Experience v Enthusiasm — Do Young Lawyers do it Better? was the theme for the Great Debate between youthful junior practitioners and rapidly ageing seniors at The Open Stage, Hagley College.

Ably chaired by Associate Judge Osborne some speakers boldly took the option, occasionally, to address the topic.

A sell-out crowd was treated to (endured?) a lively debate with, in the finest traditions of such events, insult generally taking precedence over informed debate and even, much to the chagrin of Karen Feltham, the odd double entendre.

For the affirmative the writer, Amy Shakespeare and Andrew Riches had the honour of arguing for the principle self-evident in the moot.

Noting the enthusiasm that young lawyers bring to practice it was noted that it was the senior profession who had let the side down. Technologically incompetent, they had lost the scale, allowed real estate agents to compete for lawyer's work and brought the profession in to disrepute — it is never the staff solicitor who rips off the trust account.

Kathryn Dalziel bravely led her aged companions, Ian Hunt and Chris McVeigh QC, in rebuttal. The hopelessness of their cause was reflected in the speeches — it is widely believed that Ian Hunt is still unaware of the moot topic.

Nonetheless the defence was a spirited one and few could doubt the research commitment after Kathryn Dalziel announced that she had researched the wording on the writer’s underwear.

The outcome was declared a draw with concerns that the stress of a loss could have adverse health outcomes for the elderly and a good time seemed to be had by all.

As part of Amy Shakespeare’s debate speech to convince the audience that the younger solicitor is better, she highlighted the many changes the older lawyers have made (not, in her opinion favourable changes) to the area of law in general and in particular to the District Court Rules.

The comical rhyme from her speech follows:

The law according to Seuss

By Grant Tyrrell

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the law according to seuss

yes sir no sir i don’t know sir
after box 3 where do i go sir
again again again again
write your claim in box six again
i do not like these forms hot damn
i do not like them sam i am
you do not think my forms are flow-erty?
no!

i hate your forms judge ............!
President’s Column

One third of the year gone and Christmas holidays are fast becoming a distant memory for us. The quakes seem to be unrelenting but we soldier on resiliently in the face of almost impossible conditions.

As I see and speak with practitioners I always ask how things are going and I have to say the passing of 15 months since February 22nd has seen a number of law firms still operating out of the most unusual of environments yet very rarely if indeed at all have I heard a practitioner complain.

I recently spoke at a dinner held in Auckland by the Criminal Bar Association, the purpose of which was to raise funds for criminal lawyers and to keep the effects of the quakes to the forefront of everybody’s minds. Justice Michael Kirby was the guest speaker and I very much the support crew but I was gratified and humbled by the genuine goodwill that was shown and expressed by mostly Auckland practitioners towards our plight.

Since Justice Kirby has returned to Australia he has taken it upon himself to let the Australian Bar know of the current environment that we operate under. I have received a number of phone calls from Australian lawyers with offers of assistance. It is truly humbling when such calls are received.

With the changes that have been foist upon the Legal Aid providers, not only in family law but in ACC and criminal, it seems to me that the ultimate goal is to “kill off” the independent bar by ensuring that the dole becomes a much more attractive proposition than representing those who most need representation.

The Law Foundation is offering the opportunity to attend the 13th International Criminal Law 2012 Congress to be held in Queenstown between the 12th and the 16th September 2012.

The Law Foundation grant will cover the registration fee for the conference.

We are seeking nominations. The person nominated should write a one-page letter outlining why the conference will be beneficial to them. You can nominate yourself.

To date there have not been a significant number of applicants, whether that is a sign of the times I do not know nevertheless this is a significant opportunity for a young practitioner with an interest in criminal law to advance their knowledge.

It is likely that the local branch will contribute towards the travel and accommodation costs for the successful applicant.

Speaking of junior practitioners I note that they have their annual North Canterbury Winery Bus Tour on Saturday 5th May 2012 interestingly there does not appear to be any finishing date (I suspect as a result of previous years experiences) This is always a fun tour.

