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WELLINGTON

BRANCH

NEWSLETTER

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**New Zealand
Law Society**
Wellington Branch

PRESIDENT'S COLUMN – ĒTAHI WHAKAARO NŌ TE TUMUAKI



I te marama rā, kua oti te rerenga tahi o te Kōtuku, kua mate tō tātou kuini hokoi Irihapeti. Moe mai rā e te Kōtuku, moe mai rā. E kore mātou e kite anō i tō ahua.

Kei te Tau Ihu o Te Waka-a-Māui i kī te Marae Whakatū:

“I tō tātou hokinga mai ki te mahi i muri i te hararei mō Kuini Irihapeti, i mutu ai ngā wiki e rua tino whakamīharo, tērā pea tētahi mea e kore e kitea anō e tātou, he pēnei te nui, he wāhi pea ki te okioki mō te whakaaro. I ērā wiki e rua kua pahure ake nei, i whakarongo au ki ngā maharatanga mai i ngā tāngata mātua o Aotearoa, me ngā kōrero mai i ō mātou hoa me ō mātou whānau e whakaatu ana i ō rātou kitenga tūpono mō te kuini iti... Ki te kī ko tō tātou hononga ki te Karauna he mea tino uaua, he whakaiti i ngā kino tūturu kua tukuna e te Karauna ki te iwi Māori. Ko te ringa roa o te tāmitanga e pā tonu ana ki te iwi Māori i ēnei rā, ka pērā tonu mō tētahi atu whakatīpuranga, e tino mōhio ana au. Heoi anō i te matenga o Kuini Irihapeti ka pōhēhē ahau. Ahakoa ngā mea katoa e mihi ana au ki ētahi o ngā ahuatanga o te Kuini... Nō reira, mō ētahi tāngata ko te hararei he wāhi ki te poroporoaki i tētahi rangatira hokoi, mō ētahi atu he rā whakatā hei āwhina i a tātou ki te whakatika ki te wā penapena awatea, mō ētahi atu, he whakamaumahara kino mō tō tātou mua hei wāhanga o te Emepaea o Ingarangi.”

To my mind, these words from tangata whenua across Raukawa Moana (Cook Strait) exemplify the conundrum which now confronts New Zealanders. It is a debate in which we, the legal profession, ought to be thought leaders rather than mere observers. Our current constitutional arrangements have served us (or perhaps I should say, some of us) well since New Zealand became a Crown colony in 1840. Our late Sovereign Lady was unquestionably an exemplar of what any nation would hope to see in its Head of State. She is mourned by all her realms and throughout the Commonwealth, as is only right and fitting.

Personally, I have no doubt that His Majesty the King will continue in the tradition of Her late Majesty, who we should remember was also emulating the devotion to duty amply demonstrated by her late father, His Majesty King George VI, after the abdication crisis and during World War II. However, I suggest that is not really a complete answer to the conundrum. New Zealand is a very different country to what it was in 1953. We are a proud, independent nation with our own culture(s). The real question is whether, in 2022, it makes sense for New Zealand's Head of State to be an Englishman who lives in London.

Symbolism is an important part of the conversation which I think we need to have as a nation. I describe it as a conversation for good reason. It is not possible at this juncture to be sure about where that conversation might take us (if anywhere different at all), but that does not mean we should not have it. Apathy is not a good basis for any national conversation. I've mentioned symbols and of course one of the arguments in favour of retaining the monarchy is that, as a package, it represents a world-class model. We have all seen in recent weeks that, when it comes to pageantry, the British are perhaps without equal. As an Englishman that makes me very proud. However, as a New Zealander I am acutely aware that those symbols are not of this place. They are British symbols. Our connection to those symbols is a vestige of our colonial past. I wonder whether that is still appropriate in 2022. Surely we are grown-up enough as a nation to have symbols which unequivocally speak of this land and our people, rather than emulating those of our former colonial master?



A useful analogy can be drawn to the decision which our elected representatives made in establishing the Supreme Court. There is no question that the Judicial Committee of the Privy Council was and remains a superlative final court of appeal. Some lawyers might argue in respect of a given area of law that it is a qualitatively superior court to our Supreme Court, due to the broader pool of judicial talent from which it draws. But none of that should cause us to overlook the fact that it comprises primarily British judges and sits in London. It was and is a colonial vestige.

