

Faculty of Law  
Newsletter  
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University of Otago

# OTAGO LAW



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Misty University – photo available to purchase, see back cover:



## GREETINGS FROM THE DEAN



Dear Otago Alumni

I hope that you are all fit and thriving as winter approaches us here in the south.

This is the 140th year of the Otago Faculty of Law, New Zealand's first Law Faculty. It was in 1873 that Sir Robert Stout, who went on to be Chief Justice and Prime Minister, gave the first lecture in Law. It is always humbling to know that all we do now is built on the achievements of others who faced much tougher challenges.

Thank you for the very generous response towards the Otago Law Alumni Scholarship Appeal. This will help strong students who might not be able to come Otago to study Law. The scholarship will be awarded for the first time this year.

Our thoughts and prayers are with Dr Nigel Jamieson, whose much loved wife Jan passed away in May, and to Jessica Palmer whose beloved big brother, Paul passed away in May.

We are delighted that Otago Law Alumni networks are forming in New Zealand and overseas. A great strength of the Otago Law student is that you support one another not only while you are doing your degree but also continuing this throughout your careers.

I hope that you enjoy reading *OtagoLaw* and keep telling us your stories.

## RESEARCH NEWS IN BRIEF

### NEW MULTIDISCIPLINARY RESEARCH CENTRE HEADED BY THE FACULTY OF LAW INTERNATIONAL CENTRE FOR SOCIETY, GOVERNANCE & SCIENCE

Directors: Associate Professor Colin Gavaghan & Professor Mark Henaghan (Faculty of Law).

The International Centre for Society, Governance & Science (SoGoS) promotes and undertakes research on the challenges of integrating medical and scientific advancements with society in the face of changing approaches being used to govern citizens and institutions, as well as their rights, relationships and responsibilities.

SoGoS aims to be an internationally renowned multidisciplinary research centre or 'think tank' that undertakes research and policy development work for governments, professional bodies and NGOs.

The Centre builds on the work, experiences and successes of collaborations with multidisciplinary and indigenous researchers, trans-Tasman experts and international networks developed from the five-year multidisciplinary New Zealand Law Foundation-sponsored Human Genome Research Project led by Otago's Faculty of Law.

### NEW ZEALAND LAW FOUNDATION CENTRE FOR LAW AND POLICY IN EMERGING TECHNOLOGIES

From the Director Associate Professor Colin Gavaghan

The Centre now has its own blog (<https://blogs.otago.ac.nz/> etc) It isn't – yet – any great shakes to look at, but some of the content has been quite impressive, especially the recent discussion between Tom Cleary and Simon Connell on the ACC prenatal diagnosis case. We intend to keep it updated fairly regularly, with contributions from staff and students. There has been a minor flurry of Centre-related publications in the early part of 2013. I've had two chapters published, dealing respectively with artificial reproductive technologies and neurotesting. In addition, Joanne Lee – who obtained her LL.M from us last year – has published part of her research in the NZ Medical Journal.

I've also published (with Mike King) an article in the Journal of Primary Health Care on New Zealand's rules re suicide reporting, and an article (with Cait O'Donnell) in NZ Skeptic magazine about demands for unorthodox medical treatment (this is going to be reprinted in an Australian magazine.)

### F W GUEST MEMORIAL LECTURE

Lord Phillips of Worth Matravers presented the FW Guest Memorial Lecture 2013, "The Impact of Human Rights in Domestic Courts".

His lecture examined the approach taken towards the European Convention on Human Rights in Strasbourg and in the United Kingdom. More specifically, it considered how the British Parliament has given domestic effect to the Convention under the Human Rights Act 1998 and the way in which the Supreme Court has interpreted the relevant provisions of that Act.



Lord Phillips also spoke to staff at a seminar on exploring the use of closed material evidence by courts in the United Kingdom using the 'Cahal case'. Closed material is evidence that is relied upon by the court without disclosure to one of the parties. There are a number of proceedings where closed material proceedings have been used in the context of national security, criminal and quasi-criminal proceedings. He considered some significant cases where closed material have been utilised and scrutinised by the courts. The compatibility of closed material proceedings with the principals of natural justice is also considered, along with the recent Government proposal to enact legislation to extend the use of closed material to civil proceedings.

The second year Criminal Law Class heard a lecture entitled "Judge and Jury", which critically considered the origin and development of trial by jury in the United Kingdom. Lord Phillips examines some key changes in the law including the process of jury selection and the requirement of majority verdicts. A specific focus was given to the development of restrictions that have been placed on the evidence that can be put before a jury in relation to bad character evidence. The principle that the jury should make a decision on the evidence placed before them is an important one and here he considered the problems that arise with the jury and the media. More broadly, Lord Phillips considered the fundamental value of a trial by jury and the extent to which they can be trusted to arrive at the right decision.

Lord Phillips was educated at King's College, Cambridge after completing national service with the Royal Navy. He was called to the Bar at the Middle Temple in 1962. He was made a Queen's Counsel in 1978, became a Recorder in 1982, and was appointed a High Court Judge (Queen's Bench Division) in 1987.



He sat in the Commercial Court and presided over the Barlow Clowes and Maxwell prosecutions. He became a Lord Justice of Appeal in 1995 and a Lord of Appeal in Ordinary in 1999.

Lord Phillips became Master of the Rolls in 2000 and Lord Chief Justice of England and Wales in 2005. He was the first Lord Chief Justice to be Head of the Judiciary when this role was transferred from the Lord Chancellor in 2006. He became the Senior Lord of Appeal in Ordinary in 2008 and the first President of the Supreme Court when it was established in 2009. He was President of the Supreme Court from 2009 to 2012 and is a Knight Companion of the Order of the Garter. Lord Phillips is currently a Dixon Poon Distinguished Fellow and Visiting Professor at King's College, London, the President of the Qatar International Court and a judge on the Court of Final Appeal of Hong Kong.

Lord Phillips is the New Zealand Law Foundation Distinguished Visiting Fellow in 2013.

## A SPECIAL TRIBUTE TO RONALD DWORKIN

Ronald Dworkin 1931-2013. Tribute by Stephen Guest

Professor Ronald Dworkin, who held joint appointments as a professor in Law and Philosophy with UCL Laws, the NYU School of Law and the New College of the Humanities of the University of London, died on February 14th this year aged 81, in London, after suffering for some months from a rare form of leukaemia. He will be missed by many people world-wide, not just by his friends, nor just by the academic community, for through his writings in different genres and his genial and generous personality he had an enormous impact on many people beyond academia, including lawyers from all jurisdictions. He is well known amongst judges and practicing lawyers in American, Europe, Australia, South Africa, Brazil, Malaysia, China, and elsewhere.

He was extraordinarily gifted in all directions, not just philosophy and law. He was markedly articulate both in his speech and in his writing; he had great charm and great wit; he was a cosmopolitan American who regarded London as his main home, and who knew how to enjoy things, especially music and art. Above all, it was his frighteningly high intelligence that stood out – you felt this the instant you engaged in conversation with him. That level of intelligence contributed to the charisma he exuded in the forum in which he felt most comfortable: the long and intensive academic seminar. Although Ronnie had been Visiting Professor of Jurisprudence at UCL since 1984 and had already contributed a great deal to Jurisprudence at UCL before he became Quain Professor of Jurisprudence, it was the establishment by him then of UCL's Colloquium in Legal and Social Philosophy from which UCL most benefited. That Colloquium combined with Laws the considerable talents in the Philosophy Department and those in the newly created Department of Political Science. Those who have attended the UCL Colloquia he for so many years chaired, or their counterparts at NYU, will surely not forget the extraordinary vibrancy, energy and concentration and, sometimes at least, the moments of sudden illumination during these debates.

His writings are testimony to his knowledge of many fields of philosophy. His outstanding facility of abstraction contributed to the penetrating commentaries he would make on highly specific





issues, often defined in specific court cases on constitutional law, on abortion and euthanasia, on economic analysis of tort, and other cases. Many of these issues were aired in the *New York Review of Books* to which he was a regular contributor for decades. It was his enviable ability to move between the very abstract and the very specific and the at times uncanny – almost deceptive – clarity with which he could express thoughts of great complexity that drove the great contribution he has made to the culture of rights. Ronnie understood, and was able to make many of us understand with him, that in healthy cultures, the abstract principles defining the status and dignity of human beings find their practical expression in the decisions of politicians and judges.

All these attributes are displayed in his two great books. The first of these, *Law's Empire* (1986) is primarily on legal philosophy. He there argued for the view that moral judgement justifies legal reasoning through the idea that law should always display integrity. The second, *Justice for Hedgehogs* (2011), is primarily on moral philosophy and sums up his contributions to this field drawing on many of his other detailed and important books, *Taking Rights Seriously* (1977), *Freedom's Law* (1996), *Sovereign Virtue* (2000) and *Justice in Robes* (2006). *Justice for Hedgehogs* has an Enlightenment feel. Immensely fluent, it is driven by the fierce sense that the author is teaching us something of great importance, and proclaims the intellectual independence of judgements of value, particularly moral value, from empirical judgements.

Ronnie had many worldly distinctions. He was a graduate of Yale, Oxford and Harvard and had many honorary doctorates. He was a professor at Yale before becoming the Professor of Jurisprudence at University College Oxford as the successor to Professor H.L.A. Hart (who was so taken by Ronnie's performance in his written examinations that he kept the papers for many years). He then held the Frank H. Sommer Chair of Law and Philosophy at NYU jointly with his chair at Oxford and he remained in that Chair until very recently. He resigned from Oxford in 1998 and took up the Quain Chair of Jurisprudence at UCL and, when he retired from that, in 2006, was appointed the Jeremy Bentham Chair in Jurisprudence at UCL. Ronnie was a Fellow of the British Academy, a Member of the American Academy of Arts and Sciences and an honorary QC. He was also awarded a number of prizes for international distinction, including, in 2005, the Jefferson Medal (US), in 2006, the Luhmann Medal (Germany), in 2007, the Holberg Prize (Norway) and, in 2012, the Balzan Prize (Switzerland).

**Stephen Guest**, like Jeremy Waldron, was one of only a handful of research students that Ronald Dworkin had in the course of his whole career. Stephen's career began when he first met Dworkin exactly 40 years ago and he describes here his first and last experiences of meeting Dworkin.

**The first meeting.** I became a research student of Dworkin in 1973. I was very young and had just come from Otago. I arrived at University College, Oxford with all the excitement of someone fresh from the South Pacific. I wanted to study with H.L.A. Hart as I so much admired the clarity and logic of *The Concept of Law*. I wanted some of it to rub off on me! But I didn't know that Hart had just become Principal of Brasenose College, and I was disappointed to find a letter in my pigeon-hole saying I'd been assigned to a 'Mr Dworkin'. The College porter, Douglas, gloated. 'Ha', he said, 'you've got Professor Dworkin. You'll discover'. I knew little of Ronnie's work then, but I had written in a paragraph of an article I'd just had published in the *Otago Law Review* something dismissing his theory, saying it was not as 'instructive' as Hart's.

I first came across Dworkin – shortly before we formally met – at a seminar in which he announced that he believed in 'natural legal rights'. The audience was highly sceptical, like many audiences

since who don't understand him. I was fascinated because at first sight the idea was so absurd. But I rapidly got the sense. All Dworkin meant – and means – is that when lawyers engage in legal debate they do it by making moral judgments about rights that integrate with already-settled legal rights.

Supervisions with Ronnie were, to me, brilliant occasions. At our first meeting, I'd brought a hand-written essay. I arrived at his room. He was stretched out horizontally on a sofa, smoking an enormous cigar, lop-sided grin on his face, a pose for which he was then famous. I sat down upright, in an angular antique chair. He was put out that my essay wasn't typed. I suggested I read the essay to him. He was chuffed by the apparently novel nature of this suggestion. 'OK,' he said, 'that would be very *Oxford*'.

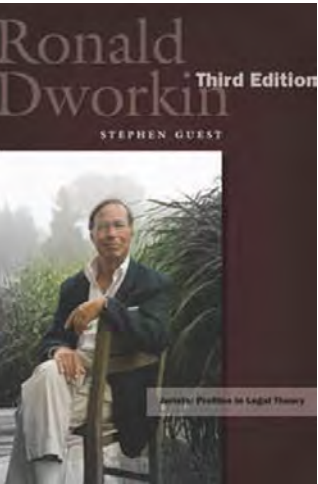
**The last meeting.** About two weeks before he died on February 14th this year, I visited him at his home in London. He was as intelligent as ever. We had great talk about how he 'felt upset' when he watched Luis Bunuel's *Discreet Charm of the Bourgeoisie* – which, fortunately, was a film I know well. He thought it 'didn't make sense'. He'd just been talking about that with Alfred Brendel, the previous visitor and former husband of Ronnie's wife, Reni. He had departed and so I was there for the coda. Ronnie said he couldn't make sense of something unless there could be an explanation in words of eventual plain meaning. I said I thought that music could make sense, and that there was nonsensical music, but that its sense was dependent on something else. Conductors could do it – this I know – and good music critics also, and they do it by talking in a way that substitutes for the music something else, a sort of poetry. He more or less agreed.

Whatever, it was an engaged conversation that gave me great pleasure and the substance was squarely within his project of making us more confident in making value judgements, particularly in law. Perhaps this all means more to me since my parents made me familiar with interpretation, certainly in literature, and I had an intensive musical background in the violin. Interpretation – the mid-way between doing things by 'numbers' and doing it by 'feeling' – appeals and seems natural to me. Because of this, I think nothing Ronnie says in *Justice for Hedgehogs* is a surprise even though the book is a highly original, and bold, statement of the importance and coherence of value.

The occasion was wonderful in one sense because Stanford UP had just published my book on him and so he hadn't seen it before and I could present him with it. He seemed delighted. After about an hour, Reni said that Ronnie needed a rest and Ronnie said, 'Well, goodbye Stephen' and gave me a little wave. It was very charming and very moving and since he seemed happy within himself, I went away as happy as one could be in the circumstances.