On the sporting front the Hunter Cup for legal golfing prowess took place at the Harewood Golf Course with Mark Sherry of Harmans a worthy winner. Congratulations to all that took part in this event.

On a more serious note, EQC have issued a memorandum recently in the interests of promoting efficiency in the claims process and certain outcomes for claimants. This has been sent out in our Branch notes and is well worth a read.

Might I remind you all that in these difficult times if you find yourselves in financial difficulties the benevolent fund is available and all approaches either to me or Malcolm Ellis will be treated with the utmost confidence.

Continued Page 5
Lawyers Lives Outside the Law
From traction to ironman

On 19th November 2010 Tony Herring, partner at Mortlock McCormack Law, had been enjoying the evening at The Law Dinner at the Christchurch Town Hall.

The evening was coming to a close for Tony, but this close was nearly more final than anyone could have anticipated. On leaving the dinner, Tony fell four metres, landing on his head. He suffered a fracture of the second cervical vertebra (C2) a fracture that is given the colloquial term of “Hangmans Fracture”.

While this term is probably quite self-explanatory — it would occur during a hanging when the head would be forced into hyperextension by the full weight of the body. Of course many of these hangings were at the orders of the judiciary which may be seen as quite ironic in this circumstance, but there is no question that it was payback for anyone that Tony has “sent to the gallows”.

While many that were sent to the gallows did not live to tell the story, Tony is one of the lucky ones “that got away”. He could have died or at the least been on a ventilator for the rest of his life, but after spending three months on his back in traction at the Burwood Spinal Unit and six months off work rehabilitating, he has set himself a goal of competing in Ironman 2013!

An ironman event may seem like a very high goal to set but Tony is well on his way to achieving it. This year Tony has done an Olympic distance triathlon in Auckland, a 2.65:14 triathlon in Wanaka and in late March he came 13th in his age group at the Auckland Half Ironman in 5.33.

He said it was great to get his first triathlon medal as all his old marathon medals are ‘stuck’ in the ‘red zone’ in Mortlock McCormack’s previous premises.

To ensure Tony obtains more medals he is training on average 15-16 hours a week under a coach, Bevan James Eyles, and a personal trainer, Sarah Lacey-Fisher. On top of all this he is also back to work leading the team who was appointed to the All of Government External Legal Services Panel.

Tony would like to thank his partners and staff at Mortlock McCormack Law as well as many others from the profession, namely Susan Dwight, Elizabeth Neazor and Nick Leeming who accompanied him on the slow ambulance ride to hospital, Alister Davis and Malcolm Ellis who paid for Sky Sport to be installed in his hospital room so he would not go mad and all those that visited and supported him. The big race is on 2nd March 2013 but before then he will be doing the Sydney ITU Olympic distance triathlon on 15 April, the Cairns Half Ironman on 3rd June, the Sydney marathon in September then a few lead up races over summer 2012-2013. Tony says that recovering from an injury that should have killed him was the biggest challenge he had ever faced and doing an ironman is probably the next hardest thing he can do physically.

His motivation is basically to prove that after suffering such a serious injury he can once again not only walk but also swim (3.8k), bike (180k), and run (42.2k).
The art of budgeting

At the heart of every good financial plan is a well-constructed budget. During turbulent periods in financial markets, like the one we are experiencing now, our thoughts can turn to our spending and whether we have an effective budget in place to ensure we are saving as much of our disposable income as we would like to. Unless you have a sound understanding of how much you are earning and how much you are spending, both saving and investing can be a challenge.

While most people have a good handle on how much they earn, it can be much more difficult to put an accurate number on expenses. A common scenario is for us to spend around as much as we earn, leaving very little at the end of the month to do anything else with. To develop a realistic budget, understanding your expenses is very important. While it can be easier to work out how much you spend on your fixed commitments, such as mortgage payments and car insurance, it is often more difficult to quantify what you spend on everything else.