The establishment of our own Supreme Court was a demonstration of New Zealand's sovereignty and confidence in its own path. It means that New Zealand's common law is diverging and will continue to diverge from that of England and Wales. That was not an accident. I see that decision as part of a journey. We should not fear to consider the next step in that journey.

Clearly, the most significant element with which we will need to grapple if we are going to take the next steps towards a post-colonial constitution is the place of Te Tiriti o Waitangi. It is difficult to overstate the symbolic importance of Te Tiriti for tangata whenua. Furthermore, our nation is underpinned by Te Tiriti as the framework for the relationship between tangata whenua and the Crown. If we had a State which was no longer personified in the Crown, what would that mean for Te Tiriti and the relationship it establishes? Is it possible for us to agree a post-Tiriti republic where the dual polity promised at Waitangi finally becomes a reality? How do we balance this with our commitment to representative democracy? Do we think that our current constitution provides us with adequate checks and balances on the exercise of power? These are just a few of the questions which I think we need to ask each other. I encourage you all to contribute to the conversation.

He eke waka noa,



Christopher Griggs

YWCA



Rhianna Morar, Board Member

The YWCA is the largest women's movement in the world, founded over 160 years ago with 120 countries, reaching over 25 million women. YWCA has been active in Aotearoa New Zealand since 1878.

The YWCA of Aotearoa New Zealand is a national organisation representing local YWCA associations across the motu, where the important work on the ground takes place. The Y advocates for equal pay, running leadership programmes for young wāhine, offering safe accommodation for people in need and hostels, and so much more.

The YWCA has come back to Te Pane Matua Taiao, the Greater Wellington region in 2022.

Our Board is made up of eight wāhine toa from across the Greater Wellington region. In July, we launched the E Hine Fund to support young women* in our region to pursue their aspirations and positively impact young wāhine and their communities. Applications for our first funding round are now closed, with successful applicants to be announced on 16 October 2022.

*Our definition of 'women' is intersectional and inclusive. It includes: tangata whenua, Indigenous women and women of colour, trans and queer women, femmes, disabled women, former refugee and immigrant women, and women of every faith, ethnicity, community and economic background.

If you are interested in becoming a member or jumping on the Board, we will announce the details of our AGM next year on our social media channels. You can also reach out to wellingtonywca@gmail.com to connect over a specific kaupapa. Or something similar!

To stay in touch, make sure you follow us on Instagram: [@ywcawgtn](https://www.instagram.com/ywcawgtn) or visit www.ywca.org.nz/wellington/ for more information.

Victoria University of Wellington – Faculty of Law – Dean’s column – Petra Butler



Kia ora koutou,

Spring at the Law School saw a reinvigoration of our public events. A particular treat was the lecture by the Borrin Foundation Distinguished Visiting Fellow, Professor Liz Fisher, University of Oxford, on *Active or Activist Courts?: Law, Politics, and Courts in the Anthropocene*. The lecture also introduced our new Dean, Professor Lee Godden, to Wellington’s legal community. Professor Godden will commence as Dean of the Faculty of Law on 14 November. Lee is currently a professor at the University of Melbourne School of Law and the Director of the Centre for Resources, Energy and Environmental Law. She researches in environmental resources law, natural resources law, water law, and indigenous people’s land and resources rights.



Another highlight was an evening of Celebrating Rainbow Law at Te Herenga Waka. The celebration of research, scholarship, student activities, activism, and teaching, focused on LGBTQI+/Rainbow issues and communities. Dr Eddie Clark’s considered scholarship on the regulation of hate speech and the activities of the Rainbow Law Students at VUW, including its submission on the Conversion Practices Prohibition Legislation Bill was a highlight of the evening.

Former colleague, Professor Elisabeth McDonald, discussed the introduction of law and sexuality into the law school curriculum, and Paul Diamond (Ngāti Hauā, Te Rarawa, Ngāpuhi) talked about his new book “Downfall: The destruction of Charles Mackay, a story of a notorious criminal trial in Whanganui – an important new history told through a queer lens”.



We also welcomed our Alumna Catherine Callaghan KC for an insightful talk to staff and students about her journey to and her life at the English bar.

We are looking forward to you joining us for the 2022 Sir Owen Woodhouse Memorial Lecture. My colleague, Professor Geoff McLay, will speak to **"Sir Owen Woodhouse and the making of New Zealand law"**. You can register [here](#) for the lecture. And please put 7 December in your diary for the Robin Cooke Lecture which this year will be given by Professor Janet McLean, University of Auckland.

