Welcome to another edition of V. Alum.

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

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

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

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

Professor ATH Smith
Dean, VUW Law Faculty
GROWTH AND STRENGTH:
The interior decoration of the Old Government Building, the Law School’s celebrated home, has a theme of natural forms, images of which are featured throughout this issue of V.alum.

“Nature hath no goal though she hath law.”
John Donne 1572–1631
A $1.75 million research project led by Victoria University and funded by the New Zealand Law Foundation aims to help get regulation right for New Zealand.

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

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

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

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

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

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

New Zealand was ranked third in the World Bank’s Doing Business survey 2011, yet more can be done to promote competition, innovation and growth. Effective regulation plays an important role in the economy. Regulations are the means through which the public can be assured the products or services they purchase are safe and reliable, and of world-class standards. An effective regulatory regime needs to be good for business, good for the New Zealand public and must also support productivity and economic growth.

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

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

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

- Trans-Tasman and Free Trade Agreements
- Regulatory Autonomy and Consumer Protection
- Labour regulation, shareholder protection and creditor protection
After the issues in each subproject are framed and discussed the second stage of the project will deepen the analysis of the issues and will include cost/benefit analyses. The above subprojects will provide a detailed basis for broader analysis of what questions and issues New Zealand regulators should consider when planning and making regulation.

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

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

The Project team

Project Leader: Susy Frankel
Project Manager: Bianca Muller
Project Administrator: Christine Gibson

Researchers at Victoria University of Wellington
- Professor Gordon Anderson
  Faculty of Law
- Professor Graeme Austin
  Faculty of Law
- Mark Bennett, Lecturer
  Faculty of Law
- Dr Petra Butler, Senior Lecturer
  Faculty of Law
- Dr David Carter, Senior Lecturer
  School of Accounting & Commercial Law
- Dr Joel Colon-Blos, Lecturer
  Faculty of Law
- Dr Michael Di Francesco, Senior Lecturer
  School of Government
- Professor Suzy Frankel
  Faculty of Law
- Dean Knight
  Senior Lecturer, Faculty of Law
- Meredith Kolsky Lewis, Senior Lecturer,
  Faculty of Law
- Professor Geoff Mc Lay
  Faculty of Law
- Professor John Prebble
  Faculty of Law
- Professor Neil Quigley,
  Deputy Vice-Chancellor (Research)
- Paul Scott, Senior Lecturer
  Faculty of Law
- Dr Rayner Thwaites, Lecturer
  Faculty of Law
- Kate Tokeley, Senior Lecturer
  Faculty of Law

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

Key participants from Chapman Tripp
- Andy Nicholls, Partner
- Jack Hodder SC, Partner and Chairman of the Board
- Daniel Kalderimis, Principal

Other Chapman Tripp participants
- Casey Plunket, Partner
- Geoff Shirtcliffe, Partner
- Kelly McFadzein, Senior Solicitor
- Matt Sumpter, Partner
- Tim Smith, Principal
- Victoria Heine, Partner
The prodigal son

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

That was the subject of the 2009 Lord Cooke of Thorndon Lecture delivered at Victoria University of Wellington’s Law School in December by Queen’s University Professor Emeritus and Victoria University graduate, David Mullan.

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

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

That said, while endorsing Lord Cooke’s views that judicial review of the executive is legitimate in certain limited circumstances, Professor Mullan also acknowledged that it is a highly controversial issue, and – not surprisingly – the New Zealand and Canadian courts have traditionally shown a reluctance to engage in judicial review of high-level executive actions.

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

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

“We live at a time when the judiciary, perf oral through the existence of Bills of Rights, or Charters of Rights and Freedoms, are in fact engaging with executive policy-making – at least in areas where the rights and freedoms protected by the New Zealand Bill of Rights Act and Canadian Charter of Rights and Freedoms are concerned.”

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

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

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

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

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

“So there is some encouragement that the Canadian courts have proved themselves willing, where rights-based interests of individuals are at stake, to break beyond traditional barriers of justiciability, to break beyond traditional barriers about non-scrutiny of government decision-making in matters bearing upon the public interest and to at least call upon the government (albeit subject to proportionality analysis or Canadian deference theory or whatever) to justify their positions in the face of situations that indeed exasperate.”
The Wellington Community Justice Project (WCJP) is an initiative started by law students looking for opportunities to gain practical legal experience through assisting community organisations.

It was launched at the beginning of 2010 and the inaugural executive committee would like to thank Victoria University Law School for its continued support and encouragement during the year as well as the Wellington Community Law Centre (WCLC) and the Human Rights Commission.