One of the best ways to do this is to carry around a small notebook and jot down how much you spend on what. This will both give you a bottom line number on your expenses and may also identify some areas where you can make savings. This could include, for example, reducing the number of coffees you buy from the local café each week, choosing public transport instead of taxis or eating out less frequently.

Research suggests that most people can free up around 10 per cent of what they spend to divert to wealth creation. However, it does take some discipline to achieve this. To help with this process, a good practice can be to divert funds straight from your salary into a separate account or investment plan so that you are unable to spend it elsewhere.

Another tried and tested method is for those who change jobs or receive a pay increase, to divert the additional income straight into savings, which can be a good way to give your wealth creation a boost.

The investment options for your newfound cashflow are many. This could include choosing secure, high yield cash investment, like a term deposit with your trusted bank of choice. You may also choose to work with a financial adviser to identify appropriate equity investments to add to your portfolio with some of the funds you accumulate.

CARE OF CHILDREN

Successful appeal by Police against HC decision to quash two convictions for breach of s78 Care of Children Act 2004 - whether an intent to prevent a parenting order from being complied with must be motivated by an intent to prevent compliance with the parenting order, or whether an oblique intention is sufficient - applicant submitted the HCJ was wrong to divide the mental element of the charge under s 78 into two distinct components, intention and motive - observation by the Court that parenting orders reflect underlying policy of the Act that a child’s welfare and best interests are paramount - noted that s78 was inelegantly drafted - HELD: HCJ erred in law in relation to the correct interpretation of the intent to prevent a parenting order from being complied with under s78 Care of Children Act 2004 - traditional interpretation of “intent” applied - s78 does not require the prosecution to prove the motive of a defendant charged with contravening a parenting order - prosecution required to prove knowledge of the terms and conditions of the relevant parenting order and an intentional, deliberate act or omission contravening or preventing compliance with the parenting order - once such elements of the offence were established, it would still be open for defendant to demonstrate that such conduct occurred with reasonable excuse - charges should not have been quashed - factual findings in DC that there was no evidence of a reasonable excuse and ample evidence of an intent to prevent the parenting order being complied with provided sufficient basis for a conclusion that the charge was proved beyond reasonable doubt - appeal allowed - appeal had been brought as a test case - appropriate outcome was that appellant was now convicted and discharged.

(See also: Case Note: Police v K: Contravening parenting orders — the meaning of “intent” by Professor Mark Henaghan 7(5) New Zealand Family Law Journal 140)
President’s Column

Continued from Page 2

Finally my monthly joke the first of which reflects how our values change as we age and the second reflects...

An elderly lady was standing at the railing of the cruise ship holding her hat tight so that it would not blow away in the wind. A gentleman approached her and said, “Pardon me, madam I do not intend to be forward but did you know that your dress is blowing up in this high wind?” “Yes, I know,” said the lady. “I need both my hands to hold onto this hat.” “But madam, you must know that you are not wearing any panties and your privates are exposed!” said the gentleman in earnest.

The woman looked down, then back up at the man and replied, “Sir, anything you see down there is 75 years old I just bought this hat yesterday!”

This is the story of the poor dizzy blonde flying in a two-seater airplane with just the pilot. He has a heart attack and dies. She, frantic, calls out a May Day. “May Day! May Day! Help me! Help me! My pilot had a heart attack and is dead, and I don’t know how to fly. Help me! Please help me!”

She hears a voice over the radio saying: “This is Air Traffic Control and I have you loud and clear. I will talk you through this and get you back on the ground. I’ve had a lot of experience with this kind of problem. Now, just take a deep breath. Everything will be fine! Now give me your height and position.”

She says, “I’m 5’4” and I’m in the front seat.” (Pause)

“O.K.” says the voice on the radio “Repeat after me: Our Father... Who art in Heaven...”