**STEPHEN'S BOOK**  
**RONALD DWORKIN**  
**THIRD EDITION**  
**Synopsis**

Ronald Dworkin is widely accepted as the most important and most controversial Anglo-American jurist of the past forty years. And this same-named volume on his work has become a minor classic in the field, offering the most complete analysis and integration of Dworkin's work to date. This third edition offers a substantial



revision of earlier texts and, most importantly, incorporates discussion of Dworkin's recent masterwork *Justice for Hedgehogs*.

Accessibly written for a wide readership, this book captures the complexity and depth of thought of Ronald Dworkin. Displaying a long-standing commitment to Dworkin's work, Stephen Guest clearly highlights the scholar's key theories to illustrate a guiding principle over the course of Dworkin's work: that there are right answers to questions of moral value. In assessing this principle, Guest also expands his analysis of contemporary critiques of Dworkin. The third edition includes an updated and complete bibliography of Dworkin's work.  
[www.sup.org/book.cgi?id=18260](http://www.sup.org/book.cgi?id=18260)

**Fulbright Fellow 2013**

**FULBRIGHT FELLOW SPECIALIST PROGRAMME 2013**  
**Retired US Chief Judge visits Otago as Fulbright Specialist**  
**Kirk S. Samelson:**

Retired Colorado Judge Kirk Samelson, a leading US legal expert visited New Zealand under the Fulbright Specialist Program to share insights relating to commercial, water, and environmental law. Kirk spent the first half of his March visit hosted by the University of Otago's Faculty of Law and latter half at the University of Waikato.



Kirk Samelson gave two public lectures at Otago delving into topics such as legal issues relating to foreign businesses operating in the US, water and the environment, including regulation of hydraulic fracturing, or 'fracking', in mining. His lecture topics were: "International Business Regulation in the US: Challenges, Crimes and Jurisdictional Issues," "Water Law in the US: Use, Pollution and Government Regulation", and, "Current Issues in US Environmental Law and Toxic Torts".

During his visit, Kirk took part in the regular staff and postgraduate student seminars. He also met with staff and postgraduate students for one-to-one discussions relating to his lectures/seminars and his areas of expertise. Kirk grew up in Illinois. He moved to Colorado to attend the US Air Force Academy and graduated in 1973 with degrees in political science and international relations. He spent two years as a criminal investigator in the Air Force before attending law school at the University of Denver. After law school, Kirk worked as an Air Force prosecutor and as an associate professor of law at the Air Force Academy. In 1984 he left the Air Force to enter private practice in Colorado Springs, concentrating on real estate, construction, water law and business law. During that time he was a visiting law professor at Colorado College and the Odessa Institute of Economics and Law. Kirk maintained his ties with the Air Force, retiring as a reserve Lt. Col. in 1995. In 2000 the governor of Colorado appointed Kirk to the District Court bench where he heard civil, criminal, domestic and juvenile cases. In 2007 he was appointed to be the chief judge of Colorado's Fourth Judicial District, presiding over 43 judges and magistrates

in two counties with a total population of 600,000. He received the Judicial Excellence Award in 2010 from the Colorado chapter of the American Board of Trial Advocates.

Kirk retired from the bench in 2012 and is now of counsel to a law firm in Colorado Springs specializing in mediation and commercial litigation.

Kirk and his wife, Betty have six children, most of whom either followed Betty's career into medicine, or his career into law. One son, Scott, is currently the town doctor in Hanmer Springs. Several years ago, Kirk and Betty had the opportunity to hike the Milford Track and ride the Otago rail/trail while on their first visit to New Zealand. They found the Kiwis some of the friendliest people they have ever met, and were excited to return. Depending on the season, in their spare time, Kirk and Betty can usually be found on a bicycle or cross-country skis.

The Fulbright Specialist Program (FSP) promotes linkages between US academics and professionals and their counterparts at host institutions overseas. The programme is designed to award grants to qualified US faculty and professionals, in select disciplines, to engage in short-term collaborative 2 to 6 week projects at host institutions in over 100 countries worldwide.

[www.cies.org/specialists/](http://www.cies.org/specialists/)

**STAFF NEWS**

**STAFF PROMOTIONS**  
**Congratulations to Shelley Griffiths who has been promoted to Associate Professor**

Shelley has shown academic excellence both in her teaching and research and in service to the community. Shelley's research interests are regulation of capital markets, corporate finance, and taxation. Her principal research in capital market regulation is on disclosure of information to financial markets and in considering the role of the law in preventing market failure. Her focus in taxation has taken a novel approach, linking tax administration to human rights norms. Shelley has contributed extensively to work in this area and her contribution as a teacher is outstanding. She has designed and teaches Taxation and Securities Market. Shelley has an excellent reputation as both a student and staff mentor.



**Congratulations to Jacinta Ruru who has also been promoted to Associate Professor**

Jacinta's work on indigenous people and their rights is of international significance. Her research focuses on exploring indigenous peoples' legal rights to own, manage and govern land and water. She currently teaches 'Māori Land Law' and 'Law and Indigenous Peoples'. Jacinta has led, or co-led, several national and international research projects including on the common law doctrine of discovery, indigenous rights to freshwater and multidisciplinary understandings of landscapes.



She is co-director of the University of Otago Research Cluster for Natural Resources Law and has recently contributed to the 'Old Problems New Solutions' Landcare Research project. Jacinta has organised several conferences including the "In Good Faith" Treaty of Waitangi symposium (2007) and the international Indigenous Legal Water Forum (2009). Jacinta is currently organising the Australian New Zealand Law and History Conference 2013, "People Power Place": [www.otago.ac.nz/law/conferences/anzlhs.html](http://www.otago.ac.nz/law/conferences/anzlhs.html)



Jacinta has been awarded the prestigious Rowheath Trust and Carl Smith Medal for outstanding scholarly achievement across all disciplines (2010) and the Fulbright Nga Pae o te Maramatanga Senior Scholar Award (2012).

## OTHER STAFF NEWS

### Barry Allan



There is quite the back story to my current work. Way back in 2001, I wrote a modest work to provide some sort of vague guidance to the impending Personal Property Securities Act (PPSA). Then Australia decides it is going to pass similar legislation and I see an opportunity to cash in on this – get the first publication into the Australian market, go on lecture junkets to Australia, have a bit more glamour in my life than a cold day in Dunedin offers. But those Australian publishers, they wanted local authors (more fool them as they only just managed to get their books out late last year). But sometimes there are advantages to working with multinational companies: the Australian office of Thomson Reuters must have told their New Zealand office of my existence, because I get the call to contribute to *Gault on Commercial Law*. It had become a rather sorry affair and they wanted a fresh start, with new authors, and so I became part of the Gault family.

This was to provide almost as much glamour as the fleshpots of Sydney: doesn't everyone want to become an expert on the intricacies of the Door to Door Sales Act (soon to be repealed, just saying) or the sort of character they let in as a secondhand dealer or pawnbroker (Lovejoy need not apply)? I also wrote a complete exposition on the Sale of Goods Act, but my main focus was on credit and security law (more glamour). In New Zealand, we have the Credit Contracts and Consumer Finance Act, which is aimed at trying to stop lenders from being "oppressive" and at giving consumer borrowers lots of protection. For example, lenders have to be upfront about the cost of borrowing and have reasonable costs associated with borrowing. There is, however, no need to be reasonable when it comes to

charging interest or in deciding whether a potential borrower can actually repay the loan. There are actually proposed changes before Parliament right now which will require lenders to be "responsible": you might have seen the banks getting a bit sniffy about this in the press, saying that they should be above these sort of rules. Of course, irresponsible lending had nothing to do with the Global Financial Crisis. I've been involved in this area for some time: I have been consulted by the Ministry of Consumer Affairs, written two submissions, supervised a great Honours student and, of course, written the section in Gault on this.

That modest book I wrote back in 2001 on the PPSA? It wasn't published by Thomson Reuters so I had to start from scratch for Gault, which was probably a good thing as my understanding of the PPSA has deepened and changed considerably in the 10 years I have lived with it. So I wrote what is basically a 300 page monograph on the Act together with a section by section analysis. Nek minnit, I get another call from the publisher "By the way, that stuff you wrote on the PPSA? We published it as a stand-alone book as well". More glamour: the book is called *Personal Property Securities Act 1999: Act and Analysis*. I had asked for 50 Shades of Security. Or maybe the Vampire Charge.

My present never-ending project is to write a book, which combines both of these strands, plus several more, called the Law of Secured Credit. On my current plan, it has 37 chapters and goes well beyond the PPSA and the consumer credit legislation, by looking at insolvency, guarantees and, of course, real property securities. Those of you who recall struggling with fraud and indefeasibility in Property Law will no doubt be pleased to know that that was nearly the death of the book: I got myself so tied up in knots that ultimately I wrote what I could and moved on to the next chapter. On the whole, however, I am thoroughly enjoying the work of building up my chapters from nothing, looking back at old cases and seeing the impact they still have today.

### Dr Saskia Righarts

The Faculty of Law recently farewelled Dr Saskia Righarts.

Saskia has been an invaluable part of the Law Faculty and will be greatly missed by her colleagues. Saskia joined the Law Faculty in 2008 after obtaining her doctorate on the cross-examination of child witnesses. During her five years in the Faculty of Law Saskia worked for the Otago Legal Issues Centre, managed many research projects, obtained significant research grants, published high quality research publications and tutored numerous students. Saskia is a highly skilled empirical researcher and her positive outlook and hard-working nature was greatly appreciated and admired by her colleagues.

Saskia has moved to Wellington to take up an advisory role for the New Zealand Road Policing Unit. We wish Saskia every success in her new position and are delighted that she remains connected to the Faculty of Law as an Honorary Research Fellow.



### Ali Van Ammers

We said goodbye to one of the Faculty's fashionistas (and highly valued and respected Research Assistants). Ali Van Ammers has moved to a position with the Crown Law Office in Wellington. We will miss Ali immensely and look forward to seeing her back when she graduates with the MBHL that she is currently working.



### THE JIM THORPE CUP

#### From Rex Ahdar

The Faculty of Law had its second annual staff sports picking contest in 2012. The winner for 2012 was Prof Andrew Geddis, with Dr Jeanne Snelling runner-up and the Dean, Prof Mark Henaghan, third. Jeanne held the yellow jersey for most of the competition before a withering burst from Andrew snatched victory in the closing rounds. Andrew and Mark shared the green jersey for the most individual round wins. The rookie award goes to Jessica Palmer (11th equal on debut) and a special mention to Dan Meagher who finished a meritorious 5th equal after not joining until round 5.

The object of the exercise is a bit of fun, yet this did not stop the contest being a demanding and keenly fought affair. Contestants had to pick the results of 10 fixtures each week for a punishing 15 weeks. The games each week were drawn principally from forthcoming matches of rugby union (Super 15, Tri-Nations, Six Nations), rugby league (NRL), English football (EPL, A-League)



and netball (ANZ Championship). But there was also a sprinkling of cricket, basketball, Formula One, Aussie rules and (this year) the Olympics.

The organiser, yours truly, remembers one occasion where his colleague (who shall remain nameless) disputed the correct result for one fixture on the grounds the wording was ambiguous and he had been unduly prejudiced. A re-marking was undertaken, the scores duly adjusted and thus judicial review was narrowly averted.

This year the contest comprised 20 participants and had a trans-Tasman flavour as it included Professors Dan Meagher (Deakin University), Jim Allan and Nick Aroney (University of Queensland) and Charles Rickett (University of South Australia). I am sure Jim would want me to mention that he finished in the middle of the pack (8th equal).

The Cup presented to the contest winner is named after the legendary American sportsman, Jim Thorpe. Thorpe (1888-1953) was an extraordinary athlete of Native American ethnicity. He won Olympic gold medals in 1912 for the pentathlon and decathlon. Later he played professional football, baseball and basketball. His Olympic titles were stripped after it was found he was paid for playing semi-professional baseball before competing in the Olympics. In 1983, the International Olympic Committee fittingly restored his Olympic medals.



The 2012 winner Professor Andrew Geddis is pictured receiving the Cup from the inaugural winner in 2010, Professor Geoff Hall, with the organiser, Professor Rex Ahdar, looking on.



### STAFF SOULS CRICKET

Under a shroud of mystery and intrigue, the Faculty of Law Staff team beat SOULS at the cricket earlier this year. The Faculty team has been remarkably successful since the matches began. SOULS as always were great sports!



## ALUMNI NEWS

Once again we are privileged to share stories from some of our alumni.

### ETHEL BENJAMIN PRIZE WINNER - EMMA PEART

The 2013 recipients of the NZ Law Foundation Ethel Benjamin Scholarship were announced at the annual Ethel Benjamin Address held in Dunedin on 8 May. This year the scholarship was jointly awarded to Sally Trafford (University of Auckland) and Emma Peart (University of Otago).

#### EMMA PEART

"After completing a LLB (Hons) and a BA majoring in philosophy in 2009, I went to the High Court in Wellington as a Judges' Clerk. While there, I worked principally for the Honorable Justice Miller, an Otago graduate himself. My role was to assist Justice Miller with carrying out his judicial duties. I spent two years working at the High Court, and it was an invaluable insight into litigation and the judicial system.

In February 2012, I joined the Litigation Team at Chapman Tripp in Wellington. I work in a team headed by Jack Hodder QC, Victoria Heine and Daniel Kalderimis. Since joining the team, my practice has centered around infrastructure regulation, financial services, public law issues and commercial disputes.

I will begin undertaking a Master of Law at the University of Cambridge in October this year. I have been fortunate enough to have been awarded the Law Foundation Ethel Benjamin Scholarship (for Women), a New Zealand Federation of Graduate Women Fellowship, and a Cambridge Trusts Scholarship from the University of Cambridge to carry out this study. I will be taking a taught masters, and I plan to take papers in Commercial Equity, Law of Restitution, History of English Civil and Criminal Law, and Jurisprudence. In lieu of writing an exam in Commercial Equity I intend to write a thesis on joint ventures and fiduciary obligations.

