roles.

James graduated from Auckland Law School in 1988 and had “a frenetic introduction to legal practice” when he commenced as a law clerk under Bruce Stuart. Bruce had “the leading insolvency practice in town with a crash underway”. Every so often arcane and intellectually difficult questions were thrown up by the financial chaos of the time and James was permitted to consult the “oracle” in the firm, Peter Blanchard, as long as the question was interesting enough and sufficient background work had been done to properly pose it. Bruce was in his prime: “very smart and very naughty”. It was a time of working hard



of the magic of comedy for James is that every audience is different and so every performance is a different journey.

In an attempt to craft a living he set up The Comedy Agency with Mike King. The highlight of his career was a series of performance tours in 2000 in East Timor for the NZ Army UN peacekeepers. These were based on Bob Hope's tours for troops in World War II. The experience was intense - performing in a theatre of war with full military protocols. As is the traditional way of comedy and music, none of the performers were paid but their expenses were covered so long as they got themselves to Darwin.

James returned to his legal career because he had a young family to support. This time he went to Bell Gully as the oldest junior lawyer in the corporate law department with no experience in nine or ten necessary areas because his background was in litigation. From Bell Gully he went to an in-house role as sole New Zealand legal counsel at APN News & Media - the

publishers of the *New Zealand Herald*. He performed this “demanding role” in a “stressed and distressed media organisation”, struggling, like others of its kind, to adjust to the switch from print to the internet, for five years.

Two years ago he left APN and went back to the “high wire act that is stand-up”. Today he has a unique collection of roles that bring together the disparate skill sets he has acquired over the years. He works three days a week at MediaWorks as assistant legal counsel. He has had humour columns

Part of the magic of comedy for James is that every audience is different and so every performance is a different journey.

and partying hard - alternating cleansing ales and a finishing port well into the night and starting work again early the next day.

James completed his LLM at Cambridge in 1990. At Cambridge he learnt how to punt and play croquet and real (royal) tennis. He was in Darwin College with extraordinary maths and science intellects from around the world, many studying with Stephen Hawkins. James became a guinea pig for the explanation of complex problems for publishing purposes. He recalls an informal booking schedule, with payment in alcohol, and the position of planets, molecules and other matter being grappled with, modelled by pints and other assorted glassware.

After graduating James worked in London in legal publishing and then back in law in construction and insolvency. However, he had his “nose in someone's arm pit one too many times on a hot Tube one day and felt the tug of home”. He returned to New Zealand and to Russell McVeagh in litigation, working for three years with Chris Browne and Paul David. He did a lot of work with Chris acting for the Kiwifruit Marketing Board which was then under siege, and had a great run with Paul David in general insurance matters. In spite of everything going very well James felt a profound sense of dissatisfaction and left the law again, this time to try his hand at public relations.

It was at this point that he stumbled into doing comedy in an open microphone night. Although he had a background of debating and mooting, winning the Stout Shield moot whilst at the Auckland Law School, standing up at the open microphone was “an emotional bungee jump”. He found himself swimming rather than sinking and was repeatedly invited back. Part

published in the *New Zealand Herald*, *Herald on Sunday* and the Listener. He is involved with radio as co-host of “The Late Late Breakfast Show” on Radio Sport (Thursday, from 8 pm to midnight), is also a regular contributor to “The Week That Was” segment for Kathryn Ryan's Nine to Noon show on Radio New Zealand, and a panellist for Andrew Dickens' “Weekend Café” on NewstalkZB. He does regular stand-up performances at the Classic and some of the smaller comedy venues around town and, most importantly, he MC's for corporate functions. For example, he was MC for the CLANZ conference in New Zealand for the last four years and this year hosted the Canadian Corporate Counsel Association Conference in Toronto. He is also a regular MC and host for a variety of other conferences and seminars across a range of sectors and professions. This is the work that excites him the most as it brings all of his experience together, including the unique combination of a white collar background and stand-up comedic experience. Lawyers have skills in comprehension, and summary, as well as accuracy and succinctness in the use of language - which enable him to provide serious links between the sessions and pick up on the broader themes over the course of the conference - and he is able to combine that with humour, games and audience participation to “run the energy in the room” over the course of the day.

Like the careers of many creative people, James' CV does not sound like a comfortable journey lived forwards. However, I am left with the impression that it makes a perfect kind of sense in retrospect.