Allister Davis

You may have noticed the outstanding cover on the 17th February issue of LawTalk. The cover was designed by Jesse Cogswell, who is a communications designer with the LawTalk team in Wellington. The pdf is available if you would like to get the print developed and framed. If you would like a copy of the pdf please email malcolm.ellis@lawsociety.org.nz.
The old and the new

By Rohan Wills

It was when I received the notice about the great debate putting the junior lawyer with his/her iphone and e-mail against the senior lawyer with his/her hard copy and snail mail that I realised how much the world has changed in the past 40 years in the life of a lawyer.

Some weeks ago on a cloudy summer’s day between 4.30 and 5pm after sitting down with my $500 Compaq laptop and my $20 prepay 20 gig stick I said to my wife, while pouring some of my Boundary Marlborough Sav Blanc, that I have just done a week’s work in half an hour.

Her response was the usual, that at my age I was drinking far too much and it was affecting what little brain I had left, however, after sitting her down and pouring an Earl Grey tea and spreading yoghurt on her nax with no salt I recounted what I had done.

Firstly, I had paid my power account and the third instalment of rates due that day, then I had relicensed her car, which she was unaware was due. I had responded to seven e-mails and then obtained a search copy of a title for a Nelson property and e-mailed it to my sister on Vancouver Island, Canada.

I proceeded to download a form of contract and forwarded that to her also, delivered by e-mail a judgment on line to her accountant regarding capital gains tax on overseas land. Next I filed an annual return for a company and changed shareholders and directors on another. After that and before my wine I spoke to my brother, also in Canada, on my iphone for 20 minutes for 9 cents using a Wetalk app downloaded from iphones for $1.29.

My wife then asked how that relates to a week’s work when it was all concluded in an hour and it was then that I took her through the procedures and requirements that we had to go through to complete those tasks when we senior lawyers were junior lawyers.

No wonder they have the time to drink coffee, access social media and have 20 different relationships before they marry, that’s if they do!

Firstly, the power and rates had to be paid in cash at the requisite office in town, no branches in those days. All wages were paid weekly in cash in a small wage packet and all the outgoing were divided up and kept separate. Some who were lucky enough had a cheque account with a trading bank but most dealt with the government guaranteed Post Office Savings Bank which issued Money Order Notes. Again, this required a trip to the local Post Office to obtain an order for the correct amount addressed to the payee.

Car licensing was similar, requiring physical attendance at a Post Office with a Money Order as personal cheques were not acceptable to government departments.

Title searches have been covered by me in previous articles but the capacity to send these around the world at the click of a button never ceases to amaze. Years ago that would be by registered mail requiring attendance at a Post Office and at great cost and about two weeks delay using airmail. Likewise contracts were originally not printed then became printed but subject to copy write and closely guarded.

The Auckland District Society grasped the nettle and spent a lot of time in drafting a general Agreement for Sale and Purchase and it was the basis of a very successful business of forms, which was one of the main reasons it chose not to merge under the new Act. Interestingly, talking to an Auckland based NZ Council member at the cocktail party recently it appears that the digital age is catching up with Auckland and them coming into the fold in the near future is a real possibility. Money clearly talks. Judgments on line and the ease for which they can be accessed are amazing. Gone are the days of the trip to the local Law Society library and the need for in-house firm libraries and the cost of maintaining them. A click of a mouse and the world is your oyster.

Similarly, the Companies Office is a world leader in the digital age moving from a paper only typical government department where it took two weeks for documents to be processed and hand searching and copying to now being on line with faxed consents and immediate registration.

As for calling Canada, I was told of an app which allowed any country in the world to be called for three cents a minute so I downloaded it and it works! Not too long ago a toll call had to be booked with the Post Office. They would then ring back when the line was available [sometimes hours later] and at horrendous cost. Now I touch the app on my iphone, up comes a keyboard, I choose a country and then dial. It is something like Skype, same cost structure but without the visual.

So there you have it, a week’s work without technology and an hours work with technology. Who wins, the junior lawyer or the senior lawyer?

Ever heard about the tortoise and the hare? Perhaps it has not been downloaded yet!