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

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

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

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

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

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

By Helena Nunn
Geoff McIay – commissioned, accomplished

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

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

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

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

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

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

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

“I have always been extremely proud of the extraordinary job that our Law School does. I have been privileged to study, teach and visit some of the “best” law schools in the world – and I admire them greatly. But I have always told the people there that we have students to rival their very best, and faculty and support staff that are extraordinary. I am amazed pretty much every day by what my colleagues do. And without taking away from what has been done before, the staff seminars of last week and this week tell us that the best is yet to come. We have very few resources compared to many places, but none of you ever makes that an excuse for doing less than you ought. You make a real contribution to our little country and our wide world. And most importantly you all believe in helping people. When people tell me about the legendary arguments of yore at the faculty over teaching I always tell them it is sign

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

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

“What I have most enjoyed is the sheer variety of people (academics, student, student admin, support staff) who work here, study here and otherwise pass through. There is nothing I would rather do than stand in front of our torts class. But the opportunity that I have accepted was not one which I could refuse. It is a chance to learn from some of the best legal people in New Zealand and to give a little bit back to the wider community.

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

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

Professor Geoff McIay
Graeme Austin – Back to the future

Graeme Austin is our newly appointed Professor of Private Law.

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

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

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


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

Graeme has been a visiting professor at a number of leading academic institutions, most recently at the University of WuHan School of Law (China). He has also been regularly invited to teach in Melbourne University’s graduate law programme. An elected member of the American Law Institute, Professor Austin served on the panel of advisors for its Project on Intellectual Property. Principles Governing Jurisdiction, Choice of Law, and Judgments in Transnational Disputes (2008). He serves on the editorial boards of the *Journal of the Copyright Society (USA)* and the *Media and Arts Law Review* (Australia). His current research includes: a project on the relationship between the copyright and privacy; a project exploring distributive justice issues in the context of tech transfer contracts; and an examination of the conceptual bases for the regulation of consumer debt.

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

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

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**Staff appointments and awards**

**Graeme Austin** was appointed Professor – see above.

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

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

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

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

**Campbell McLachlan** was awarded the 2010 New Zealand Law Foundation International Research Fellowship, and will spend 2011 as a Visiting Fellow to All Soul’s College, Oxford to work on his book *Foreign Relations Law* (Cambridge University Press).


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

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

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

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

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

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

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

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

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

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

He practised at the Chancery bar from 1961 to 1994, specialising in trusts, pension schemes and tax. He became a QC in 1982 and was appointed a High Court judge in 1994. He was made a Law Lord in 2002 and became one of the first Justices of the new Supreme Court of the United Kingdom. His pastimes have included cross-country skiing, riding and running (sub-three-hour London Marathon 1986) but are now rather less energetic.

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

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

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

Made by Local Production Company Gibson Group and with a panel format led by prominent local barrister (and Victoria Alumnus) Greg King, as its leader, it is quintessentially a Wellington show.

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

“Its strength is that our academics, and they, too, are part of the programme, where appropriate.” The Court Report aims to take a detailed look at legal issues, with a focus on underlying principles and informed analysis. The panel varies from week to week but includes politicians, practitioners, academics and journalists.

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

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

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

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

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

Another season of The Court Report is planned for 2011.
The role New Zealand played in the development of the Universal Declaration of Human Rights is a story of which more could be told. The role Victoria University of Wellington played in providing the intellectual heft for this country’s policy on the matter is a fundamental part of that story and something to celebrate.

Jailed as a conscientious objector in World War 1, Peter Fraser experienced at first hand the withholding of human rights and endured the hostility his stance incurred. His politics were forged by that experience and tempered by the realpolitik of post World War 2 international relations.

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

In the drafting of the United Nations Charter itself, this country played a pivotal role, particularly in strengthening its human rights provisions.

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

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

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

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

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

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

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

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

Sources:


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

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

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

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

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

The Legal Māori Corpus is an unprecedented collection of modern and historical Māori language texts totalling just on 8 million words. “When we started the project two years ago we had no idea the final size of our corpus would be so great, and to our knowledge, it is the largest structured corpus of Māori language texts ever compiled,” says Māmari Stephens.

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

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

The Legal Māori Lexicon is a glossary of all legal terms identified during the project so far. Just over 2,600 terms are now publicly available for researchers to use in order to analyse patterns of language use and vocabulary, as well as being able to download the texts themselves for their own use. The post-1910 texts will be made available once copyright permissions are gained.