Julia Tolmie

Encouraging diversity and building relationships in employment law practice

Jennifer Mills

Jennifer Mills (BA/LLB 1994) is driven - she is described as having a “type A personality” - which means that she strives to be the best that she can be in everything she does. Her challenges are about learning to prioritise (family, friends and career come first) and accept that it is not possible to excel at everything. It is a tough lesson for her. By way of example, she confesses to me that when she started baking cakes for her children’s parties, she took a cake decorating course so that her cakes were outstanding. When she was studying for her BA/LLB her specialisation was in Japanese. Being who she is, she took six months out of her studies to live in Japan (in Shigakogen in Northern Honshu) and became fluent in the language.

The result is an impressive list of achievements in law. She became a partner at top tier law firm Minter Ellison Rudd Watts at 32 years of age. This is no mean feat - not simply because of her age at the time but because women constitute approximately 18 percent of partners in law firms. Jennifer currently runs a team of ten authors, managing the firm’s Auckland employment law practice. Her career highlights include a number of high profile cases. For example, she acted for TVNZ in a dispute involving Mike McRoberts; Carter Holt Harvey in relation to a number of industrial issues - the most significant being an 89 day strike at Kinleith, which was the longest strike in New Zealand’s history; and NZ Crane in relation to a fatality and a

health and safety prosecution. Her team are the trusted advisers to Air New Zealand’s employment team and were involved in high level restructuring and a significant restraint of trade litigation. The matter was removed to the Employment Court on an important question of law and is currently our leading case on the inter-relationship between a garden leave provision and a restraint of trade. She has been invited by the University of Canterbury to be a guest lecturer in employment law, writes and is interviewed prolifically for NBR and is often asked by Fairfax media to comment on developments. She has also been listed as a leading employment lawyer by *Chambers Global* every year since 2007.

Jennifer started in litigation after graduation (having won the King’s College public speaking cup whilst at school) but specialized in employment law after a couple of years. This area of the law attracted her because it gave her the opportunity to build strong relationships with clients and conduct interesting cases involving “personalities”.

Jennifer is very proud of the fact that her firm promotes diversity - for example, it actively promotes women into senior roles who work part time because of their parenting responsibilities. Jennifer comments, “These are seriously smart people - why would you lose that talent?” Minter Ellison Rudd Watts has also been recognised by an international judging panel as the best New Zealand firm for women in business law, specifically for their commitment to diversity and mentoring.

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My conversations with professional women in law often turn to the subject of how they have struck a balance between the time demands of a successful legal career and those of motherhood. Jennifer’s solution - as the primary breadwinner for her family - is a full time nanny who works long hours, is committed to the family and loves the children as her own. Her approach is to partner with Jennifer to raise the children to be the best they can be.

Jennifer has achieved a lot and she is enjoying being at the top of her game but she tells me that she doesn’t want to stop there. She relishes the opportunity to build new relationships, be involved in new ventures, and continue supporting women in practice and the firm - all while being involved in the cutting edge of law.

Julia Tolmie



On operating in business and serving community

Morris Pita

After completing my law degree at Auckland in 1993 I moved to Wellington for my first job as a policy analyst with the Public Health Commission. I completed my LLM on a part time basis between 1995 and 1998, and was fortunate enough to be awarded the Fowlds Memorial Prize in my final year. It was at about that stage that I decided to see what life was like in the private sector, which led to a two-year stint as a management consultant with Ernst & Young. I learned a great deal working there; however, I was increasingly aware that whilst my liberal arts background gave me a strong set of analytical skills, I would also benefit considerably from some further rounding from a commercial standpoint. An MBA seemed like an ideal way to achieve this goal and complete my OE in one go.

I chose SBS (Oxford University's Business School) because of its one year programme, its incredibly diverse international student body, and the rich history of the University itself. As a result, my wife, Sharon Shea (BA/LLB, Auckland, 1992) and I spent the next two years living at Jesus College, with Sharon completing her MSc (Dist.) in comparative social policy also at Jesus, in 2002.

Post-MBA I took up a position in the strategy and economics team for the FTSE-25 gas exploration and production company, BG Group, supporting the firm in its global investment decisions in South America and Europe. Expecting our first child, we returned to New Zealand, where I joined Mighty River Power (MRP). Initially, I worked as a regulatory strategist assisting the business in coming to grips with a new and extensive set of rules for the electricity sector. This was followed by several years as a commercial manager, working on deals to pave the way for new wind-farms and geothermal power plants to meet the country's rising demand for electricity generation.