I want to thank the Law Faculty for all the support it has given me over the years. Incredibly talented and passionate lecturers taught me, and this has shaped my love of the law. In particular, I'd like to acknowledge my referees Stuart Anderson and Jessica Palmer, who supervised my dissertation and taught me commercial equity, respectively. They are rad, and I owe them a great deal".

While studying at University Emma was winner of the NZ Law Students Association National Negotiation Competition, and has

since judged negotiation competitions for the University of Otago and VUW. She was also a co-founder and executive committee member of the Society of Otago University Law Students Tenancy Programme that gave free legal advice to students on tenancy issues.

The Ethel Benjamin scholarship honours New Zealand's first woman barrister and solicitor, who was admitted to the bar in 1897. Since the centenary of this event, the Law Foundation has awarded this scholarship annually to outstanding New Zealand women law graduates for post-graduate study. The award is worth up to \$50,000.

### THE LEGAL COMMUNITY IN DUNEDIN HAS WELCOMED BACK FORMER ALL BLACK HOOKER, TOM WILLIS

Tom Willis, Otago law alumnus and former All Black, has wended his way back home to Dunedin after an enviable career in rugby where he has demonstrated a distinctive set of leadership skills in the teams that he has captained.

Tom made his rugby debut for Otago in 1999 and entered Super Rugby with the Highlanders in 2002, juggling his time as a law student and as an ascending star athlete with a lot of determination and a good bit of help from his student buddies and from Mark Henaghan.

Tom first played for the All Blacks in 2001 and captained the team against England and Scotland. He had his test debut for the All Blacks in 2002.

In 2004 Tom joined the Chiefs, and as captain in 2006 took the Air New Zealand Cup as well as defeating North Harbour in 2007 to claim the Ranfurly Shield.

In 2008 Tom and wife, Jody, decided on a change of scenery and what was for Tom, a new sporting challenge. Tom joined the Welsh team, Newport Gwent Dragons in Cardiff, which he also captained. Tom says that some of the skills that he was able to bring to bear being captain included an ability to recognise and highlight the strengths in his team mates, as well as a "do as I do" mentality, and an understanding the importance of accountability – leadership by example. Tom also enjoyed getting along with the referees and playing the game within the game to support the team to win.

Tom thoroughly enjoyed his time in Europe not, least for the travel and friendships but also very much for playing a different style of rugby against men who were mostly bigger than southern hemisphere players, who Tom says are generally quicker and more skilled. Rugby in Europe is very well supported and draws huge crowds of supporters, which added to the excitement.



Tom suffered a number of injuries during his rugby career but says that you cannot play at that intensity without a few knocks. In 2004 he took time off with a back injury, during which he worked for Hamilton law firm, Tompkins Wake.

He says that professional sports can be a physical and mental roller coaster and you have to be able to take a few dives. He was grateful for the support of the New Zealand Rugby Players Association (NZRPA), which offers medical and psychological support to athletes. Since its inception in 1999, the NZRPA has also established benevolent and welfare funds to support players and their families in need.

Tom says that he also benefited from the NZRU professional development programme designed to up skill players on and off the field and to develop skills that will help when they retire from the sport. All of the rugby franchises have a professional development manager who has the challenging task of wrenching the players away from coaches and the sport to pointing them in the direction of alternative career and life choices. Tom says that he would encourage any younger players to take advantage of these services, which range from trade opportunities, social work, university education, and mentoring skills. Many of Tom's Pacifica teammates have gone on to be outstanding role models and mentors for Pacifica youth. Tom utilised these opportunities himself which helped him through his degree and to gain experience as a lawyer. He says that he enjoyed the stimulation and contrast that studying law brought as an outside interest from all consuming rugby. Tom graduated with an LLB in 2003 and returned to the Faculty of Law last year to complete the paper in Legal Ethics.

Tom has two children, Lola and Charlie.

He has started working on the Commercial floor at Gallaway Cook Allan, in the areas of conveyancing, commercial leases, trusts and company compliance. Fulltime work in a firm is a new challenge for Tom but, as he says, "rugby was always going to finish one day".

### BRIERLY BROAD

Presumably, being honoured with the task of writing about life after university, I should be able to write to you all about the gleaming accolades I have since received, and that I have my career path completely mapped out.

In mid November 2011, I completed my double degree in Law and Politics at the University of Otago. I was an active member in Law School, from advocating for animal welfare as part of the Student Animal Legal Defence Fund to mootng at the WTO moot competition in Geneva.

So it may come as a surprise that at the end of November I fled the country to audition for an intensive professional acting course at the illustrious American Howard Fine Acting Studio, at their new school in Melbourne.

I have never learnt so much about myself in the course of 12 months. I believe I have been in attendance at the School of Life as opposed to just learning the (very serious, I must tell you) craft of acting.

Instead of taking me firmly off the path of law, acting has given me

a greater level of empathy and understanding of human behaviour, and has refocused my desire to work in the field of human rights and mental health; both in political advocacy, and law.

In my opinion, there is a disconnect between the law and people, in terms of their access to the law and their understanding of it, which can often work against disadvantaged individuals.

So far, I have played a diverse range of characters, from a schizophrenic mathematician to a dictatorial male prison officer (yes, you read correctly). This has required me to personally find justification for the most extreme forms of behaviour.

This exploration into the human psyche and behaviour, has given me valuable insight to take back to the legal profession. Especially to consider the life circumstances that force people into taking actions that many lawyers may not understand. I believe, in understanding where people come from and why they act they way they do, I will be more effective at representing them, in the field of mental health or human rights.

Where does this education place me now?

I am currently undertaking my practical legal training, with the Institute of Professional Legal Studies, while remaining in Melbourne to foster my acting career (through various wacky theatre and film projects). After admission as a solicitor and barrister, I intend to garner legal experience in my favoured areas, alongside acting. Specifically by working part-time in the research team of a mental health organisation, or in the legal unit of an NGO.

I do not regret embarking on such an unconventional path, and intend to carve out a career path that is intellectually sustaining and allows for creative expression.

Like a child I still have a list of future career paths, that has grown rather than diminished: I would like to attend the Human Rights School in Venice; to work as a policy analyst for International Crisis Group; to be a reporter for a news station like Al Jazeera... basically my doors and options are wide open to any potential career paths within these areas!

Of course, I may get sidetracked with my acting career, and it remains to be seen which path will come to fruition first. Ultimately, I would like to fuse both paths by producing films and documentaries that draw awareness to global human rights issues. I will let you know what happens next.

I would love to hear of your own personal journey and perhaps start some dialogue on alternative paths from legal education.

Feel free to contact me at [brierlybroad@otagoalumni.ac.nz](mailto:brierlybroad@otagoalumni.ac.nz).

### JOANNE LEE

I began my LLM at Otago in 2011 and submitted my thesis 13 months later: It was a challenging and highly rewarding experience and something I'm so glad I undertook. After completing my LLM, I got married and moved to Sydney where my husband and I now live. I spent the first 6 months navigating a new city and immersing myself into the creative scene here. I started an on-line business selling my products and really enjoyed the challenge of a new business and having the time to pursue something different to the law. Through this, I got to meet many artists in the design industry I would have otherwise not met.





I am now part of a boutique firm in the city doing what most graduates do. After a short break from the law, it's nice to be back and applying the skills I learned at Otago. I do miss New Zealand but there is also so much we haven't explored in Sydney and the constant sunshine here is amazing!

**BRENDAN BOYLE**

Brendan Boyle, Recovering Lawyer and Chief Executive of the Ministry of Social Development

You can take the man out of Southland, but you'll never take Southland out of the man. And Brendan Boyle would probably say the same of law and the public service too.

In October 2011, Brendan became Chief Executive of the Ministry of Social Development. It's New Zealand's largest government Ministry: nearly 10,000 staff across 300 locations, 1 million clients and responsibility for nearly a third of government expenditure.

It's been 17 years since he left the South and 14 years since his last legal role, yet Brendan admits he's still a 'recovering lawyer', a proud supporter of the blue and gold, and will back the Highlanders even when they play the Hurricanes (which makes him a brave man in Wellington). On one of his first trips south as CE, how to fill a spare half hour in Dunedin with his new colleagues was a no-brainer – a quick nostalgia tour of former student flats and watering holes.

Born and raised near Invercargill, Brendan studied law while working for the Justice Department in Dunedin. He graduated in 1991, working as a solicitor for the Land Titles Office and becoming local registrar. Then, in 1996, the office re-organised into Land Information New Zealand (LINZ). Brendan was offered the chance to go to Wellington as Registrar General for New Zealand with LINZ.

Career-wise Wellington was the clear choice, but it was hard to leave Dunedin friends and connections. He and his wife Louise were expecting their first child. Brendan was also on the Otago Rugby Union board of directors. It was a dynamic time when rugby was moving to professionalism.

"I met some wonderful people and learned a heck of a lot about management, leadership and governance. It was also good preparation for the political side of life in Wellington," Brendan says. "Rugby union politics would give the Beehive a run for its money. It really would."



Increasingly fascinated by the possibilities and challenges of leadership and management, 1999 was to be Brendan's last year in a legal role. He travelled to the States to complete an MBA at the Massachusetts Institute of Technology's Sloan School of Management.

In the midst of the dotcom boom, surrounded by private sector cohorts from major international companies, Brendan gained a global perspective on technology, leadership and innovation.

Returning with a thesis on e-government, Brendan became head of a small State Services Commission team charged with embedding IT across the public sector:

In 2003 Brendan moved back to LINZ as chief executive. He completed the seven-year, \$130 million Landonline project in 2007, converting seven million physical records into digital records. The technology was complex, but Brendan says it was more about gaining people's commitment and buy-in to a new way of working and thinking.

"A lot of lawyers didn't want an electronic system and were happy to continue doing paper. Yet if you talk to the legal profession now they will say it was a complete no-brainer."

That lesson was reinforced by Brendan's next challenge. As chief executive of the Department of Internal Affairs, he led the reforms, which combined eight local councils into the single Auckland "Super City". (The irony of coming from Southland to re-organise Auckland is not lost on him!)

"One of the big lessons out of the Auckland experience is that you have to have a collaborative approach. It's our role to explore the possibilities, innovate around better ways of doing things, and work with people so that they can see those possibilities.

"At times it needs some leadership from the centre to be able to say: 'Look there's a better way of doing this. We want to work with you on the design; we want to work with you on making it happen. But we are quite clear that we think this is a better model.'

Then there are the unexpected assignments, such as entertaining Prince William with a cuppa and a biscuit in an airforce terminal – a delay tactic allowing the Prime Minister to arrive at a reception first, as protocol demands.

"He was charming," says Brendan, who made the most of the opportunity to chat and get photos.

He's had opportunities to leave the public service, but Brendan says he has come to see it as a wider family. "It's sometimes dysfunctional, sometimes hard to live with; sometimes facing hard times. But the shared commitment to making a difference to other families and communities and making New Zealand a greater nation keeps me here."

At MSD, that can mean anything from rolling out ground-breaking welfare reforms, to tackling child abuse and family violence, to launching innovative social media projects supporting youth mental health alongside the Prime Minister and cutting-edge young entrepreneurs.

Brendan says the Faculty of Law School has provided lasting connections and support throughout his career: "It's a great law school. Mark Henaghan was my Legal System tutor and that connection has come full circle; just a few weeks ago I was calling on his family law expertise to do with MSD's new Children's Action Plan. "And I still keep in touch with the old crowd, looking them up to re-write history from time to time."

**GABRIEL PERERA**

I arrived at Otago to read law and commerce. I graduated with LLB, BCom (Marketing) and MBus (Marketing) in 1999, during which time I did work experience with Baldwin Boyle PR and clerked with Phillips Fox in Wellington on a commercial litigation and insurance rotation. I also had the good fortune to tutor in Marketing and in Contract law, both of which was fantastic experience.



Coming from a family of healthcare professionals and after a protracted childhood illness, I've always had a lifelong passion for healthcare. As a result, medico-legal and family law always stood out for me as incredibly interesting and powerful subjects, which definitely shaped my thinking.

I remember thinking before graduating that I really wanted to be in business at least to see if I could "cut it" before taking the leap into legal practice.

On that basis, and after seeing an article in a Metro magazine about it, I moved to Auckland to lobby the then CEO of the Ascot Hospital & Clinics to take me on as a graduate. After around a month of gentle e-mails and follow-up phone calls, I somewhat serendipitously bumped into him in a sushi restaurant and finally convinced him to offer me a job.

I started work with the project office of the Ascot Hospital and Clinics in Auckland, taking on a number of projects that no one else really wanted. Following that, I was able to move into a role with the investment bank that owned the hospital and into running a cardiac catheterisation laboratory within the hospital itself that we grew from a start-up business plan to around \$10m in sales.

After two years intensive work, I was ready for my OE. With a longstanding passion for India, probably based on a childhood of reading Rudyard Kipling, I headed to India, where I spent the next 7+ months backpacking the length of the country, travelling 3rd and 4th class without any real objective. It was during this trip that I first encountered Ayurveda following a severe bout of stomach upset. Ayurveda resolved the issue and I determined that I would learn more about it as a key element of my life.

I decided to settle in Sydney, where after a period of enjoying the surf at Bondi beach, I took a role with Accenture, initially in their ventures division and later as a strategy consultant where I was able to undertake projects for a range of fascinating (and some not so fascinating) clients including a secondment to the firm's China offices, working with businesses in Guangzhou and Shanghai, where I truly fell in love with the Chinese culture, people and history. During that time, I had also completed additional studies in Ayurveda.

On returning to Australia, I was invited to undertake some consulting work for a botanical ingredients supplier to the natural medicines industry, which was where I was introduced to what I later realised was one of my great loves – herbal medicine.

I went on to run a series of businesses in the industry, including my first turnaround, later joining a natural medicine biotechnology company, raising capital from a Swiss investment bank and moving into running a program of clinical trials with centres in Australia and in India.