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


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

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

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

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

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

For these reasons, the use of urgency is an issue of major public importance with significant implications for the democratic foundations of the New Zealand constitution and for the law-making function of Parliament. Nevertheless, there has been surprisingly little in the way of in-depth study of the use of urgency within New Zealand.

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

Questions the Project is particularly concerned with include:

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

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

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

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

WE THE PEOPLE(S) – ENGAGEMENT AND PARTICIPATION IN GOVERNMENT
11-12 February 2010
Wellington, New Zealand

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

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

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

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

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

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

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

The conference graphic was made up of over 100 faces of people invited to submit a photo through Facebook. These were then merged with a master photo of the Beehive. Conference organisers say the graphic neatly captures the themes of the conference, blending the people and the government together – individually and collectively.
This was followed by an exploration from Professor Peter Cane of the very formal constitutional provisions for participation. The discussion returned to the fluid nature of New Zealand's constitutional regulation of participation and the questions this raises about the underlying normative concepts, including the judicial regulation of who participates and the equality of participation.

Significant debate was had in the final two sessions about what was practicable and desirable in terms of participation from citizens' assemblies to select committees, at both central and local government levels. One panel analysed the cost of consulting and participating relative to the effectiveness of participation in leading to positive reform and good governance. The tensions between the zero-sum nature of political participation and more collaborative participation was also highlighted.

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

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

**11-13 December 2009**

Wellington, New Zealand

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

The conference was held in the historic Old Government Buildings which, as the former location of the Cabinet and most of New Zealand's civil service, are a key link to New Zealand's legal history. The conference began with a mihi whakatau welcoming the delegates to Wellington and to the Law School. The conference consisted of 64 presentations and a keynote address. The presentations had a strong emphasis on issues relating to indigenous peoples in New Zealand and Australia although papers ranged from “The Politics of Primogeniture in Nineteenth-century England” to “Interpretations of International Humanitarian Law during the Second World War”.

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

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

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

Summary by Dr Grant Morris (on behalf of the conference organizing committee)
History reports itself

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

Professor Emeritus Bruce Kercher, Macquarie University

Three years of legal history research funded by the New Zealand Law Foundation culminated in the Leading Cases conference this year at Victoria's Law School.

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

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

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

Dr Dorsett says: “We have been astonished at the response. The four-and-a-half thousand decisions recovered are from 1842 to the middle of 1869. The amount of material we have gathered has far exceeded our expectations and there still remain the cases from 1870 through till 1883.”

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

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

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

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

The papers will be published in the Victoria University Law Review.
By 1844 Ross had again found himself in legal trouble, this time defending a police magistrate, Arthur McDonogh, against a conviction of ‘illegally retailing … a certain quantity of spirituous liquors’. A dispute arose between Ross and William Brewer, another Wellington solicitor, over whether Ross had agreed to waive a notice in McDonogh’s trial.

Running into financial difficulties in 1840, Ross ‘borrowed’ from Crown debts and absconded to Western Australia; he was captured and extradited back to Van Diemen’s Land where he stood trial for embezzlement of £2,621 of Crown funds. He was tried in the Supreme Court in March 1842 but was acquitted on a legal point.

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

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

William and his brother Charles had arrived in New Zealand in February 1840. Both practised as lawyers and by 1844 Charles had been appointed as County Court Judge in Nelson. Their sister Kate followed in 1843 with her husband, Justice Chapman, who was appointed Supreme Court Judge for the Southern District. According to Chapman it was Ross who challenged Brewer to a duel on the evening of February 26 1844. The men met near Pimble’s brickyard in Honeyman’s Gully in Thorndon (near what is now Anderson Park). Brewer fired his shot in the air, however Ross did not follow suit; the bullet from his pistol hit Brewer in the groin. Brewer was seriously wounded and was attended by Dr Dorset, the surgeon present at the duel. Dorset summoned help and took Brewer to a nearby house.

The bullet wound was not fatal and Brewer was thought to be improving over the ensuing days. Chapman wrote to his father that Brewer ‘appeared to be doing so well hopes were entertained of his recovery but on the Saturday bad symptoms came on, on Sunday he became delirious and on Monday evening at about 7 o’clock he expired’. The bullet wound became infected and gangrene set in, eventually killing Brewer a week after the duel had taken place.

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

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

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

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

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

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

Running into financial difficulties in 1840, Ross ‘borrowed’ from Crown debts and absconded to Western Australia; he was captured and extradited back to Van Diemen’s Land where he stood trial for embezzlement of £2,621 of Crown funds. He was tried in the Supreme Court in March 1842 but was acquitted on a legal point.