I do not recall any tutorial or lecture on: “What to do when your rig’s drill-string gets stuck at a depth equivalent to 20 rugby fields at 2 am on a frosty winter’s morning ...”

In 2008, I took on a new role, project managing MRP's Ngatamariki geothermal development. This involved initiating and managing an extensive geothermal exploration drilling programme, required to prove the business case for the construction of a \$470m, 82mw power plant capable of meeting the energy needs of around 80,000 New Zealand households. The skills and knowledge I gained both at law school and business school enabled me to lead a diverse team of subject matter experts, ranging from engineers, chemists, geologists and economists, to a close knit crew of 70 “roughnecks” who operated the oil rig we were using to drill deep into the earth's crust in search of economically viable geothermal resource.

Whilst I do not recall any tutorial or lecture on: “What to do when your rig’s drill-string gets stuck at a depth equivalent to 20 rugby fields at 2am on a frosty winter’s morning”, my training in how to dismantle any problem into its core components, and from there to design a solution - drawing on my own knowledge as well as the skills and ingenuity of the team around me - were at the heart of both the Auckland and Oxford thinking models.

In 2009, Sharon and I set up a boutique consulting company, Shea Pita & Associates Ltd. Among other things, this enabled me to blend my experience in the energy industry with my passion for growing the Maori economy to address the income gap between Maori and non-Maori New Zealanders. Four hectic but exciting years later, our firm continues to play a key role in the provision of commercial, economic and strategic advice to Maori tribal corporates and trusts engaged in asset development and portfolio growth in the electricity, forestry, agriculture, education, health and tourism sectors, to name a few.

Since 2009, I have sat on the board of Eden Park, where alongside a diverse and talented governance and management team, I assisted with the stadium's redevelopment ahead of the 2011 Rugby World Cup. More recently I have taken on the role of chair of the park's finance and audit committee. My iwi are Ngatiwai and Ngati Hine and I have been a trustee on our farm and forest block in Whangaruru for the last 10 years, helping with the establishment of contemporary commercial structures and an organisational strategy focused on yielding tangible long term outcomes for the beneficial owners.

Looking back, my career has taken quite a different path to that of many of my fellow law students. Nonetheless, my law degree has been invaluable and is something I use every day in business - not so much in terms of analysing contract small print, or deciding litigation tactics (I get “real lawyers” to do that) - but definitely in the way I approach and look to unravel business problems. In other words, in all professional walks of life, it is tough to find solutions if I do not fully understand the nature of the problems before me. Doing this successfully means being able to identify and distinguish the material issues from those which are not, and then design and implement rational strategies which enable me to apply the bulk of my time and resources to solving the problems that count.

I have fond memories both of my time and of the people I met at the Law School, and trust that the rich learning tradition and culture I profited from continues to provide a world class environment for the extension of student minds for the benefit of businesses and communities, wherever and however graduates may end up applying the core skills they have learned along the way.



On life in Belfast

Yvette Russell who graduated from Auckland in 2000, is currently lecturing in law at Queen's University in Belfast. After leaving Auckland in 1999, Yvette worked for the Ministry of Social Development for three years before undertaking her LLM at New York University. She then moved to Canterbury in England to begin a PhD at the University of Kent. She taught criminal law at Kent during her three years there, and then taught criminology at the University of Reading before taking up a position at Queen's last year. Yvette's research expertise is in the area of poststructuralist feminist philosophy and critical theory and her current research project is a philosophical investigation of the crime of rape and rape law in the UK. In addition to teaching criminal law, gender theory and legal theory at Queen's, Yvette is an associate editor of the major international law journal *Feminist Legal Studies*.

Yvette says:

"Belfast is a vibrant and interesting city to be in and Queen's is a dynamic intellectual environment, particularly for transitional and interdisciplinary criminological research. Having taught now at three different universities in the UK, I still refer back to my time as an undergraduate at Auckland as a reference point for what a good legal education should be and base my teaching 'style' on lecturers and mentors I was lucky enough to learn from in my time as a student. The face of education in the UK is changing rapidly because the Government has gutted higher education funding and the nature of academia is also changing - in many ways not for the better.