Free financial advice for Red Zoners

The Christchurch Earthquake Appeal Trust has funded the Commission for Financial literacy and Retirement Income (formerly the Retirement Commission) to set up a financial advice service.

This provides Red Zone property owners the opportunity to book a one to one and half hour consultation with an Authorised Financial Adviser (AFA) from well-known reputable organisations.

The advisors are not there to sell products but to inform them of their options and ensure they understand their financial position.

This initiative may be helpful to some lawyers clients that are Red Zone residents. Further information can be obtained at www.sorted.org.nz/redzone or call 0800 7464 2372.
**Legal Aid survey proves revealing**

The results of an online survey that was emailed to 2652 lawyers listed as providers of legal aid in October-November 2011 have been released by The Ministry of Justice. The results seem to speak for themselves.

Of the 1,010 lawyers that responded the significant results were:

- 72% disagreed with the change to fixed fees for many cases.
- 54% disagreed with stricter eligibility criteria for clients seeking legal aid.
- 75% disagreed that the measures being taken to control legal aid expenditure will still maintain access to justice.
- 71% disagreed that fixed fees for many cases will help achieve earlier resolution of those cases.
- 65% disagreed that rotational assignment will lead to an increase in the number of more experienced lawyers taking legal aid work.

It has been said that many lawyers may be unable to work under a fixed fee framework. A comparison undertaken by a family lawyer in relationship property proceedings between current guidelines and proposed fixed fee framework showed:

Under current guidelines the first step of relationship property proceedings is allocated up to 14 hours. At a level 3 rate of $134 + GST per hour it could be billed up to $1876 (plus GST and disbursements) for the tasks involved. Under the fixed fee framework this could be reduced to no more than $570 (plus GST and disbursements).

We will be looking further into the issues and comments from the legal aid providers in our district so if you have any comments please contact one of the publications committee members or Zylpha Kovacs at zylpha.kovacs@lawsociety.co.nz.

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**Duncan Cotterill appointments**

Environmental law specialist Hans van der Wal has been appointed as Special Counsel at Duncan Cotterill Lawyers.

Hans van der Wal has a wealth of experience, having acted for local government and private clients on plan and consent-related legal issues both at Council and Court hearings and in environmental enforcement and prosecution proceedings.

His public sector clients include both regional and district councils, for whom he provides a range of resource management, environmental and local government legal services, while his private clients typically include property owners — from farmers to businesses — and private property owners.

Chris Shannon joins Duncan Cotterill as an Associate. He was formerly a Crown prosecutor for more than seven years, the past five as a senior Crown prosecutor with the Palmerston North Crown office. Chris has prosecuted jury trials in the High Court and District Court.

Chief executive Janice Fredric said the Special Counsel appointment recognised van der Wal’s experience and expertise in environmental law while Shannon’s prosecution skills would further enhance Duncan Cotterill’s litigation team.
Associate Judge Osborne, the debate chair, has an attentive audience.

Attendees enjoying the half-time refreshments.

The Junior Lawyers team, Andrew Riches, Amy Shakespeare and Grant Tyrrell.

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May
1 — Judicial Review, 1-5pm.
3-4 — Introduction to Company Law.
4 — Protection of Personal Property Rights Act in Action, Webinar, 1-5pm.
7 — Competition Law — Must Knows.
15 — Enforcing Commercial & Consumer Securities.
15 — Trust Account Administrators, 8.45am-1pm.
21-22 — Residential Property Transactions.
22 — Construction Contract Issues for Non-Litigators, 1-5pm.

June
5 — Lawyer for Child Practitioners — Best Practice from the Bench’s Perspective.
Presentation by Judge J Moran, 5.15-6.15pm. Armagh 1, Family Court.

July
19,20,21 — Stepping Up — Foundation for practicing on own account.
23 — Building Profitability: Leverage, Leadership and Management, 9am-4pm.

August
19-25 — Litigation Skills Programme 2012 Out of Christchurch
Education Law Intensive — Wellington 7 May, Auckland 2 May.
Mediation Masterclass — Wellington 2 May, Auckland 4 May.
PropertyLawConference—Auckland18-19June.
Corporate Governance Intensive — Wellington, 21 June, Auckland 22 June.