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

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

It had been nearly a decade since academics, officials, business leaders and representatives of civil society gathered at Parliament for a major conference on ‘Building the Constitution’.

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

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

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

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

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

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

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

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

Given the significant developments since 2000, together with the range of constitutional issues currently being debated (and/or soon to be debated) in the public domain, there is a strong case for a serious public discussion on the future of New Zealand’s constitution. This conference provided such an opportunity.

Moreover, the focus of the event was not only...
on the issues which will shape New Zealand's future but also on how New Zealanders should be engaged in a constitutional reform process.

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

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

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

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

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

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

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

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

“We youth are a valuable resource. We are eager to learn and, because of the society we’ve been brought up in, we have good values. However, we run the risk of becoming detached from reality. In New Zealand we don’t have internal problems as big as other countries. For most of us, our biggest concern is schoolwork or relationships; things that matter but can be resolved on an individual level.

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

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

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

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17-year-old Wellington College student, Rayhan Langdana
The two of us: Canada and New Zealand

CANADA & NEW ZEALAND: CONNECTIONS, COMPARISONS AND CHALLENGES

The New Zealand Centre for Public Law, the School of Political Science and International Relations, the High Commission of Canada in New Zealand and the New Zealand Institute of International Affairs
9-10 February 2010
Wellington New Zealand

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

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

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

A particular law highlight was a public speech from High Court judge, Hon Justice Joe Williams, on the search for a national identity in Canada and New Zealand in the context of a fading Empire. This was one of four or five sessions that had a strong legal theme, including a number on comparative indigenous people’s rights and the impact of the Canadian Charter of Rights and Freedoms and the development of jurisprudence under the New Zealand Bill of Rights.

Publication from inaugural NZCIEL Conference

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

Part I: International Economic Law: Conceptions of Convergence and Divergence
Robert Howse “The end of the globalisation debate – continued”
Yuka Fukunaga “Global economic institutions and the autonomy of development policy: a pluralist approach”
Jason Beckett “Fragmentation, openness, and hegemony: adjudication and the WTO”

Part II: WTO Treaty Interpretation: Implications & Consequences
Tracey Epps “Demanding perfection: private food standards and the SPS Agreement”
Susy Frankel “Eroding national autonomy from the TRIPS Agreement”
Alberta Fabbricotti “The WTO and the RTAs: a ‘bottom-up’ interpretation of RTAs’ autonomy over WTO law”
Henning Grosse Ruse-Khan “Gambling with sovereignty: complying with international obligations or upholding national autonomy”

Part III: Responding to International Economic Law Commitments
Meredith Kolsky Lewis “Safety standards and indigenous products: what role for traditional knowledge?”
Rafael Leal-Arcas “The GATS and temporary migration policy”
Pinar Artiran “A different approach to the external trade requirement of GATT Article XXIV: assessing ‘other regulations of commerce’ in the context of EU enlargement and its heightened regulatory standards”

Part IV: Transformations in International Economic Law
Ko-Yung Tung “Foreign investors vs sovereign states: towards a global framework, BIT by BIT”
Jane Kelsey “How ‘trade in services’ transforms the regulation of temporary migration for remittances in poor countries”
Kate Miles “Reconceptualising international investment law: bringing the public interest into private business”
Visitors to the Faculty 2010

**JANUARY**

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

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

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

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

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

**FEBRUARY**

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

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

**MARCH**

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

**APRIL**

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

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

**MAY**

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

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

**JUNE**

Justice Edwin Cameron – see page 8.

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

**JULY**

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

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

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

**AUGUST**

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


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

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

**SEPTEMBER**

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

**NOVEMBER**

Liz Campbell, Lecturer, University of Aberdeen Law School.

**DECEMBER**

Professor Christoph Beater-Graber, University of Lucerne.