Research which cannot be tied easily to a clear and linear 'impact' agenda is being marginalised in a way that has real implications for academic freedom and this is something all scholars should be worried about. Despite this, I think there is a lot of solidarity, particularly in the research community in which I operate, which will resist this marginalisation and I am able to have a small role in this through promoting different and varied forms of scholarship in *Feminist Legal Studies*."

Having taught now at three different universities in the UK, I still refer back to my time as an undergraduate at Auckland as a reference point for what a good legal education should be ...

Yvette's most recent article "Thinking sexual difference through the law of rape" was published by *Law and Critique* last month and she plans to submit her thesis next year.

On taking silk in Australia

Saul Holt writes:

"We moved to Australia - Townsville of all places - in 2007. Before that I had spent nine wonderful years as a Crown Prosecutor in Palmerston North. I managed to get an LLM (in public law) from Auckland along the way.

After our year in Townsville doing commercial litigation, diving, avoiding salt water crocodiles and attending rodeos, we came to Melbourne. As well as being the birthplace of our boys (Daniel and Eli) and providing amazing food, coffee, sport and culture, it has been a special place to work in the law.

I spent the first 18 months working in policy on a new Criminal Procedure Act and was then appointed as Director of Criminal Law at Victoria Legal Aid (VLA). I made the mistake of starting the job two weeks after our oldest son was born. I had no comprehension of how profoundly life would change in those 14 days. Having previously managed no more than five people, I was suddenly supposed to be in charge of a \$78 million program with 160 staff. The learning curve bent backwards over itself. I remember being faced with my first budget and having to google some of the headings.

In 2012 I was appointed VLA's first Chief Counsel which has allowed me to get back into court more regularly. The work I get to do in this role is always inspiring. We are heavily involved in public interest and strategic litigation and I split my time evenly between criminal trial/appeal work and public/administrative law, but always acting for some of the most vulnerable people imaginable. As I write this I am preparing to act for a woman who killed her abusive partner. Yesterday I settled submissions on an anti-discrimination claim for a Pakistani refugee refused concessional public transport. Last year we ran a freedom of expression defence for a man who painted over advertising hoardings in white paint to protest against the despoilment of public space with advertising. Every day is different.



The most interesting cases I have done are defending those charged with "people smuggling" for crewing the infamous boats that arrive with asylum seekers from Indonesia. These young men are almost always impoverished fishermen offered a handful of dollars to crew boats to Christmas Island, which is closer to Indonesia than Australia. They are tricked by the organisers into believing they will be sent straight home. What actually waits for them is mandatory imprisonment for five years. The politics underlying these cases is illustrated by an appeal we were taking on a point of law that would have been a complete answer to many of these cases. The Commonwealth government responded by rushing legislation retrospectively changing the elements of the offence two days before the appeal was to be heard.

Last year was a big one personally. I was appointed a Victorian Law Reform Commissioner and took silk (SC rather than QC in Victoria). Both of these appointments were really nice but unexpected. Because I'm employed I suspect I am the only person who took silk in Australia whose appointment did not improve their financial position!

None of this compares to the chaos and wonderfulness of parent-hood. We have two crazy but lovely little boys who exhaust, frustrate and delight us in equal measure. Being kiwis away from home with small children has been hard work and we look jealously at our friends with parents and grandparents to help out. But I think it has also made us a pretty tight unit. We're about to up-sticks again and head to Brisbane to take up a career opportunity for my wife Robyn (who is an obstetrician and therefore works at least four times harder than me). This will also have the welcome side effect of causing us to be warmer - an important priority as I write this in the middle of a Melbourne winter... and people say the weather is bad in Palmie!"

Alumni news in brief

Chris Jenkins (BCom/LLB (Hons) 2011) has finished his LLM at Cambridge and has embarked on a PhD.

Rachel Kendall (LLM (First Class Hons) 2012) joined the Ministry of Foreign Affairs and Trade as a foreign policy officer in February 2013 and was placed in her first rotation in the environment division within the multilateral & legal affairs group. Within the environment division, Rachel works on the Antarctic Treaty desk and is involved in a wide range of work areas including the development of tourism policy in Antarctica and the permitting and monitoring of New Zealanders' activities in Antarctica. She has been on the New Zealand delegation to the Antarctic Treaty Consultative Meeting (ATCM) held in Brussels, Belgium. The ATCM meeting is held annually for the purpose of exchanging information, consulting together on matters of common interest pertaining to Antarctica, and formulating, considering and recommending to governments measures in furtherance of the principles and objectives of the Antarctic Treaty 1959.