After presenting a partnership opportunity to Blackmores in 2007, I was invited to join the business, where I've had the opportunity to move from clinical research and intellectual property

management to corporate development and back to strategy, to business development and finally to a role as Director of Business Development for the global organisation where I now lead a number of teams driving inorganic growth in a number of areas.

Some 13 years after graduation, my time in Otago remains some of my fondest memories, particularly my time in the law faculty – Professor Mark Henaghan was an inspiration to me as he is to so many, and probably one of the first people who inspired me to wonder if I could do more with my studies and indeed my life. Mr Nigel Jamieson's take on Jurisprudence awakened my interest in philosophy and ethics and opened my eyes to some of our greatest thinkers. Professor Peter Skegg's influence on my thinking has also been profound as I reflect on that time and my professional and personal life since.

**PIPPA COOM, DEPUTY CHAIR, WAITEMATA LOCAL BOARD, AUCKLAND COUNCIL**

In my current role as a local government politician I am frequently grateful for having studied law at Otago and for getting elected via a legal career. It means I have a solid foundation for a job that includes mountains of reading, lots of critical analysis, quick decision-making and public speaking. It also means I actually enjoy grappling with Auckland's new governance legislative framework and writing board reports.

I was elected at the first "super city" elections in 2010 to the Waitemata Local Board – the mini council that now serves the Auckland's central suburbs and city centre as part of the new Auckland Council. I really enjoy being part of local democracy in action and having the opportunity to serve my community.



My career certainly wasn't mapped out when I started at Otago in 1988 with no idea of what was ahead but just being up for a whole new adventure. I made a very impromptu decision to move to Dunedin after a year at Auckland that didn't feel like I was studying at a "real" University with a genuine campus atmosphere. I chose to study law only because someone suggested it would suit me, as I like arguing!

I have huge appreciation for my four years at Otago. I gained lifelong friends, had a fantastic time and benefitted from a wonderful learning environment. I'm impressed that so many of the lecturers I valued, including Prof Henaghan, are still there today sharing their wisdom with another generation. Otago also gave me an appreciation for being part of a community, the value of public service and for being open to new ideas and experiences.

The only thing I was certain of when I left law school was that I didn't want to work in a law firm (the feeling was probably mutual although I never attempted to find out!). I was fortunate that at the end of my last year I was accepted as a guide for the NZ pavilion at Expo 92 in Spain. I returned to do professionals at Victoria working first with a privacy lawyer; moved in house at the Ministry of Fisheries and on my OE worked as a regulatory specialist at Network Rail in London. I really enjoyed being part of the legal profession and was a serial joiner of committees – Young lawyers, Wellington District Law Society and the Corporate Lawyers Association.



However my legal career ended unexpectedly when I was made redundant from the legal team at Vector in 2009. An unpleasant experience to go through but a wonderful opportunity that finally gave me the kick-start I needed to get active in the community and follow my passions. I am now firm believer in the saying "if you do what you love, you'll never work a day in your life".

I became what I call a community busybody or change maker. Volunteering for my local transition town group, coordinating Frocks on Bikes in Auckland, undertaking cycling advocacy, organising climate action events and promoting local food production (I am still chair of the Grey Lynn Farmers Market Management committee). In 2011 I had the honour of being named Sustainability Champion at the Sustainable Business Network awards. Bringing these passions to local government my aim is to deliver initiatives that create safe, vibrant, connected and sustainable neighbourhoods.

I have found my vocation and hope to serve the communities of central Auckland for as long as possible. I am not taking anything for granted at the local government elections in October but at this stage I don't plan to return to legal practice. I will always be thankful for the opportunities that came from studying law at Otago.

### MATTHEW GILLETT

**The Legacy of the International Criminal Tribunal Yugoslavia and the Future of International Criminal Law.**



The Faculty of Law was delighted to welcome home Matthew Gillett for a brief stay away from his work in the International Criminal Tribunal for the Former Yugoslavia (ICTY).

During his time here Matthew gave a presentation to students and staff, highlighting some of the notable developments from the work at the ICTY, lessons learned and the future for this field of practice at the International Criminal Court.

Matthew is working as a Trial Attorney at the Office of the Prosecutor at the ICTY.

### BETHANY FROWEIN

Following graduation in 2007, I worked at Christchurch firm Goodman Tavendale Reid for four years within the litigation team. My immediate boss and others within the firm were Otago graduates and I have no doubt my Otago law degree opened the door to my first job in legal practice.

At Goodman Tavendale Reid, the litigation team dealt with a variety of disputes. In addition to general civil and commercial litigation, I ended up doing a substantial amount of prosecution and enforcement work for the Christchurch City Council and



some judicial review work for private clients. During my time in Christchurch, I went through the litigator's rite of passage known as the NZLS Litigation Skills Course and I had the good fortune of landing former Otago Graduate Greg King as my team leader, whom I found both inspiring and very relatable at the time, and for which I am even more grateful now.

In April 2011, in the aftermath of the devastating earthquake, I made the move from Christchurch over to London where I have worked at the Treasury Solicitor's Department, the UK Government's largest legal services provider, up until the present date.

I have worked within the Litigation Division in the Immigration Team, which primarily involves defending the Home Secretary in judicial review applications by foreign nationals looking to avoid deportation. The majority of judicial review applicants are failed asylum seekers and human rights claimants who assert that their removal will be in breach of the UK's obligations under the European Convention of Human Rights.

In light of the significant number of illegal immigrants and failed asylum seekers residing within the UK from all corners of the world, immigration is a political hot potato over here. There is often a lot of media interest in what the UK Border Agency is doing to address the ever increasing influx of migrants (the present strategy seems to be keeping out people who can contribute to the economy). There is also often significant media interest generated by human rights interest groups who oppose the Government's decisions to remove certain groups of asylum seekers.

Working for the Treasury Solicitor's Department has given me a first-hand insight into the difficulties faced by the Government in administering domestic immigration legislation while attempting to comply with its international human rights obligations. Within the UK, it is not uncommon for smaller firms of immigration solicitors or advisors to help foreign nationals to fabricate stories in support of their human rights claims. The process of sorting credible claimants from those who are attempting to abuse the internal protections available places a significant additional burden on both the UK Border Agency and judicial system.

While individual claims are at times dubious, the country background to those claims is usually very real and the job has exposed me to an appalling cross-section of human rights abuses by other states. Given asylum claims are granted or refused largely on the strength of personal testimony, there is a constant risk of defending a claim and paving the way for deportation of a claimant who should have been believed and granted asylum, a thought which is personally challenging at times. I still clearly recall reading my first case that was a claim by a Gambian asylum seeker who asserted her young daughter would be subjected to female genital mutilation at the hands of extended family

upon their return to the Gambia. After reviewing the relevant documents, with a pale face I expressed my concerns to my supervisor (and my firm view that the Claimant should NOT be returned to Gambia) only to be met with a somewhat dismissive "We're defending it, it's a rubbish claim". I chose to believe, rather than genuinely believed this to be the case and for the first of many times on the job I thanked my lucky stars that I was born a New Zealander.

I have not regretted my decision to move to London for a minute and, as with most Kiwis living over here, I have used it as a springboard to explore Europe and beyond. My current plan is to pursue postgraduate study in Sweden later in the year as Stockholm has been a favourite destination so far, but not before a trip back home. I am looking forward to opening new doors with my Otago law degree and I feel it has been a huge asset to date.

### MATTHEW BOTTING, LLB/BCom

**Otago University (1985-1989) Where am I now?**

I first left Auckland for Dunedin in February 1985 after graduating from Auckland Grammar School. The first two years were spent at Selwyn College. I completed my BCom/LLB at Otago in 1989. Following that I left New Zealand for Los Angeles and have ended up living in California ever since. Eventually I took the California Bar Exam (passing it on the first attempt – something many U.S.-trained lawyers fail to do) and embarked on what has turned out to be a fairly unique legal career. After some time working in workers' compensation insurance I joined the California Attorney General's Office and then, in 2000, was appointed as the Chief Counsel (now General Counsel) of the California Department of Alcoholic Beverage Control. This agency regulates all aspects of the manufacture, distribution and retail sales of alcoholic beverages in the State of California – overseeing some 93,000+ licensees. To accomplish this mission we have a staff of approximately 420 people, including about 125 fully trained (and armed) police officers. I doubt many of my classmates and friends from my time at Otago would have thought this is where I would end up – I know I didn't.

Alcohol in the United States has had a unique history. It is the only consumer product that has been the subject of an amendment to the United States Constitution – and not just one amendment, but two: the Eighteenth Amendment, which established National Prohibition, that failed experiment that turned so many every-day citizens into criminals and led to the rise of organized criminal syndicates pioneered by such notorious figures as Al Capone; and the Twenty-first Amendment which repealed it. In California, the Department of Alcoholic Beverage Control, or ABC, was itself established in 1955 by way of an amendment to the California Constitution, following a scandal at the State Board of Equalization (which had previously regulated all aspects of the industry in California) that resulted in a number of criminal prosecutions and one member of the Board fleeing the country to Mexico. Indeed, the legislative hearings that resulted in that constitutional amendment were presided over by none other than Caspar Weinberger, who went on to become President Ronald Reagan's Secretary of Defense.

Perhaps not as exciting as Eliot Ness and The Untouchables, the regulation of alcohol in the 21st century has myriad challenges.



When Prohibition ended, the regulatory systems that were established were based upon a simple premise of separation of the industry into three tiers – keeping manufacturers separate from distributors separate from retailers. The theory behind this segregation is that it was the influence of manufacturers over retailers that led to many of the social problems that preceded prohibition. Although alcohol problems had existed for many years, the growth of the saloon in the latter part of the 19th century and early part of the 20th century was a significant trigger-point. Foreign-owned breweries dominated the landscape and were in intense competition through their ownership of or contractual relationships with saloons (the "tied-house"). This invariably led to the expansion of outlets – in some places you would find a saloon for every 150-200 people – and the use of extremely aggressive marketing practices – including providing "free lunches" with the purchase of alcoholic beverages (from which came the saying: "there's no such thing as a free lunch"), and the introduction of prostitution and gambling – all with the intent to increase profits. The strict separation of the tiers has softened somewhat over the years. However, there is still significant regulation both of ownership across the tiers and of the relationships between the tiers.

So what do I do as General Counsel of the ABC? In addition to helping with the prosecution of cases involving direct public safety concerns such as selling alcohol to minors (under 21 in the United States) and obviously intoxicated patrons, or licensees operating what we call "disorderly houses" (basically really bad bars or nightclubs at which there are numerous problems), I spend a lot of my time advising the ABC and its stakeholders on the complex web of laws that regulate these ownership interests and that dictate what they can and cannot do amongst themselves. In recent years there have been a number of challenges to state laws across the country, including in California, which restrict business activities. As a result, I have had to learn about United States Constitutional jurisprudence, as these challenges are often premised upon alleged violations of Constitutional rights, including the First Amendment (free speech), the Fourteenth Amendment (equal protection), and the Commerce Clause. Also, because ABC is a law enforcement agency, we are often confronted with claims of violations of rights arising out of enforcement actions that can sometimes involve the use of force. In litigation involving these types of claims we are represented by the California Attorney General's office, in which I serve as the liaison and help manage the litigation. Internally we have a staff of lawyers who handle all manner of administrative actions involving discipline against licensees or in appeals from licensing matters (whether to issue a license or not). I review the decisions that are prepared by Administrative Law Judges in those cases and recommend to the Director of ABC as to whether or not they should be adopted or rejected (if they are rejected, we then get to review the record and prepare our own decision). I also handle personnel actions and get involved in employment-related litigation. Because of the intricacies of the regulatory system, there are regular efforts to change the laws. I am intimately involved in advising on policy and often end up helping with writing the legislation.

When I was studying at Otago I had no idea about how alcohol was regulated in the United States. It was certainly not something I was aspiring to become involved with. Yet I am sure the way in which law is taught in New Zealand, and at Otago in particular, established for me a firm foundation from which I was able to then navigate the California State Bar exam and succeed in this very unique legal system.



## UNDERGRADUATE NEWS

### OTAGO LAW STUDENTS IN THE OTAGO UNIVERSITY DEBATING SOCIETY DEBATING TEAM IN TOP FOUR IN THE WORLD UNIVERSITIES DEBATING CHAMPIONSHIP

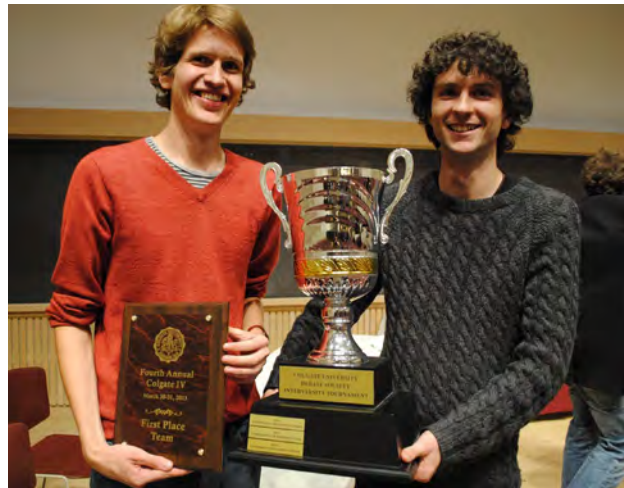
The Otago University Debating Society made the top four of this year's World Universities Debating Championship in Berlin recently. Law students, Alec Dawson studying for his BA/LLB (Hons) and Paul Hunt, studying for a BA (Hons)/LLB were in the competition. Alec, along with Otago A teammate, Kieran Bunn who is studying towards an MB ChB, made it to the grand final competing against the Monash team. Paul who is president of the Otago University Debating Society, in the Otago C team, said having a team make it to the grand final of the esteemed tournament was by far and away its best result at a world championships "When we came to tournaments in the past, we were thought of as one of the minor institutions, but now we are really a serious outfit," he said. No Otago team has never made the finals series before at Worlds. Breaking all three of our teams meant we broke more teams than Oxford and Sydney. Making the grand final topped off what was already a successful world championship for the society, with all three of its teams making the final 48. In the final, Otago A argued that religious organisations should not be able to remove people because of their views. In the quarterfinal, where they knocked out two of the teams favoured to win the tournament, they argued that all forms of advertising should be banned.