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

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

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

Dr Daphne Zografos, University of Reading Law School, UK.
Research Centres and Events 2010

NEW ZEALAND CENTRE FOR PUBLIC LAW
Events 2010:

JANUARY/FEBRUARY
THE TREATY DEBATE SERIES
Evolution and Not Revolution
Reaction over the last 30-40 years to growing Māori activism
Professor Paul Spoonley and Dr Ranginui Walker
Professor Mason Durie and Colin James
In association with Te Pūpa

FEBRUARY
CONFERENCE
We, the People(s): Engagement and Participation in Government
Organised with the support of the New Zealand Law Foundation and the New Zealand Ministry of Foreign Affairs and Trade
See page 14

APRIL
PUBLIC SEMINAR
Constitutional and Electoral Reform in Tonga
Mr ‘Asipeli ‘Aminiasi Kefu, Solicitor-General, Tonga
In association with the New Zealand Institute of International Affairs

PUBLIC LECTURE
Developing and Indigenous Jurisprudence
Hon Justice Baragwanath, Court of Appeal

MAY
PUBLIC OFFICE HOLDERS LECTURE SERIES
Role of the Speaker of the House of Representatives
Hon Dr Lockwood Smith

PUBLIC SEMINAR
Ritual, Law, Justice and the Question of Time and Space
Dr David Marrani, University of Essex

PUBLIC LECTURE
The UN Declaration on the Rights of Indigenous Peoples
Professor Federico Lanzerini, University of Siena
In association with the International Law Association

JUNE
PUBLIC LECTURE
 Civilians on the battlefield: Challenges for the IHL in the 21st century
Dr Nils Melzer, ICRC Geneva
In association with the International Committee of the Red Cross and the International Law Association

PUBLIC LECTURE
The Constitution, Political Powers and AIDS
Justice Edwin Cameron, Constitutional Court of South Africa
See page 8

AUGUST
PUBLIC LECTURE
Treating like cases alike and unlike cases differently: some problems of anti-discrimination law
The Right Hon Lord Walker of Gestingthorpe
See page 8

PUBLIC SEMINARS
Direct (Anti-)Democracy
Professor Maxwell Stearns
In association with the Law and Economics Foundation Regulatory Reform Project (see page 5)

Celebrating 20 years of the Bill of Rights: Two Perspectives
See page 19

SEPTEMBER
CONFERENCE
Reconstituting the Constitution
In association with the Institute of Policy Studies
See page 19

PUBLIC SEMINAR
Canterbury Earthquake Response and Recovery Act 2010: Constitutionally Concerning?
Chair Professor Tony Smith, Dean of Victoria's Faculty of Law, with Dr Rayner Thwaites and Dean Knight (Faculty) and Henry Clayton (Russell McVeagh)

NEW ZEALAND CENTRE OF INTERNATIONAL ECONOMIC LAW
The NZCIEL continued to provide a venue for discussion and debate on matters relating to international economic law in 2010.

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

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


See page 19

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

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

Susy Frankel & Meredith Kolsky Lewis
Co-Directors NZCIEL
Events 2010:

**FACULTY OF LAW Events 2010:**

**JANUARY**

**PUBLIC LECTURE**
Old and New Net Wars Over Free Speech, Freedom and Secrecy or How to Understand the Hacker and Lulz Battle against the COS
Gabriella Coleman

**JULY**

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

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

**AUGUST**

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

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

**SEPTEMBER**

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

**DECEMBER**

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

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

**JUNE**

**CONFERENCE**
Leading Cases
See page 20

**THE SECOND SALMOND LECTURE**
Why legal history matters
Professor Jim Phillips, University of Toronto

**JULY**

**DEAN’S RECEPTION**
To honour competitions and prizewinners
See page 30

**FACULTY LUNCH**
With Justice Edwin Cameron

**AUGUST**

**PUBLIC LECTURE**
The investigation of possible miscarriages of justice and the quashing of wrongful convictions
Professor Graham Zellick, New Zealand Law Foundation Distinguished Visiting Fellow

**SEPTEMBER**

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

**DECEMBER**

**ROBIN COOKE LECTURE**
Human Rights: Interpretation, Declarations of Inconsistency and the Limits of Judicial Power
Sir Anthony Mason, AC, KB, QC

**COLLOQUIUM**
How New Zealand Negotiates Trade Agreements
A diverse range of speakers from business and government including MFAT, MED, MAF, the Ministry of Fisheries and the New Zealand Customs Service.
Katherine Belton (LLB Hons 2009) received a full scholarship to pursue an LLM in international dispute resolution at Queen Mary College, London.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Hon Hugh Williams QC (LLB 1963, LLM 1967) received a knighthood in the Queen’s Birthday Honours List.
Obituaries 2010

THE RIGHT HONOURABLE SIR GORDON BISSON (1918-2010)

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

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

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

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

These are the bare bones of a lengthy career of real public service in war and peace, in the practising profession and as a judge. Don Bissom is one of that remarkable group of young New Zealanders who, in their 20s, faced and survived the challenges and horrors of a world conflagration and, with that experience, became leading and exemplary members of the profession. Those experiences brought with them a real sense of what it was to be a New Zealander, what was distinctive, and, in time, resulted in major developments in legal and social policy. Those differences began to appear from the 1960s in legislation as well as in the courts.