The Faculty has been busy publishing. Some titles include:

- Ruiping Ye, “Characteristics of Chinese business ventures in courts” [2022] NZLJ 245 discussing the recent Supreme Court pronouncements in *Deng v Zheng* [2022] NZSC 76 on deciding cases involving cultural factors.
- Geoff McLay and Dean Knight have published a chapter examining legal challenges to the government’s response to the pandemic: “New Zealand courts and COVID-19: navigating the tensions between necessity, legality and the rule of law” in AMZ Gao and S Samse (eds), *Judicial Review in the pandemic: the Role of Courts in the SARS-CoV-2 pandemic in Asia and the Pacific* (Konrad-Adenauer-Stiftung, 2022) 115-133.
- Graeme Austin is the co-author of a chapter titled “My Product, My Right to Repair It” in *More Zeros and Ones: Digital Technology, Maintenance and Equity in Aotearoa New Zealand*, published by Bridget Williams Books this month, and edited by Anna and Kelly Pendergrast.

Other good news::

- **Marnie Lloyd** was awarded the Borrin Foundation Women Leaders in Law Fellowship.
- The Faculty welcomes a new doctor - **Dr Luke Fitzmaurice**.
- Our students, **John Sibanda** and **Lydia McIvor** won the National Family Moot as well as the Norris Ward McKinnon Shield for the Best Mooter, which was awarded to John.

Lastly, I would like to draw your attention to the **Te Ao Mārama / Le Ao Malama / First Light / Māori and Pasifika Futures in Law School-Leavers Scholarship** Members of the judiciary including Hon Justice Sir Joseph (Joe) Williams, Judge of the Supreme Court of New Zealand; Chief District Court Judge, Hon Heemi Taumaunu and Hon Judge Malosi; senior leaders including Professor Mark Hickford and Hon Luamanuvao Dame Winnie Laban, and enthusiastic alumni are spearheading a campaign to make a difference.

The aim is to provide a complete fellowship package of not just financial support through scholarships (particularly for accommodation), but social and professional support for students too. Wrap-around support will be offered to applicants from the courts and judiciary and local law firms who have shown an interest in helping to demystify the legal profession for young students and their whānau.

The first \$100,000 of funding for scholarships was endowed at the end of 2021. The aim is to increase this endowment to at least \$500,000 over the next 4-5 years, eventually providing around \$25,000 a year for a deserving student to ease the financial burden whilst studying. The first scholarship of \$10,000 a year will be awarded to a student starting their studies in 2023.

If you are interested in contributing to this worthy cause you can make a financial donation by contacting Victoria Beckett, Senior Development Manager.

Noho ora mai
Petra

Dr Petra Butler
Acting Dean Faculty of Law



Obituary - Andrew Charles Beck



Barrister Andrew Beck died on 24 September 2022, aged 65. He has been remembered as a great legal mind who truly understood the human side of legal problems and their consequences. At his funeral in Greytown, Andrew's sixth son Isaac described the essence of his father in four qualities.

Andrew was –

- steady,
- good-humoured,
- principled, and
- faithful.

Andrew taught law in South Africa and at the University of Otago. He was a prolific writer of legal texts and articles. After a period as Crown Counsel in the tax team at Crown Law, Andrew went to the independent bar, practising from Lambton Chambers. He had a broad civil litigation practice.

Earlier this year, Andrew prevailed in the Supreme Court in *Melco Property Holdings (NZ) 2012 Ltd v Hall* [2022] NZSC 60. It establishes that where a party has contributed materially to the non-fulfilment of a contractual condition, the party may not rely on such non-fulfilment to avoid the contract.

On Sunday 2 October, Andrew was to be ordained as a deacon in the Anglican Church. His ordination stole was presented to Andrew's wife, Aroha, at his funeral.

According to the Anglican Prayer Book, deacons have a special responsibility to ensure that those in need are cared for with Christ-like compassion and humility. These attributes of charity and empathy towards those less fortunate had long found expression in Andrew's legal practice. He "walked the talk" on access to justice, often working for free or a reduced fee for clients who would otherwise be unable to afford adequate representation.

The Wellington Branch sent flowers to Andrew on learning of his terminal illness. On behalf of his colleagues in the law, we express our deep sympathy to Andrew's beloved whānau.