The debating society was most grateful for the sponsorship from law firm, Gallaway Cook Allan, which helped ensure they could bring three teams. They would also like to thank the Vice Chancellor, Nicola Peart as Patron, and Mark Henaghan for their support, and the University of Otago and Faculty of Law for financial assistance.

More recently, Kieran and Alec attended two debating tournaments hosted by liberal arts universities in upstate New York. The first was the Colgate Intervarsity tournament, which they won out of a field of about 60 teams. Kieran was the 5th best speaker and Alec was 3rd. They then went to the Hobart William Smith Round Robin, an elite invitational tournament with teams from around the world, including top teams from Oxford, Yale, Cornell, Harvard, and a number of Asian and South African Universities. They came 5th, with Kieran ranking as the 3rd best speaker and Alec at 7th.

In the Frankfurt International Investment Moot, Alice Osman, Emma Hodder and Alec Dawson placed 19th out of 39 teams, missing out on making the finals (the top 16 went through) by a



narrow margin. The first and second rounds they did especially well, as scores reflected they were among the top teams in the competition in those rounds. Alec said that Tracey Epps was great help as coach, as it was an area of law they knew very little about beforehand. They did receive a prize for being the team who had travelled the longest distance, a soft toy fur seal they have named Isaac, who will join other Faculty trophies!

"Thanks so much to the Faculty for their generous support of all of this – there is no way I would have been able to attend without it, and the entire trip was a terrific experience which I know my team-mates also really valued" Alec Dawson.

### OUDS FROM THE PRESIDENT - PAUL HUNT

OUDS and the law community have always been linked and have a great relationship. We are particularly grateful to Mark Henaghan, Nicola Peart and Gallaway Cook Allan Lawyers who have financially supported our attendance at international tournaments along with the Vice Chancellor. Having the financial capacity to attend tournaments consistently has allowed us to showcase our ability on the world stage defeating universities like Oxford and Harvard. A considerable proportion of our members are law students, including Alec Dawson who was in the Otago A team, which made the recent Worlds Grand Final and won the United States Colgate IV tournament. This isn't surprising given the ability to make coherent arguments and present them orally are skills applicable to law and debating. OUDS is also heavily involved in the wider community too. We host public debates on topical issues, which involve politicians, local leaders, academics and industry representatives. A key job of ours is organizing, coaching and judging schools debating in Dunedin. This year John Brinsley-Pirie and Jamie Tocher, both current law students, have set up an extensive schools debating program in collaboration with high school teachers. We are very appreciative of the support of the Faculty of Law and wider law community and we hope to maintain and build on this successful relationship.



If you would like to join OUDS please email Paul at: [oudspresident@gmail.com](mailto:oudspresident@gmail.com)

### CONGRATULATIONS TO THE OTAGO LAW STUDENTS WHO HAVE BEEN RECENTLY APPOINTED JUDGES' CLERKS

The appointments are:

Henry Benson-Pope (Supreme Court with Chief Justice Sian Elias), Josh Pemberton (Supreme Court with Justice William Young), Andrew Row (Supreme Court Justice Susan Glazebrook), Tiho Mijatov (Court of Appeal Justice Rhys Harrison), Phoebe Harrop (Court of Appeal but has subsequently declined the offer in favour of Bain Consulting), Will Cheyne (High Court Auckland), Rachel Jones (High Court Wellington) and Stephen Laing (High Court Auckland).

### THE LEGAL RESEARCH FOUNDATION WRITING AWARDS (UNPUBLISHED UNDERGRADUATE STUDENT PAPER AWARD): 2012

Congratulations to Otago Law students Will Cheyne and Stephen Thomson who are joint winners of the Legal Research Foundation Writing Awards (Unpublished Undergraduate Student Paper Award): 2012. Otago Law students have won this award every year since 2007. The Legal Research Foundation (Inc.) is an independent, non-profit body associated with the University of Auckland Faculty of Law.

The titles of their LLB Honours dissertations are:

#### William Cheyne

Is the Thief a Trustee? Principled Approaches to Proprietary Restitutionary Remedies

Will says, "I would really like to thank everyone in the faculty for creating such a great environment for writing dissertations. I most certainly couldn't have written the paper I did without the help and support of a lot of people: the library with their great training and help with research, the staff who are always willing to offer guidance, and the other students who are just such great value. Special thanks has to go to Struan Scott for fostering my interest in this topic and tirelessly supervising me last year."

#### Stephen Thomson

Protecting Legitimate Speech Online: Does the Net work?

Stephen says that "given that the award, at least in my case, is really a testament to the incredible support and guidance of my dedicated supervisors, the selfless help of other Faculty members, and the collegiality of Otago students and alumni, who lent me advice, assistance and encouragement throughout the year".

Stephen was recently admitted to the High Court of New Zealand. He has moved into the Sydney office of global law firm Herbert Smith Freehills, where he is currently involved in pharmaceutical patent litigation in the Federal Court and High Court of Australia.



### CHOOSE KIDS

Choose Kids is a student-run group dedicated to addressing the issues of child poverty and vulnerability. The group was established this year by Anna Charles-Jones and Briar Hunter, and is comprised of students from all disciplines. As a nation where 25% of children – just over 270,000 – live below the poverty line, non-profit groups (such as KidsCan, with whom we work) have evolved to raise awareness of these appalling figures. This semester Georgina Klein, Jonny Mahon-Heap and Nicolette Luke began a video campaign that attracted newspaper coverage, urging people to make submissions for the "Feed the Kids" Education Amendment Bill to help it progress to the Select Committee. This Bill would provide all children in decile 1 and 2 schools with free breakfast and lunch. The response has been generous, and the group looks forward to finding more ways of contributing to vulnerable children in our communities.



### LAW STUDENT PROFESSIONAL DEVELOPMENT DAY A GREAT SUCCESS!

New practical legal training for Law Students opportunity trialled by the Faculty and the Sir Robert Stout Law Library.

#### From Kate Thompson

In March, the Faculty of Law and the Sir Robert Stout Law Library ran a professional development event for LLB finalists, on legal research skills in the workplace. Over 50 students attended, and according to their feedback, they thoroughly appreciated it.

It all started when Carolyn and I were approached by a database publisher, to book in some student training sessions for 2013. From previous years' experiences we knew uptake from the students would be next to nil, which got us thinking about how we could turn it around, and create a win-win situation for us, the students, and the publishers.

We knew that the publishers were keen to come, yet their time here was not well utilised in the past, and that what they offered was often focused on practice-based research needs, rather than the academic research preferences of the Faculty of Law. The solution was to create an event that bridged the gap between academic and practice-based legal research, timed to coincide with final year students' applications for clerkships and permanent jobs.

As academic librarians, with no experience of working in a law firm, Carolyn and I decided we were not the ideal people to deliver this message, so I approached Ruth Molloy, the Public Relations & Marketing Manager in the Faculty of Law. Ruth and I had a splendid time throwing ideas around, and soon came up with a varied and interesting programme, with speakers who could talk about the many perspectives of legal research skills in the workplace.





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CCH a Wolters Kluwer business LexisNexis® Westlaw NZ

Three local lawyers talking about their expectations of graduates' legal research skills set the scene. Michael Beck, a recent graduate working at Gallaway Cook Allan began, and shared his experiences, followed by Diccon Sim, also an Otago alumni, and partner at the same firm. Their perspectives from the opposite ends of the research process dove-tailed perfectly, with blunt and up-front advice. The third speaker, Caryl O'Connor, from the Community Law Centre, reiterated and reinforced their advice. Some students started to go a little pale....

Just before lunch, I presented a list of research skills tips from a range of law librarians around New Zealand, mostly from law firms. Gratifyingly, the same message was revealed.

Common themes across the morning were: understanding the research requirements in context, for example, time frames; the importance of learning how your supervising partner operates, and providing information in that form; having a clear opinion about the research (compared to an academic assignment, where several points of view may be expressed); and using time-saving research aids such as leading texts and loose-leaf services.

After lunch, database trainers from CCH, LexisNexis NZ and Thomson Reuters had 50 minutes each to present their resources: Intelliconnect, Practical guidance, and WestlawNZ, respectively. Students came and went, as other commitments allowed, while a hard core of 20 or so stayed for the entire 3 hours of presentations. I was impressed at their dedication and extended concentration spans!

To round off the day, each publisher brought along books, give-aways, handouts, and certificates of attendance. The (unintentional) booby prize was the three volume set of tax legislation. The most interesting prize was one of 10 e-books.

My impression of the day was that it was very well received by the students, but I couldn't be certain until I sent out an evaluation survey. Now the evidence is in black and white. Overall, 85% of respondents rated the day great / excellent. Many students chose to add qualitative feedback and suggestions, with two common themes. They really want to hear more from the professional community, regarding research skills in the workplace, particularly in-house counsel in government departments, and non-corporate organisations.

**"The information was really useful. Was nice to hear from people directly involved in the law profession." "I think getting the recent Otago Graduate in to talk about his experiences was a great way to start."**

Second, a great number of students are now very keen to build their research skills to a higher level, in preparation for those workplace requirements.

**"I think a more hands on workshop would be great... to really test what was taught in these presentations." "Offer refresher courses at the start of each new semester."**

Personally, my expectations of the event were realised in spades! I wanted the publishers to get a chance to present to a big group, and give them a reason for coming all this way. Tick. I wanted the students to dip their toe into practice-based research. Tick. I wanted to involve the profession. Tick. I wanted the students to think about their own skills, and consider what they need to do to be ready. Tick.

My new expectation is that this event, and others like it can continue, with an increased emphasis on having speakers from the profession, and providing hands-on training. You may get a phone-call...

#### FREEMASON SCHOLARSHIP AWARDS

Congratulations to Rachael Jones and Josh Pemberton for being awarded the Freemason's Undergraduate Scholarship for 2013.

The award was presented at Parliament in May. Rachael was able to attend the award ceremony in Wellington while Josh received his award in Dunedin.



#### YVONNE SMITH AWARD GOES TO CHARLOTTE GREENFIELD

"The candidate who best exemplifies potential leadership in their field as well as demonstrating the potential to make a significant contribution to New Zealand." The award has been around since 1999 and was set up by Yvonne Smith, to "encourage and promote women as future leaders of New Zealand business and society." The award is worth \$50,000 and will be used to support Charlotte in her study for a masters of journalism in the US. Charlotte has wanted to study in New York and got into Columbia's centre for investigative journalism,



for which she says her law degree should be very helpful. After that she would like to keep working as a journalist both in New Zealand and overseas and is interested in political and economic reporting as well as investigative journalism.

#### ANTHONY COOKE'S PERSPECTIVE ON WORKING IN BEIJING

During the most recent summer break I took the opportunity to intern at a commercial law firm in Beijing, China. I have just commenced my 5th and final year studying a Commerce and Law degree and thought the opportunity was ideal to get a broad professional experience before I begin seeking career jobs this year. It was a trusting leap to head to Beijing when I do not speak any Mandarin, nor have any real insights or connections to the culture. Since China is increasingly using economic clout on the global stage, and the growing attention it receives as a result, these factors were persuasive for me to forego the Kiwi summer that I dream about during the winter months from my Dunedin flat.



The firm I was with was Jurisino Law Group, which was founded in 2001 after a merger among two of the oldest law firms on Mainland China. The firm is one of the largest and most rapidly expanding law firms in Beijing, with Beijing being by far and above the hub of legal services in China with all the legislative and other Government bodies nearby. I had a senior partner of the firm to report to, Eric Jiang. Although born and bred Chinese he was a qualified barrister in New York, and other American States, Canada and the United Kingdom. Most of his international experience was working in New York however at one time he had been a professor in Canada specialising in commercial law. On my arrival I was very aware of the language barrier and part of me was terrified I would only be proofreading legal documents into English. However that was not the case with Eric and Eric's team. Eric's English probably surpassed my own, and he dabbled in French for fun. Further, all the other paralegals I worked with, although all Chinese, had either studied their degrees in USA or the UK as well as in Beijing, and as such at least their written word was more than capable.

The work that was distributed to me was varied as well as often being difficult. The international nature of the firm meant research into other jurisdictions was required almost all the time, which initially threw me in the deep end with no previous experience of how to do so. I did begin to get the feel of how to navigate my way through other legal structures, but thankfully a lot of the work dealt to me was in relation to Chinese law, to which the firm's resources were very helpful. Or otherwise the work was in regards to UK law, which with the similarities to the way NZ law is presented was perhaps more natural for me to work with in comparison to EU law. Most of Eric's clients were European companies accusing Chinese firms (or vice versa) of Anti-Trust situations, or otherwise trying to deal with the other nation's

jurisdiction in relation to broader business and trade issues. In China there is a whole bureaucratic process one must go through to establish trade, or to bring a cause of action. As a result a significant part of my time was spent finding for a client what relevant documents, accounts, contracts etc. were required to bring a cause of action or other situation.

Aside from this I was involved in multiple projects including researches into specific legal areas relating to new medical device regulation in China, as well as private enforcement of competition law in the EU. The private enforcement aspect was very interesting for me and I spent the second month working on this. A client, who had already been sued €54million in EU Courts for its role in an 8 year, €600 million dollar cartel, was now facing follow on private enforcement of competition law in the UK for millions of pounds. All this follow on enforcement is a new development in EU law and despite it of course being work, relatively speaking I found this line of work of particular interest.

Working in a Chinese law firm was interesting for the slight cultural differences as well. The dress code is far more relaxed, with most of the workers opting for slippers around the office and a tie and jacket was never really required. When I was shown to my desk I was given two pillows, like everyone else, so that I can have naps during the long hours of the day. This idea of sleep during the day I never really got use to with people walking around, but nonetheless was well received after a weeknight out to the Bar Districts. Going out for lunch was often a big event and part of the working day, where matters were discussed, and often more than a few cigarettes were chucked in the mix with at times a fair share of rice wine.