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

“I have enjoyed my work. I firmly believe in the rule of law which shows its respect for the rights of the individual by protecting the individual from arbitrary government and gives dignity to human life. There must be in a society an instinct for justice. Right, and not might, is the true foundation. There must be an instinct for liberty and to see that powers and rights are not abused. But the rule of law is not enough. People themselves must have moral values and a sense of discipline.”

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

Judge Kenneth Keith
LLM (VUW) 1964, Hon LLD 1992
Sources: Peter Spiller, New Zealand Court of Appeal 1958-1996: A History (Thomson Brookers); Simon Foote (grandson).
Faculty Publications 2010

VUW LAW REVIEW

VOLUME 41, NUMBER 1
JUNE 2010

1 From Barbie to Renoir: Intellectual Property and Culture – Susy Frankel
15 The Recovery of “Criminal” Assets in New Zealand, Ireland and
England: Fighting Organised and Serious Crime in the Civil
Realm – Liz Campbell
37 Accounting for Accidents: Social Costs of
Personal Injuries – Richard Gaskins
51 Refusal of Assent – A Hidden Element of
Constitutional History in New Zealand –
John E Martin
85 Book Review: In the Footsteps of Ethel
Benjamin by Janet November Caroline
Morris

New Zealand Lost Cases:
89 Case Note: R v E HipoShaunagh Dorset
97 Case Note: R v Margaret Reardon Megan
Simpson

VOLUME 41, NUMBER 2
AUGUST 2010

Special Issue: Human
Rights in the Pacific

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

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

NEW ZEALAND JOURNAL OF PUBLIC AND
INTERNATIONAL LAW

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

AUTHORED BOOKS

The Evidence Act 2006 –
Act & Analysis
Elisabeth McDonald and
Yvette Tinsley with
Richard Mahoney and
Scott Optican
2nd ed, Thomson Reuters,
Wellington, 2010, pp 626

The New Zealand Legal
System: Structures and
Processes
Paul Scott with Duncan
Webb and Katherine
Sanders
5th ed, LexisNexis,
Wellington, 2010, pp 488

Glanville Williams:
Learning the Law
ATH Smith
14th ed, Sweet & Maxwell,
London, 2010, pp 273

The New Zealand Legal Style Guide

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

Two of the three authors of this best-selling text – Geoff McLay
and Chris Murray – are from Victoria’s Law Faculty.
The work is New Zealand’s first national, uniform style and
citation guide and was published late last year with funding from
the New Zealand Law Foundation. It has subsequently been
adopted by New Zealand’s six law schools, three main legal
publishers, major law reviews and a number of courts, including
the Supreme Court and the Court of Appeal.
In the past, law schools, law firms, publishers and courts have all
used their own idiosyncratic styles. This resulted in confusion
and much time consuming work, as it required anyone writing
about the law to constantly translate references from one format
to another.
At the book’s launch, Hon Justice John McGrath praised the
initiative and said: “The advantages we will all derive are
consistency and clarity in the legal writing we all do”.

A YEAR IN REVIEW | FACULTY PUBLICATIONS


Tony Angelo and Alberto Costi (eds) NZ Association for Comparative Law Yearbook 15, 2010, pp 216.


PHD THESIS
Rayner Thwaites, “Judicial Responses to the Indefinite Detention of Non-Citizens Subject to Removal Orders: A Comparative Study of Australia, the United Kingdom and Canada” (SJD Thesis, University of Toronto, 2010).

REPORTS


Elisabeth McDonald “Submission on the Courts (Remote Participation) Bill” (Wellington, April, 2010) pp 4.


Māmari Stephens and Dr Mary Boyce “The Legal Māori Corpus: texts printed before 1910” at www.nzetc.org/tm/scholarly/tei-legalMaoriCorpus.html.


DATABASES


PUBLICATIONS IN PRESS


Meredith Kolsky Lewis “The Trans-Pacific Partnership: Implications for Developing Countries” 1 The Developing World Review of Trade and Competition.