UPDATES AND EVENTS

Vicarious Traumatic Stress webinar

As lawyers you are often exposed to difficult or disturbing images and stories through clients, witnesses, evidence etc. It is very rarely spoken about or dealt with. Left undealt with, vicarious traumatic stress can have lasting effects on you as an individual and your work.

Join us for a session with **Lucy Tayler**, a qualified critical incident & trauma responder and wellbeing mentor. Lucy attends a variety of public and private workplaces to provide support and coaching to staff during challenging periods, and uses her years of corporate experience to help support clients from all walks of life.

The hour session will cover vicarious trauma – definition and origin, common reactions to stress and trauma, how to recognise the impact (on oneself and others), what does stress look like – brain and biology, and coping strategies, selfcare, tools and tips to deploy when needed. Register [here](#).

Where: zoom webinar // **When:** Tuesday 18 October, 12pm - 1pm. // **CPD:** 1 hour. // **Cost:** \$50.00.

Imposter Syndrome webinar

Do you regularly find yourself doubting your abilities in your work role, comparing yourself unfavourably to your work peers, thinking how lucky you are to be in the role that you're in, concerned you may not be able to prove your worth and investment to your employer, and worried that others might eventually find out your "dirty little secret": that you're not actually as good as they think you are? If so, you may be experiencing "Imposter Syndrome".

Join a session with **Dr Dougal Sutherland** of Umbrella to learn how to recognise Imposter Syndrome, what it is and how to overcome it. Register [here](#).

Where: Zoom webinar. // **When:** Wednesday 26 October, 12.30 - 1.30pm. // **CPD:** 1 hour. // **Cost:** \$70.00.

Certificate of Character candidates information evening

Are you planning on applying for your Certificate of Character?

The Wellington Branch of NZLS would like to invite prospective Certificate of Character candidates to an information evening to provide information around the Certificate of Character process, to offer guidance and answer any questions candidates have.

We will also let you know about some of the services that the Wellington Branch offer once you are admitted and a member of our branch.

Please forward this invite on to any friends or colleagues that will be applying for their Certificate of Character.

Where: NZLS Law Library, High Court Building, Kate Sheppard Place, Wellington // **When:** 5.30pm, 17 November 2022

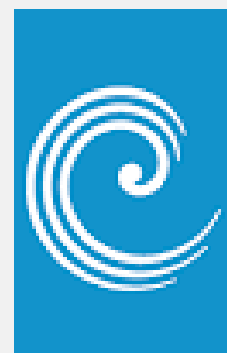
Register for your place [here](#).



Lucy Tayler



Dr Dougal Sutherland





Honourable Rex Mason Prize for Legal Writing

After a short hiatus, the Honourable Rex Mason Prize for Legal Writing returned in 2022. The prize is managed by the Wellington branch of the New Zealand Law Society, as trustee for the Honourable Rex Mason Trust. The award is judged by a nominee of the Chief Justice, the Dean of Victoria University of Wellington Law School, and the Editor of the New Zealand Law Journal. This year, those judges were **Justice Ellen France**, **Professor Petra Butler** and **Ms Brenda Midson**. We would like to thank the judges for their time to read through the entries.

The entry period was open from March to the end of June, with a fantastic response of 16 entries. The winning entry for 2022 was an article written jointly by **Dr Anna High**, Co-Director, Otago Centre for Law and Society and **Mihiata Pirini**, Lecturer, Faculty of Law, University of Otago, titled "Dignity and Mana in the 'Third Law' of Aotearoa New Zealand" which was published in the New Zealand Universities Law Review in December 2021. The judges noted that the article was outstanding.

On behalf of the Wellington Branch of the New Zealand Law Society we congratulate Anna and Mihiata on their achievement and they will be presented with their prize of \$1000.00.

A commendation prize goes to Professor **Nicole Moreham**, Faculty of Law, Victoria University of Wellington for her entry titled "Conversations with the Common Law" Exposure, Privacy and Societal Change" published in the VUW Law Review in 2021.



Wellington Members Casual Drinks

Come along for a casual drink with other members of the Wellington Branch. A chance to mix and mingle, relax and chat. The Wellington Branch will cover the nibbles but it is PYO drinks. For catering purposes please register your interest [here](#).

Where: D4 on Featherston.

When: From 5.30pm to 7.30pm, Thursday 10 November.