However the legal experience was only one side of the coin. I did not miss out on the Kiwi summer purely to have my head down working in a polluted city, in sometimes -20 degrees temperatures immediately after completing my end of year exams. I also wanted to experience what China as a nation and people were like considering the increasing influence it has in the global arena. China is one massive experience you have to be up for and embrace. If you are in the right frame of mind it is a truly awesome place to be despite being such a contrast to NZ. The first time I used the subway alone in rush hour was one of the biggest culture shocks I think one could think of experiencing. Despite being the odd one out, the loss of personal space and the length of the trip was overwhelming but in an enlightening way. More than once I was put outside my comfort zone, the food was sometimes unrecognisable; places often unhygienic, the idea of a flushing bathroom a luxury, and at times some people frequently keep to themselves in distrust of me for being a foreigner.

However China itself is a place of contrast, with you being as likely to see a Rolls Royce as a peasant on a bicycle. It took some time for people I worked with to warm to me, but once accepted you were very much looked after. Overall I found Chinese very hospitable as they strongly believe in maintaining networks and a few have actively stayed in touch since which is nice. After a while I could have some very interesting conversations about how they view China, the regime, the corruption and the lack of transparency. At times the frankness at which my colleagues would talk to me about these matters I found most intriguing, however I do realise I was talking to Chinese people that had been educated outside the country as well as within it.

I was set up in a relatively affluent area of Beijing; I was safe and really enjoyed the time I spent there. Saying you were from New Zealand was always well received but of course the topic of conversation often lead to 'Hobbit' or 'quality of our milk' chat. Further the markets were always an exciting place. I was there for the worst levels of pollution in China ever recorded, but the



city can surprise you with some glorious sites, especially when you move out of the populated areas. There are some interesting features of their culture, such as the way some older generations view the West, which are unintended to be remarkable yet often fascinated me the most.

All in all, if anyone would consider China I would highly recommend the place. For the most part language is no issue, especially with the younger generations, and the people are very kind for the most part. If anyone has any queries on China from any angle, I am no expert, but feel free to ask, as I am happy to help.  
Anthony Cooke: ajs\_cooke@hotmail.com

## SOULS

It has been a wonderfully busy and successful start to the year for the new-look SOULS (Society of Otago University Law Students). The 2013 Executive has a strong objective to assert a more high-profile and proactive student organisation this year.

That new objective is reflected in a new initiative we are running called the SOULS Speakers Series with the theme: *Where can your law degree take you?* We are seeking to engage highly successful and recognised community leaders to demonstrate to students how their law degrees have helped them to get where they are.

The Speakers Series kicked off in March with a compelling and pertinent talk from ex-Telecom CEO Theresa Gattung. Ms Gattung spoke at length about her path to Telecom and the highs and lows she has experienced in business, while explaining how her law degree has been useful to her in achieving those things. Her point that 'Life is an invitation' resounded with the students, who are constantly provided with opportunities but often find themselves confused as to what to seize or how to seize them. Ms Gattung assured them to not think twice, but throw themselves at all opportunities. It was a message well received.

On top of that SOULS has been full steam ahead with successful academic competitions in Mooting, Client Interviewing and Witness Examination. We are looking forward to our students going on to represent the Faculty at national and international competitions.

SOULS recognises law students require special attention and care to help them manage what is mostly a stressful workload. The visit by the retired Australian High Court Chief Justice Michael Kirby highlighted the issues surrounding mental health in the legal profession. As such, another focus for the year is on the Mentoring Programme, where junior students team up with senior students to provide insight, advice and a companion in the law library. We hope to remain a visible and approachable students' association to assist in this area.

With that in mind SOULS has been pleased to host successful social events this year. The Bell Gully Wine and Cheese, DLA Phillips Fox Golf Day and tennis events have all provided our 700 members with a welcome break from their studies.

Similarly, the annual Second Year Law Camp proved to be again another successful weekend. Second Year students were able to get to know one another through a variety of activities over the weekend and were well looked after by a number of older law students. This year SOULS arranged for the Second Year students to help with an afternoon of community service. The students visited various community organisations in Mosgiel to help out and give back to the area. The work was incredibly well received by the community and this looks to become a permanent fixture in the Law Camp itinerary.

The busy start to the year continues with a full calendar remaining. SOULS is very proud of the role it plays in the Faculty's community and is looking forward to providing our members with well-rounded lives, a skill Ms Gattung emphasised as being key to achieving highly.

## TE ROOPŪ WHAI PŪTAKE

Kia ora koutou!

Te Roopū Whai Pūtake (Otago University Law Students Association) has been working hard this year to ensure we provide strong support for our taura. Our 2013 executive consists of:

Tumuaki/President: Charlotte Solomon  
Tumuaki Tuarua/Vice President: Renata Davis  
Kaituhi/Secretary: Briar Ensor  
Kaitiaki Pūtea: Harriet Enright  
SOULS Representative: Ed Elvin  
General Representatives: Miaana Walden, Lauren Aspin, Adam Tapsell.

We kicked off this year with a dessert night to celebrate the successes of our second year law students followed by our first year law students Hui. It was a great opportunity for us to meet some new faces and for taura to establish some great support networks within the University. We recently met with some taura from the on-campus experience program to promote Otago University and the law school. We are hoping to see them all in Dunedin next year!

Our Roopū have also been busy organising Te Wiki o Te Ture, which will look at issues throughout Law week later in July. We have some very exciting and interesting events coming up so be sure to keep an eye out for these!

Please do not hesitate to email us at whai.putake@otago.ac.nz or come and speak to any of us if you require any support. We would be happy to help!

Te Roopū Whai Putake looks forward to meeting you – kanohi ki te kanohi – face to face.



## STUDENT ANIMAL LEGAL DEFENCE FUND AND MICHAEL KIRBY

Otago Faculty of Law Hosts Guest Lecture by the Honourable Michael Kirby AC CMG Australia

On Tuesday 26 March 2013, the Otago Faculty of Law hosted a visit by the Honourable Michael Kirby AC CMG Australia. Mr Kirby was appointed to the High Court of Australia in 1996, and when he retired in 2009, was Australia's longest-serving judge. Armed with 20 honorary doctorates, a passion for social justice and with years of experience in senior roles at the UN, World Bank, and World Health Organisation (WHO), Mr Kirby now seeks to promote justice for animals. In 2010 he was awarded the prestigious Gruber Justice Prize. In 2012 he was named a patron of the Australian organisation, Voiceless: the animal protection institute.

Mr Kirby delivered a public lecture "Animal Welfare Law Reaches a Moment of Truth", co-hosted by the Otago Student Animal Legal Defence Fund. This lecture explored the legal implications of the scientific recognition of the features that animals share with human beings, including intelligence, insight, and understanding, a capacity to feel pain, and emotions such as love, grief and fear.



He highlighted areas of New Zealand animal welfare law that mandate reform, such as the inadequate resources dedicated to the enforcement of animal welfare law. He also discussed the increasing corporatisation of our treatment of animals, with respect to both modern New Zealand intensive farming practices and the slaughter process. With regard to the former, he referred to practices such as battery cages for layer hens, questioning New Zealand's continuation of this confinement system for another nine years and their ultimate replacement with larger cages. He highlighted how regulations allowing these practices were inconsistent with the principles of the governing legislation, the Animal Welfare Act 1999. This Act establishes that all animals must have the opportunity to display natural patterns of behaviour.

Mr Kirby's lecture also explored international issues pertaining to New Zealand's animal welfare law. For instance, he noted how New Zealand has shipped 75,000 dairy cows to China since 2009. He discussed the ethical concerns pertaining to this – animal welfare law is primitive in China and New Zealand has no control over their welfare once they leave our shores.

Mr Kirby also emphasised the value of teaching animal law at New Zealand law schools, expressing his strong support for the proposal by the Otago Law Faculty's new lecturer Marcelo Rodriguez Ferrere, to teach an animal law paper. Furthermore, he also spoke of his own personal journey learning about these issues and gravitating towards vegetarianism after launching in 2009 Australasia's first animal law textbook, *Animal Law in Australasia*, edited by Peter Sankoff and Steven White. He described this as "the most powerful book" that he has ever launched. Additionally, Mr Kirby drew parallels with other social movements, concluding that efforts to improve the legal rights of animals were likely to become the next great social justice movement. His lecture was presented to a moot court packed full of law students, professors, practitioners, and members of the public.

In addition to his public lecture, Mr Kirby presented a staff seminar on "Judicial Activism." He also met with student groups throughout the day, including the Otago Student Animal Legal Defence Fund, the Society of Otago University Law Students (SOULS), UniQ, and honours dissertation finalists. Mr Kirby's visit attracted considerable media interest, which included a Radio New Zealand broadcast and an interview with the Otago Daily Times.

The Faculty of Law is grateful to Mr Kirby for taking the time to visit Otago – it was very much enjoyed by all.

## MAHONEY TURNBULL

This March I was given the opportunity to represent New Zealand at the 16th World Business Dialogue Forum in Cologne, Germany. As the only New Zealand student at the world's biggest student-run business convention, I felt greatly privileged to be able to represent the views of my country, and play an active role in the dialogue. The theme of the conference was Next Generation Business Strategies: finding sustainable ways to succeed in business in the current global dynamic. Exploring this theme by focusing on global entrepreneurship, human factors and maintaining big business was highly stimulating and it prompted the delegates to rethink how we can shape a smarter future and revolutionize business as usual.

As well as being chosen to be one of the 300 international students at the event, I was also selected for the Pre-Dialogue Challenge. This offered me a unique chance to work in a cross-cultural team before the Convention began to design a start-up idea concerning collaborative consumption. The fusion of cultural, social and economic knowledge within my multicultural team was fascinating, and our team's final concept was informed by the diversity of our experiences in entrepreneurship. The positive feedback my team received from our proposal concerning a collaborative medicinal redistribution platform was inspiring, and we plan to continue our project beyond the confines of the conference.

The panel sessions following the key note speakers were an amazing dimension of the conference that shed light on the current paradigms within the business community, and what developments are taking place in response to the ever-changing social and economic environment. The various discussions, characterized by leading personalities in today's world affairs, certainly enriched my understanding of the alternative approaches in business, and the scope for creating solutions that will fuel a more progressive corporate culture. Although this year's guest list did not have the usual Bill Gates, or Michael Bloomberg line up, a highlight was hearing prominent consultants' perspective on bridging profits and sustainability, through creating shared value and more effective corporate social responsibility frameworks. As Carlos Vasallo, Manager for Ferrero Germany affirmed, business models must be rooted in driving profits by addressing social need, through working, creating, and giving back.



I am enormously grateful to the University of Otago Law Faculty for assisting my attendance at the Forum through financial support. To experience such high level dialogue with a stimulating mix of highly qualified, diverse young thinkers and distinguished experts, was a truly memorable opportunity, and one I will promote to budding future delegates of the Dialogue in the Otago region. I certainly came away from Germany motivated to innovate, to continue along an entrepreneurial pathway and to help further the start-up community in Otago. Although the topics exposed the challenges facing my generation, the dialogue filled me with real hope that we will create the change we need to see in modifying global business behaviour.



## POSTGRADUATE PROFILES

### HUI YUN CHAN

After a few years practicing as a solicitor in the corporate and commercial areas, Hui Yun decided to further her degree and enrolled in a postgraduate course. One of the courses that she took was healthcare law and ethics and the wide range of topics and issues involved appealed to her immensely. After a short stint as a research assistant while pursuing her master's degree, she decided to enrol in a PhD programme at Otago.

Hui Yun's PhD research involves the use of advance directives as part of the end-of-life care exercise. An advance directive is an instrument that allows a person to state their preferences for medical treatment in advance, which is intended to govern the person's treatment when the person becomes unable to decide. Particularly, she examines the possibility of advance directives being implemented in New Zealand, and investigates the existing framework from a legal and ethical point of view. Throughout the course of her research, Hui Yun found that advance directives continue to be an exciting and interesting topic owing to the medical advancements that continues to affect its efficacy. In addition, there have been various different types of initiatives that seek to implement advance care planning, a wider process than advance directives, and which continually improve the existing initiatives, in accordance with the medical advancements. Hui Yun is especially grateful for the significant support towards shaping her thesis direction from the excellent supervisory team comprising Assoc. Prof. Colin Gavaghan, Prof. Mark Henaghan and Prof. Nicola Peart. Although she has yet to come to any conclusive results, the PhD process has been stimulating, in that it provides an opportunity for continuing discovery, and the research continues to evolve.



### BUVANIS KURAPPIAH

Buvan is doing her PhD thesis on the property rights of cohabitants in cases of relationship breakdown. She examines and compares the socio-legal perspectives in Malaysia, UK and New Zealand. In illustrating the situation in the three countries, if X and Y were to cohabit in Malaysia; their children will be considered as illegitimate. Further, if there is a relationship breakdown, they do not acquire any rights to property. By contrast, if they were to cohabit in the UK, if one partner dies, the surviving partner would not acquire any occupation rights and the non-financial contribution to the family are not

recognised. On the other hand, if X and Y were to cohabit in New Zealand and could prove that they were living together for more than three years, their properties shall be divided equally upon separation. In a nutshell, there are vast differences in the property rights of cohabitants in these countries.

Compared to cohabitants, married couples (husband and wife) have equal rights to relationship property after the divorce. Nonetheless, the only difference between married and cohabiting couples is that one is legally recognised and the other is not. Besides having children and performing household duties, cohabitants also acquire property and encounter material, monetary and emotional support during the relationship. Therefore, cohabitants should be treated equally and given the same legal rights and recognition as the married couples for their same functionality in the family institution. Buvan is discusses the rights of cohabitants by implementing the concept of equality, principally, substantive equality. If cohabitants are to be treated equally, the discrimination imposed on them should meet an end point. Marriage and cohabitation should be assimilated and matrimonial property regimes should be extended to cohabiting couples.