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

**COMPETITION WINNERS**

**Mooting**
Winner: Stephen Whittington
Finalists: Glen Prentice, Yogesh Patel, Polly Higbee

**Client Interviewing**
Winner: Yogesh Patel
Finalists: Genevieve Taylor, Nick Chapman, Jess Braithwaite

**Negotiation**
Winners: Sarah Wilson, Nigel Smith
Finalists: Edward Cade, Dale Scott

**Witness Examination**
Winner: Polly Higbee
Finalist: Glen Prentice

**Australasian Debating Competition**
Stephen Whittington
Ella Edginton
Sebastian Templeton

**FACULTY OF LAW PRIZEWINNERS**

**Coleman-Brown Memorial Award**
Scarlett Cayford

**Cullen Prize in Employment Law**
Yasmin Moinfar, Rachel Collings, Hannah Carter

**Faculty of Law Prize in Legal System**
Chloe Fleming

**Chris Highfield Memorial Prize in Judicial Law**
Conrad Reyners

**Chris Highfield Memorial Prize in Public Law**
Hannah Blumhardt

**A H Johnstone Scholarships in Law**
David Bullock
Samuel Humphrey

**LEADR Prize in Dispute Resolution**
Adam Meek

**Archibald Francis McCallum Scholarship in Law**
Kierra Krumdieck

**NZ Law Review Prize**
David Bullock, Samuel Humphrey
Genevieve Taylor

**Mario Patrono Prize in Legal System**
Lauren Brazier

**Robert Orr McGechan Memorial Prize**
Anne O’Driscoll

**Colin Patterson Memorial Prize**
Daniel Semren

**Quentin-Baxter Prize in International Law**
Sarah Cates

**Quentin-Baxter Prize in Public & International Law**
Ruiping Ye

**Lord Cooke of Thorndon Prize**
David Bullock

**AJ Park Prize in Intellectual Property**
Dirk Lenz

**Bernard Randall Prize in Family Law**
Richard Versteeg

**Thomas Reuters Prize in the Law of Contract**
Zoe Harris

**Thomas Reuters Prize in Jurisprudence**
Scarlett Cayford

**Chapman Tripp Prize**
Grace Thomas-Edmond

**VicBooks Award for Best Tutors**
LAWS 211 Amelia Keene
LAWS 212 Kate Yesberg
LAWS 213 Stephanie Woods
LAWS 214 Amy Whittaker
LAWS 301 Oliver Searle

**Val Gormly Memorial Prize**
Yasmin Moinfar
Student Achievements

THE JOYNT SCROLL

Victoria University again won the prestigious Joynt Scroll university debating competition, with a lot of help from law students. It is the fifth year in a row that Victoria has won the tournament. The Joynt Scroll, now in its 108th year, is New Zealand's second oldest sporting competition, and is competed for annually by Auckland, Otago, Canterbury, Victoria and Waikato Universities.

This year’s Grand Final was an all-Victoria affair, with the Victoria A and Victoria B teams squaring off against each other in Parliament’s Legislative Council Chamber on the topic “That housewives and househusbands should be paid for their work.” The Victoria B team, who affirmed the motion, won in a close 4-3 split decision. The winning team comprised first-year Law and arts students Asher Emanuel and Nick Cross, alongside fourth-year Law and science student Richard D’Ath. The runners-up were fifth-year Law and arts student Jenna Raeburn, and third-year philosophy students Udayan Mukherjee and Paul Smith.

Victoria's domination of the tournament was also reflected in the individual speaker prizes awarded. Richard D’Ath was named as the best speaker of the tournament and captain of the New Zealand Universities Prepared Debating Team. Udayan Mukherjee was also named as a member of the New Zealand team, and Asher Emanuel and Paul Smith picked up highly commended awards.

AUSTRALASIAN INTERVARSITY DEBATING CHAMPIONSHIP

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

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

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

The captain of the Victoria team, Stephen Whittington, was named as the second best speaker of the 300-person tournament and also won the Jock Fanselow Cup for being the best speaker in the Grand Final. The winning Victoria team knocked a second Victoria team out in the semi-finals of the competition.

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

AWARD-WINNING ESSAY

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

PLACEGETTER

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

REPRESENTATIVE TO THE UN

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

The Australasian Intervarsity Debating Championship winners. Victoria team members pictured are, from far left, Seb Templeton, Ella Edginton and Stephen Whittington, and second from right, Richard D’Ath.
Student Activities

VICTORIA UNIVERSITY OF WELLINGTON LAW STUDENTS’ SOCIETY

By Nick Chapman

The Year 2010 has been an extremely successful one for the Victoria University of Wellington Law Students’ Society.