Adrian Littlewood (BA/LLB 1997), formerly Auckland Airport's general manager of retail & commercial, has been appointed as its Chief Executive Officer. Adrian Littlewood began his career in corporate and commercial law with Bell Gully in New Zealand and Baker & McKenzie in London. In 2001 he moved into business as a senior strategy analyst in Logical Group (London) and in 2002 as a business consultant for RoamAD. In 2003 he took up a position in Telecom and spent five years in key strategy, product and marketing roles, including head of consumer propositions where he was responsible for the design, pricing and launch of consumer offers across mobile, broadband and landline portfolios, covering 3.5 million customer relationships and earnings of over \$1 billion.

Sehj Vather (BCom/LLB (Hons) 2008) recently left one leading New York law firm (Cleary Gottlieb Steen & Hamilton) for another (Wachtell Lipton Rosen & Katz). After graduating, Sehj worked at Bell Gully in Auckland and his honours dissertation was published: "The tax treatment of New Zealand firms' offshore subsidiaries" (2009) AULR 139. In 2011 he completed an LLM at Stanford. Sehj's new employer is consistently ranked first among United States law firms.

The Auckland Law School thanks all the alumni and friends for the support they have given to the Faculty of Law in recent years, including the following alumni and friends who have given support since the 2012 *Eden Crescent*.

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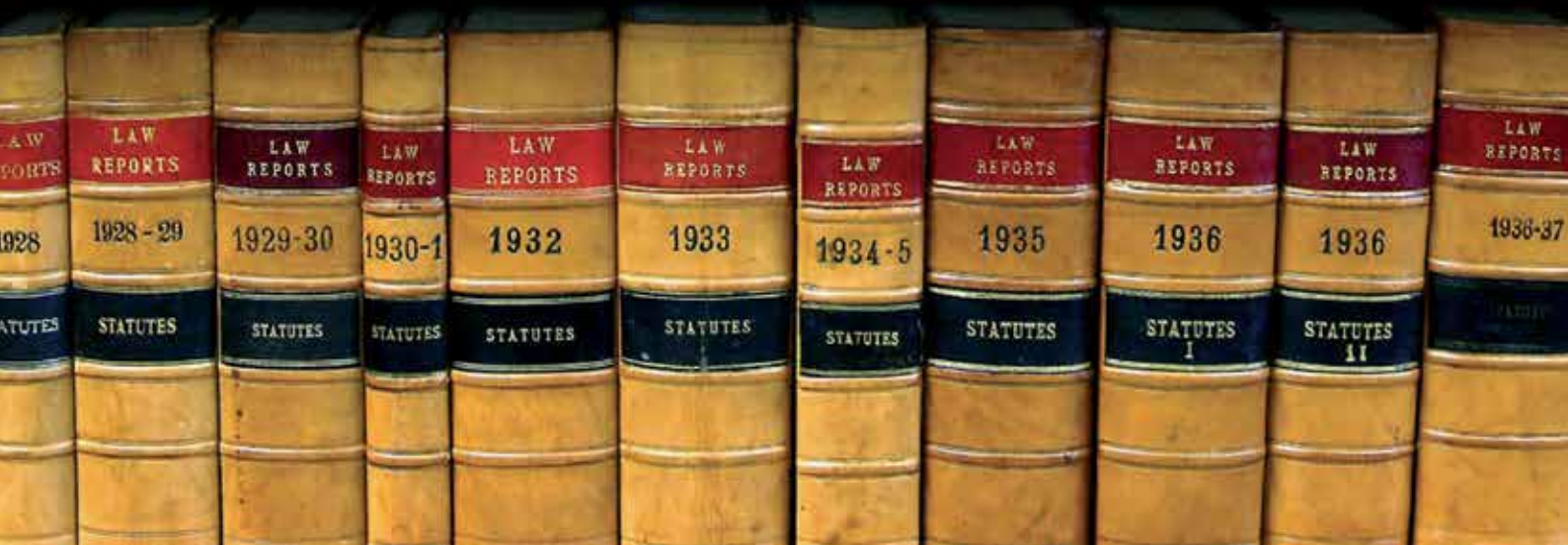
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