Coming from Malaysia where there are no legal rights at all for cohabitants, she is fascinated on how cohabitants are treated fairly well in New Zealand. Buvan is engaged in this topic as a challenge to prove her consensus against the big voices in Malaysia that has always been discouraging in recognising cohabitation. She feels that Malaysia is in immediate position to transform from non-recognition to pure acknowledgment and to meet the demands of the changing society. Parallel to that, UK is also in need for some legal changes in protecting the property rights of cohabitants. With the endless encouragement given by her supervisors, Professor Mark Henaghan and Associate Professor Margaret Briggs, she realised that this achievement is not impossible to be attained.

## INTERNATIONAL STUDENTS

### ANGELA URIA

Two years ago I decided to go to New Zealand for several months. I was studying in the Universidad Autónoma de Madrid and thanks to the international scholarship programme I was able to go to Dunedin. Two years later I still realise how enriching that experience was, in a personal and in a professional level. I could write for hours about the people I met, the places I visited, the spectacular landscapes, fiords, sheep, Rugby World Cup ("we" won!), etc. Still, I believe the University deserves a special mention, specially the Faculty of Law, where I took classes on Law and Political Science.

When I arrived to Dunedin I was in my last year of a double major in Law and Political Science. Soon I would have to find a job, but first I decided I needed to have an experience abroad, somewhere different, far away; New Zealand. I am really glad I did



because I got to be part of a very different type of university to the one I was used to. Having lectures and tutorials was new for me, in Spain (though it is trying to be changed through European laws as the Bologna Plan) we are used to memorising lectures and very few exams are practical. In the University of Otago I got to think and to argue different cases on the basis of not taking one idea as the correct one and exploring different points of view. The tutorials allowed us to solve our doubts, read more on the topics we had most enjoyed of the lectures, etc. I could see that the people who were studying at Otago wanted to be there, enjoyed it and appreciated it. That friendly and willing-to-learn atmosphere was something new and very encouraging because the last year of University started as very repetitive, I was already thinking on life after University, jobs, and because I was studying a 5 year major which is a long time in College. Going to New Zealand was a breath of fresh air in all senses.

Six months studying in the University of Otago's Faculty of Law has been very useful to my professional life too. Currently, I am a junior associate in the white collar criminal law area of a Spanish Law firm and as most of our clients are English or American, the legal English I learned at Otago and the basics on Common Law, have helped me very much through the first months and I am sure that through the recruitment and selection processes

before being hired. Most of these processes include a case the applicant must resolve, this was much easier after having learnt to think as a lawyer, which I did at Otago. Now I know that being a lawyer is much more about being curious, exploring, perfect oral and written expression, among others, and I realise that learning thousands of articles is useful but it has to be completed the way I was taught in New Zealand.

### CHARLOTTE EDGAR from The University of Glasgow

Whales and Antarctica, land rights of indigenous peoples in Canada and Australia, courtroom advocacy, the Code of Rights in New Zealand health law... Just a flavour of some of the exciting topics I am studying here at Otago. I would not have the opportunity to study such interesting papers at my home university. My time at the Law Faculty has been a very enjoyable experience, and both staff and students are friendly, welcoming and engaging. Otago is the place to be!



## VISITORS

The Faculty of Law has enjoyed many international visitors this year who have contributed to Faculty life. Among these were:

### HANK LISCHER

Hank Lischer returned to the Faculty of Law for the 2013 summer session, and he and his wife Barbara were in Dunedin from early January until early March of this year. Hank taught a course on tax treaties ("double tax agreements") in Wellington, but the Lischers were based in Dunedin. Hank also taught in the 2006 and 2011 summer sessions for the Faculty of Law. What follows is Hank's brief summary of his 2013 visit to the Faculty of Law.



I had the good fortune to be invited to offer a paper in the 2013 summer session, and I immediately accepted because Barbara and I love visiting New Zealand and because we have been so wonderfully treated at the Faculty of Law in prior years. For the 2013 summer session, I taught in Wellington, and that gave Barbara and me a chance to see the Wellington area. We visited Te Papa several times, and we spent a week touring the North Island. We visited Mt. Taranaki, Tongariro National Park (and stayed at the lovely Chateau Tongariro Hotel), Napier, Auckland, the Kauri Coast, and Waitangi. We again experienced the great beauty of New Zealand and its friendly people. We also hope that we learned more of New Zealand history and culture by virtue of our travels through the country.

My course met for three hours on Saturday and Sunday morning, so the pace of instruction was intense during my teaching weekends. The students performed admirably, and I was again very favourably impressed with the law students of the University of Otago.

I was able to renew acquaintances with a number of the members of the Faculty of Law, and I met several of the new members of the Faculty. I was warmly welcomed.

Upon completion of my academic responsibilities, Barbara and I joined Mark Henaghan at a Highlanders rugby match. As most of you know, Mark is a first-order fan of rugby, and we enjoyed an enthusiastic night in the beautiful new Forsyth Barr Stadium. After that, the Lischers were off to see more of New Zealand. We had two wonderful days of trout fishing in the Te Anau area, and we were lucky, indeed, as our guide said that the fishing was exceptional and that "it doesn't get any better" than the fishing we experienced.

After the fishing, the Lischers turned to tramping, and we walked the Routeburn Track, going from lodge to lodge. The conditions were excellent, as the skies were generally clear, and the temperatures were quite pleasant. The views along the trail were spectacular. Our companions on the Routeburn were largely from Australia, and they were a fun group. Unfortunately, Barbara developed a stress fracture in a bone in her foot, and back in the United States she ended up with a restraining boot on her foot and had to use crutches for several weeks. We are pleased to report that she is recovering, and we expect no adverse long-term consequences.

We are most grateful that we had the opportunity to return to the Faculty of Law in 2013. We extend our particular thanks to Dean Mark Henaghan, Marie-Louise Neilsen, Claire Ramsay, Kyle Matthews, and everyone else who helped with all of the many special arrangements necessary to accommodate a visitor from abroad.



**PROFESSOR JUDITH MASSON**  
Professor of Socio-Legal Studies University of Bristol Law School

Judith Masson studied at Cambridge and Leicester Universities in England, and at the University of Michigan in Ann Arbor, USA. Between 1991 and 2005, she was Professor of Law at Warwick University, specialising in child law and socio-legal research. She joined the University of Bristol as Professor of Socio-Legal Studies in January 2006. She teaches Family Law and International Child Law.



Judith combines legal expertise, particularly doctrinal analysis in child law with empirical work on child and family law, particularly child protection.

Judith gave a seminar on understanding outcomes in family Cases – what judges need to know.

**THE 17TH ANNUAL NEW ZEALAND LAW FOUNDATION  
ETHEL BENJAMIN COMMEMORATIVE ADDRESS**  
Ruth Ballantyne

The 17th Annual New Zealand Law Foundation Ethel Benjamin Commemorative Address was held on the 8th of May 2013 at 1pm at the Dunedin Public Art Gallery. The New Zealand Law Foundation Ethel Benjamin Address is organised every year by the Otago Women Lawyers Society (OWLS). It is held in honour of Ethel Benjamin (1875-1943), an Otago alumna, who was the first woman in New Zealand to graduate with a law degree, and who went on to become the first woman in New Zealand and in the British Empire to qualify as a lawyer.

Justice Catherine Davani, of the Supreme and National Courts of Papua New Guinea, gave this year's address. Justice Davani delivered a fascinating speech about sorcery in Papua New Guinea, which encompassed the traditional and legal implications of sorcery. As well as explaining how widespread traditional beliefs in sorcery are in Papua New Guinea, Justice Davani guided the audience through the applicable sections of the Sorcery Act 1971. This involved a general discussion of the distinction between "innocent" sorcery and "forbidden" sorcery. "Innocent" sorcery is defined in the Sorcery Act 1971 as "protective or curative only" with no intention to produce "any harmful or unlawful result, or to exert any harmful, unlawful or undue influence on any person." "Innocent" sorcery is also "generally

regarded ... as being, by custom, legitimate or harmless and not offensive in all the circumstances of the case." All other kinds of sorcery are deemed to be "forbidden" sorcery. This address was particularly topical considering recent media reports of people accused of using sorcery being decapitated and/or burned to death in Papua New Guinea.

For further information about sorcery in Papua New Guinea see the following newspaper articles: "UN: Sorcery Must End" The New Zealand Herald (online ed, Auckland, 13 April 2013); Cassandra Mason "Beheadings in Papua New Guinea for Sorcery" The New Zealand Herald (online ed, Auckland, 11 April 2013); Cassandra Mason "NZ Urged to Help Repeal PNG Sorcery Act" The New Zealand Herald (online ed, Auckland, 9 April 2013); "PNG Woman Burned Alive Over Sorcery Claims" The New Zealand Herald (online ed, Auckland, 8 February 2013).

The address was well attended as always by the judiciary, local practitioners, Otago University staff and members of the public alike, with approximately 180 people attending the address this year. The Otago Women Lawyers Society (OWLS) gratefully acknowledged the New Zealand Law Foundation (the primary sponsor of the annual Address) and the Otago Law Faculty.

All female Otago Faculty of Law academic staff (who have been admitted to the bar) and female Otago law students are welcome to join OWLS, which is a fun and informal way to meet and keep in touch with local practitioners. For more information about joining OWLS please contact Ruth Ballantyne at ruth.ballantyne@otago.ac.nz



**ART IN LAW IX - PASIFIKA COOL REMIX**  
From the curator Peter Stupples

Many works from an exhibition of art by Pacific Island graduates of the Dunedin School of Art, entitled Pacifica Cool, held in the School Gallery in October 2012, were re-curated by Peter Stupples to form the latest exhibition of work originating from graduates and staff of the Dunedin School of Art in the Faculty of Law at the University of Otago, Art in Law IX: Pacifica Cool Remix.



The exhibition was opened by Professors Mark Henaghan (Dean, Faculty of Law) and Leoni Schmidt (Dunedin School of Art) on February 28, 2013. Mark Brunton, Kaitakawaenga Rangahau (Facilitator Research) Research Division, University of Otago, welcomed the exhibitors, the exhibition and guests onto the site with a mihi whakatau.

Catherine Cocker reconfigured her wall sculpture Sweet Dreams in the Missionary Position (2012): 'I make German/European wasp nests with bible pages. The European wasps are often mistaken for Paper Wasps and breed prolifically in our climate (New Zealand) inadvertently destroying their competition. My use of the European Wasp nests is as a metaphor for a world-view that holds itself in such high regard that it believes itself to be the only truth.'

Some of the works came from the permanent collection of graduate works held at the Dunedin School of Art, including images by printmakers David Te Ata, Michel Tuffery and Bridget Inder.

Tere Moeroa, also a printmaker and 'mean uke player', made a considerable impact with his Symphony of Colours (2013), consisting of seventeen woodblock prints on paper. Tere is currently working as a tattoo artist in Dunedin, as well as a musician.

Teina Marie Ellia, a painter, following the musical theme, showed two works both entitled Death to Disco (2012).

The exhibition was a way of acknowledging the very real contribution made to the School of Art and the Faculty of Law by the Pacific community. Through the study and exhibition of art the Pacific community in diaspora is able to add to their own community initiatives a way to maintain and enhance their decorative and cultural traditions, and also to add a Pacific voice to political conversations about issues the community faces in the present and has confronted in the past as a result of colonisation and a very dynamic globalisation.



## HANDS-ON SCIENCE

Thanks to the Hands on Science Law Snack team for a successful event earlier this year: Colin Gavaghan, Amir Bastani, Alex Kruize, and Richman Wee presented mini seminars on the following topics: regulating cyberspace, climate change, DNA technology and, a genetic defence in criminal law, to 20 bright science students from schools around New Zealand. For many of these students it was the first opportunity to consider the interface between law and science, including the legal regulatory, ethical and policy implications of science and the value that a sound knowledge of law can bring to scientific endeavours and to advancing career options. As an aside it was interesting to note that eighteen out of the twenty students that attended were women.



The Faculty of Law sends out the alumni OtagoLaw newsletter twice a year.

If you would like to receive this and other information for alumni you can ensure your contact details are up to date at:  
**database.alumni@otago.ac.nz**

To follow Faculty of Law news on Facebook:  
**www.facebook.com/OtagoLawAlumni**

Many of our public and guest law lectures are available to view or you can subscribe to RSS feeds when lectures are available.

Follow these at:  
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## LLM and PhD in Law

Enhance your research skills, gain specialised legal knowledge and expand your employment skills

Welcome to the University of Otago Faculty of Law. Established in 1873, the Otago Law Faculty is proud of its long history and tradition of providing

a world class legal education. Our very experienced staff have international reputations in their fields. The University of Otago is New Zealand's most research

intensive university. High quality research is a major contributor to our legal system. Be part of this contribution.

POSTGRADUATE  
UNIVERSITY OF OTAGO  
YOUR PLACE IN THE WORLD

**CRITERIA FOR ENTRY TO LLM AND PhD**

**LLM (by Thesis)**  
LLB or equivalent undergraduate legal qualification  
B+ average in papers taken in final years of undergraduate law degree  
B+ standard in legal research  
Demonstrated English language proficiency  
Discretionary admission in other cases  
2 academic letters of reference  
The LLM is intended to represent the product of 12 months (or equivalent) full-time research

**PhD**  
Honours or Masters degree or appropriate research experience  
B+ grade point average for all 300/400 level papers (or equivalent) taken in LLB degree and other prior bachelor degrees, and Masters coursework or research  
Demonstrated English language proficiency  
2 academic letters of reference  
The PhD involves a minimum of two and a half years' full-time, or at least four years' part-time study

**UNIVERSITY OF OTAGO POSTGRADUATE AWARDS AND SCHOLARSHIPS**  
These awards and scholarships are awarded for the first 12 months of a Masters Thesis or the first 36 months of a PhD Thesis.  
For scholarship and awards information contact the University of Otago Postgraduate Scholarships office at email: [scholarships@otago.ac.nz](mailto:scholarships@otago.ac.nz) or visit the website: [www.otago.ac.nz/study/scholarships/postgraduate\\_scholarships](http://www.otago.ac.nz/study/scholarships/postgraduate_scholarships)

To further your enrolment plans, formulate a research proposal and discuss your plans with the Postgraduate Co-ordinator, Faculty of Law, email [postgraduatelaw@otago.ac.nz](mailto:postgraduatelaw@otago.ac.nz)  
Please refer to the website for application forms and information  
**www.otago.ac.nz/law**



## RECENT PUBLICATIONS

Professor Rex Ahdar and Professor Ian Leigh (Durham University) have published the second edition of *Religious Freedom in the Liberal State* (Oxford: Oxford University Press, 2013).