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

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

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

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

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

THE CHARITY BAKE-OFF

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

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

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

SUPREME AWARD
First place
Dinner for two at Logan Brown
Bronwyn Kropp: “Chocolate-Peppermint Masterpiece”

Runner up
Claire Hislop and Catherine Prior: “Apple of my eye” – an apple cake with crumble topping

Second Runner up:
Nick Meehan: “Tart au Chocolate”

CATEGORY WINNERS
Best Chocolate Cake
Jess Rapana and Nicky Bryan: “Beehive or Behave”

Best Biscuit
Haley Adams: “Gingerbread Unicorns”

Best decorated item
Haley Adams: “Cookie Monster Cupcakes”

Most creative item
Claire Hislop and Catherine Prior: “Late Night Inspiration” – a chocolate cake decorated as law books

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

Highly Recommended
Elizabeth Cherry: “Mini Cupcakes”
Julia Caldwell “Clapham Omnibus Cake”
The annual Victoria University of Wellington Law Students’ Society cricket match between the Faculty and students was played out on a bright afternoon at Kelburn Park.

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

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

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

LAW BALL

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

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

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

As with past years, the Ball was well attended with all 450 tickets selling out exceptionally quickly. It was a great opportunity for students to mix and mingle with members of staff as the whole of Law School put its hair up for what was a fantastic night of elegance, elan and wild dancing. It seems as if next year’s ball just can’t come soon enough. Start spreading the news.
LAW REVUE 2010: A TALE OF DEFAMATION, BETRAYAL AND SAUSAGES

By Lydia Nobbs

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

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

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

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

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

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

But really, the heart of the show is in its cast and support crew. The countless hours of rehearsals, opening-week panic when the band decided to pull out and the pain of being unable to get repeat cycles of ‘Poi-E’ out of your head, are all worth it in the end. In exchange, you get much circle dancing, prune related in-jokes, the odd keg stand and the privilege of being part of something so enjoyable, with such incredibly talented people.

Such an experience would not come to pass without many big ‘thank-yous’. Firstly, to the theatre-going public, who performed their role to an exemplary standard, and without whom there is no reason for the Law Revue’s existence. The show’s success was due in no small part to the invaluable support of our sponsors – Bell Gully, Chapman Tripp, Simply Legal, Simpson Grierson, Russell McVeagh, Thomson Reuters, the Wellington Branch of the New Zealand Law Society, VicVenues, VUWLSS and Avatar Wines.

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

Anyone with below average degrees of concern for their public dignity should certainly contemplate being involved in 2011. That is, if defamation suits have not put the enterprise into insolvency.
Law Graduates 2010

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

MASTER OF LAWS

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

Wolz, Johannes Gerrit
Wunderlin, Philipp Nikolaus [M]

BACHELOR OF LAWS WITH HONOURS

Blake, Jennifer Laura [2/1]
Boyd, Jordan Edward Lyellndell [1]
Edwards, Adam Thomas [1]
Eng, Jamie Andreas [2/1]
Hume, Patrick David [1]
Inverarity, Lani Margaret [1]
Keene, Amelie Tess [1]
McMullan, Sam Stephen [1]
Miller, Timothy Charles [1]
Newson, Maree Elizabeth [1]
Pilkington, Simon Hearn [1]
Pinirin, Mihiaa Rose [1]
Strickell, Julia Jurisich [2/1]
Thomas-Edmond, Grace Kizuna [1]
Tidey, Laura Diane [1]
Versteeg, Richard Hendrik [1]

BACHELOR OF LAWS

Aimer Seton, Alexandra Lucie
Allan, Kiri Lynsay
Armishaw, Monique Abigail
Ash, Jenna Nicole
Babe, Jessica Ann
Backhouse, Sarah Helen
Baker, Hayley Michelle
Barker, Gabriella May
Barwick, Jessie Ruth Hines
Bayley, Gemma Marree
Beadle, Andre Diane
Benjamin, Claire Rochelle
Berthold, Chantai Louise
Bhim, Geetanjali Pravina
Bingham, Zac Ronald
Bird, Emily Hannah Street
Black, Kathyin Zoe
Booth, Miro Hazel
Bourke, Wendy Tessa Perdue
Bourne, Alexandra
Brosnanah, Anna St Clair
Broughton, Debbie Ann
Brown, Tony Duncan
Burkett, Daniel Leon
Burns, Andrew Lincoln
Butterfield, David Peter
Byers, Paul David
Campbell Adams, Matthew James
Carey, Nicholas John
Carter, Hannah Rose
Cates, Sarah
Cayford, Scarlett Clare Holmes
Chambers, Sara Joy
Cheung, Edwina Ay-Jiun
Chi, Vicky
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