This edition analyses significant recent cases and legislative developments in the UK, the US, Europe, Canada, Australia, and New Zealand. For instance, the *Hosanna-Tabor* (US Supreme Court), *Lautsi v Italy* (European Court of Human Rights) and *Hutterian Brethren* (Canadian Supreme Court) decisions are critiqued and the implications of the abolition of blasphemy law and introduction of the Equality Act 2010 (UK) are explained. This edition also contains increased coverage of Islam and the flashpoint debates surrounding the accommodation of Muslim beliefs and practices in Anglophone nations.

### OTAGO LAW REVIEW

The Otago Law Review Trust Board Inc publishes the Otago Law Review (OLR) annually. The Otago Law Review is a blind-refereed journal. The Dean of the Faculty of Law is Chairman of the Trust Board and Associate Professor Margaret Briggs is the Editor of the OLR. Members of the Faculty and selected LLB students serve as members of the Editorial Committee. In addition to an Editorial Committee, the Otago Law Review has an International Editorial Board:

- ~ Professor Andrew Ashworth, Vinerian Professor of English Law, All Souls College, University of Oxford
- ~ Professor Dame Hazel Genn, Dean of Laws, Professor of Socio-Legal Studies, University College of London
- ~ Professor Jeremy Waldron, Professor of Law, New York University School of Law; Chichele Professor of Social and Political Theory, All Souls College, University of Oxford

The OLR was founded in 1965; the 2012 edition of the OLR will be the 4th and final number of the publication's 12th volume.



## NEW ZEALAND LAW FOUNDATION

### NEW ZEALAND LAW FOUNDATION STANDS BEHIND OTAGO LAW FACULTY WORK

From Lynda Hagen NZLF Foundation Director and Otago Alumna

The New Zealand Law Foundation has a low profile, but its funding makes possible a surprising range of the Otago Law Faculty's research and other projects.

Otago University has grown in many ways since I studied here in the 1980s – the same fantastic spirit remains, though the student roll is much bigger; and many more courses are taught in bigger and better facilities.



I'm very pleased that the Law Foundation has been able to enrich the work of the Otago Law Faculty, so that future generations of students can enjoy the same rewarding study experience that I did.

Many readers will know of the New Zealand Law Foundation Centre for Emerging Technologies, and the Human Genome Research project that led to the Centre's establishment (see accompanying story). Both these high-profile, ground breaking ventures were made possible with Law Foundation support.

But you may be surprised at the range of other Law Faculty activities that have benefited from Law Foundation support, including research projects, student support and public information.

### "Pure" legal research

Before getting into those, I'd first like to say a little about the Foundation's work. Our main reason for being is to support independent legal research into the major legal challenges facing our country.

Our research is truly independent – we are not tied to any political or commercial agendas. No other body in New Zealand is dedicated to providing "pure" legal research funding.

Obviously it's also important to us that our research can contribute materially to good public policy development.

The Foundation launched the Human Genome Research Project at Otago precisely because it was so complex, difficult and important. It's one of those issues that isn't top of the political agenda, but is nonetheless critical to many people's lives.

Since that project was completed, we have backed another piece of big-budget, multi-year research into regulatory reform issues in New Zealand. That research, from a Victoria Law Faculty-led interdisciplinary research team, is now almost finished – and like the Human Genome Research Project, it promises to deliver a valuable body of work for scholars, students, policy-makers and others to draw on.

But the Law Foundation's work extends well beyond major research projects. Since 1992, we have distributed more than \$2.25 million in study grants through our awards programme, chief among them the annual International Research Fellowship.

This award always attracts keen interest because it is large enough to give recipients the luxury of taking considerable

absence from their regular work to do sustained research on challenging issues. Otago Law Professor John Dawson received the inaugural award in 2002.

### NZLII - making case law freely available

We also support education and training initiatives for the legal profession, as well as publications and resources that help improve legal awareness and knowledge among the wider public.

An excellent example of that is the New Zealand Legal Information Institute (NZLII) website, a joint project of the Otago Law Faculty, the Canterbury University Law Library and the Australasian Legal Information Institute.

NZLII gives thousands of New Zealanders – lawyers and non-lawyers alike – free access to decisions by courts and other legal bodies. The NZLII website hosts much of the country's case law, as well as legislation, law journals, law reform papers and details of New Zealand's treaties. It combines information from 74 databases onto a single website.

The project's driving force is Otago Associate Professor Donna Buckingham – she and her researchers have put countless hours, most of them voluntary, into developing the website and adding new databases.

They have done it with Law Foundation grants totalling \$92,000 to establish and expand the NZLII service.

Law Foundation grants have helped several Otago mooted teams compete with distinction in international competitions. For example, last year we funded travel by Otago mooted teams to the Brown-Mosten International Client Consultation Competition in Dublin, Ireland, and to the International Negotiating Competition in Belfast, Ireland.

The Foundation contributes \$75,000 annually to help New Zealand representative mooted teams compete on the world stage.

### Legal access for the disadvantaged

One of the most satisfying aspects of the Law Foundation's work is supporting projects that make a real difference to the ability of marginalised or disadvantaged social groups to navigate the legal system.

People with intellectual disabilities are one such group benefiting from our support. The Foundation has committed more than \$300,000 to an Otago-based project that aims to improve the responsiveness of the legal system to intellectual disability.

The project is led by Dr Brigit Mirfin-Veitch, director of the Donald Beasley Institute for Research and Education on People with Intellectual Disability. It involves interviewing 50 people with intellectual disability across the country, as well as judges and lawyers. An advisory group including legal and intellectual disability experts is assisting the team.

Dr Mirfin-Veitch says the study outcomes should include recommendations for procedural changes to the judicial system to accommodate intellectual disability needs, as well as educational resources for people with intellectual disability.

Her team includes Law Dean Professor Mark Henaghan and Associate Professor Kate Diesfeld of the Auckland University of Technology.

The Foundation is also supporting a review of the Mental Health Act 20 years since introduction, led by Professor Dawson of Otago. His work brings together the view of legal researchers, practitioners and psychiatrists on the needs of people with intellectual disabilities in dealing with the legal system.

### Shedding light on controversy

Some of our projects help enlighten debate around topical issues – one recent example is coroners' recommendations and the extent of their adoption.

Otago Law Research Fellow Dr Jennifer Moore is researching Coroner law recommendations: Do they have the potential to save people's lives?

This ground-breaking study was launched last year at the same time coroners were expressing frustration that their recommendations are not being followed up. Chief Coroner Neil McLean urged the Government to look at making it compulsory for relevant agencies to consider coroners' recommendations, as happens in some other countries.

The study will provide much-needed data on whether law reform is required to help coroners fulfil their statutory obligation to keep people safe.

The project will be the first to evaluate the rigour of coronial recommendations and their implementation since the Coroners Act was introduced in 2006. Coroners' recommendations will be analysed against specific classes of preventable death to assess which recommendations saved lives.

### Unearthing Māori legal themes

Several Law Foundation-backed projects are contributing to identifying important themes and collating historic information on Māori legal issues.

One such project is *Te Akinga* – a Māori Law Treatise. Work is now under way on this study of Māori concepts, principles and norms across the legal spectrum. Associate Professor Jacinta Ruru of Otago Law Faculty, and High Court Justice Joe Williams are leading the editorial team.

Dr Ruru says the book will analyse how Parliament and the courts have dealt with Māori law by identifying themes and connections across legal disciplines. These include Māori land, the Treaty of Waitangi, aboriginal rights, environmental law, cultural and language rights, and family law.

"Every aspect of our law touches on issues that involve Māori. There are often precedents that involve Māori. Hopefully this work will be of interest to academics, practitioners, students, Māori, government departments, councils – anyone dealing with an aspect of the law that requires Māori consideration," she says.

The book's seven sections will cover *Te Ao Māori* (customary law), early European contact, transitional justice (Treaty settlement law), governance, human rights, modern legal issues, and the future.

Dr Ruru says the book's title comes from Chief Te Kooti's statement "*Ma Ta ture ano te ture e aki*," usually translated as: "only the law can be pitted against the law." She says this phrase expressed Te Kooti's support for the rule of law as an alternative to warfare.

"Te Akinga also means applied pressure, which is what this book should produce – subtly. The aim is to produce a text that performs the same function in New Zealand as Felix Cohen's famous 'Handbook of Federal Indian Law' does in the United States.

"The book will be of similar quality and length to other Brookers treatise books, such as Todd on Torts, Equity and Trusts, and Civil Remedies," she says.

The Law Foundation also funded Treaty of Waitangi Settlements, a series of essays on the Treaty settlement process, compiled by Nicola Wheen and Janine Hayward of Otago University and published in 2012.

This is just a recent sample of the range of diverse Otago Law Faculty research projects and other initiatives that the Law Foundation has funded over the years.

I hope the Foundation can continue to support projects that add to Otago's rich and successful legal tradition.







## OTAGO'S HUMAN GENOME SUCCESS

About a decade ago, Lynda Hagen chose Otago to take on a risky Law Foundation "first".

"We wanted to run a project that could make a lasting difference to a challenging area of law and public policy – something important that might not otherwise be done," she says.

The result was the Human Genome Research Project, a multi-year, multi-million dollar investigation into the many sensitive legal issues around biotechnology, including reproductive technologies, newborn screening and genetic testing on children.

The project, conducted by the Otago University Law Faculty, produced several volumes of ground-breaking research, drawing on legal and academic expertise from around the world.

Otago Law Faculty Dean Mark Henaghan says the Law Foundation's investment has created an important legacy.

"We now have a body of knowledge on human reproductive technology that will be an invaluable resource for current and future generations of lawyers and policy makers," he says.

But the work didn't end there – the Law Foundation endowed a Chair in Emerging Technologies at Otago to continue research in this complex and rapidly-changing field.

The first Director of the Centre for Law and Policy in Emerging Technologies, Associate Professor Colin Gavaghan, is a leading international scholar in medical law and ethics.

He heads the only New Zealand-based research centre examining the legal, ethical and policy issues around new technologies. These include biotechnology, nanotechnology, alternative bio-energy, information and communication technologies, robotics and artificial intelligence.

"Scientific advancement is constantly throwing up new issues in law and ethics around emerging technologies," he says. "These issues need to be debated in a constructive and informed way, and our work is contributing to that."

The Human Genome Research Project ran from 2004 to 2008. It considered the legal implications and policy options relevant to human genome-based technologies.

The Project's research outputs included important volumes on:

- Pre-implantation genetic diagnosis
- Issues related to pre-implantation genetic diagnosis, including newborn genetic screening, genetic testing of children, community genetics and micro-array technologies
- Gene patenting, pharmacogenetics and privacy

## LAW SCHOLARSHIPS

The Faculty of Law has been greatly privileged to be involved in the launch of two new law scholarship appeals which will help deserving students have the chance to study Law.

### OTAGO LAW ALUMNI SCHOLARSHIP

We offer our heartfelt thanks to those of you have contributed so generously already.

The Faculty is delighted to announce that the first scholarships will be awarded later this year.

If you would like to contribute you can do so at:  
<https://secure-www.otago.ac.nz/alumni/donate-to-otago/>

Or you can contact:

Otago Law Alumni Scholarship Appeal  
 Development & Alumni Relations Office  
 University of Otago, PO Box 56, Dunedin 9054  
 Telephone: +64 3 479 5246 Email: [development@otago.ac.nz](mailto:development@otago.ac.nz)

### THE JOLENE PATUAWA-TUILAVE MĀORI LEADERSHIP IN LAW SCHOLARSHIP

If you would like to support this appeal please follow:  
<https://secure-www.otago.ac.nz/alumni/donations/>,

Or you can contact:

The Jolene Patuawa-Tuilave Māori Leadership in Law Scholarship  
 Development & Alumni Relations Office  
 University of Otago, PO Box 56, Dunedin 9054  
 Telephone: +64 3 479 5246 Email: [development@otago.ac.nz](mailto:development@otago.ac.nz)

### MICHAEL ROBERTSON - MISTY UNIVERSITY PHOTO FRONT COVER

This photo was taken from my office window, but capturing it was not as simple as that sounds. It has to be a particular time of year (winter, which will sometimes deliver a morning mist on a blue sunny day) and a particular time of day (early, so the morning mist has not yet been burnt off by the sunny day, and the bright sun is low enough to shine through the mist from behind, creating bars of light) and the mist has to have the right aesthetic quality (no clumping or wispieness) and you have to have had the foresight to bring your camera in, and be standing on the ledge outside your window at just the right moment with the proper settings locked in. This picture was taken in June of 2006. I have tried to get a better shot of the same scene ever since, but all of the necessary elements have failed to come together. But look out for me up on my window ledge on the 9th floor of the Richardson Building. I'm still hunting that elusive moment when the light is just right.

Prints of this photo are being sold by the Faculty of Law because of many requests from alumni. Any profits from such sales will be used to benefit law students at the University of Otago in some way yet to be decided. I am donating the image, and am not benefitting financially in any way.

To purchase photos you can contact The Faculty of Law Administrator: Email: [marie-louise.neilsen@otago.ac.nz](mailto:marie-louise.neilsen@otago.ac.nz)

Otherwise you can make cheques payable to the University of Otago and post these to: C/o of The Administrator

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