Canterbury-Westland Branch NZLS May

Seminars
5 — Lawyer for Child Practitioners — Best Practice from the Bench’s Perspective. Presentation by Judge J Moran, 5.15-6.15pm. Armagh 1, Family Court.

June
7 — Employment Law. Lunchtime seminar.

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Canterbury tales

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In the last edition of Canterbury Tales, Richard Scragg wrote about the Law Recruitment Evening. Philip Maw, a partner at Wynn Williams Lawyers, who attended the evening, gives us the Prospective Employers perspective:

With the return of the annual Law Society Recruitment Evening to the Law School foyer the event marked an opportunity for many of the practitioners to return to their former place of study.

The evening began with warm words of welcome from the Dean and Head of Law Richard Scragg, and Law Soc’s Academic Officer, Andy Luck.

Although it seemed as much an opportunity for the students to collect the array of branded paraphernalia as it was to talk to practitioners, the often-asked questions still flowed. “Do you have summer clerk/graduate positions?” (With an answer in the affirmative bringing about a look of relief), “What sort of law do you do?”, “How do I get a job with your firm?” and “What sort of grades do I need?”.

Whilst it is always tempting to answer the last question with A+’s, maybe the odd A, but mainly A+’s, common sense still prevails. The profession needs graduates who can hold a conversation with clients and fellow practitioners alike. Skills gained not by sitting in a cone of silence in the law school library, but by participating in student life.

However, that is not to say that there were not some challenging questions. One particular student sought an opinion on almost all current affairs, ranging from the Arab Spring through to the statutory management of the Hubbards! Above all though, the recruitment evening is an excellent opportunity for students and practitioners to mingle in a relaxed atmosphere.

It gives the students valued exposure to those in the profession and vice versa. It is an event that is very much looked forward to and long may that continue.

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Practice Notice

The Partners of Weston Ward & Lascelles are very pleased to announce that Grant Peter Tyrrell is now a Partner of the Firm.

Grant practises in civil litigation, criminal, employment and family law.

Canterbury Tales is the official newsletter of the Canterbury-Westland Branch New Zealand Law Society.

Publications Committee: Karen Feltham (editor), Brendan Callaghan, Aliza Eveleigh, Summer Pringle, Zylpha Kovacs and Kate Dougherty.

All correspondence and photographs should be forwarded to: The Branch Manager, Canterbury-Westland Branch New Zealand Law Society, Unit 1, 8 Homersham Place, Russley, Christchurch. P. O. Box 565 Christchurch. Phone 358-3147, fax 358-3148. email canterbury-westland@lawsociety.org.nz.

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Situations Vacant

YOUTH ADVOCATE LIST - ASHBURTON YOUTH COURT

The three yearly review is currently being undertaken.

Applications are invited from legal counsel seeking re-appointment and new applicants who consider themselves suitably qualified by reason of personality, cultural background, training and experience to undertake work as a Youth Advocate.

A copy of the guidelines for selection and an application pack can be obtained by emailing robbie.gane@justice.govt.nz or by contacting the Ashburton District Court by telephone 03 307 9060.

Applications close 15 June 2012.

Robert Gane
Registrar, District Court, Ashburton

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If you know us already, pick up the phone and talk to one of our partners.

White Fox & Jones House
22 Moorhouse Ave, Christchurch
Phone 353 0650

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Mark Sherry wins Hunter Cup

The annual Hunter Cup golf tournament was held at the new Harewood Woodlands course on 23 March 2012.

Bradley Nuttall ensured the players were well fed as they again provided the traditional pre-match barbeque. It was a good chance for the players to relax before enjoying their golf. The only disappointing thing was the lower than usual turnout.

As the players made their way to their allotted tees for the shotgun start, a keen easterly wind was whipping up which would ensure the conditions would test the players. In addition to the increasing breeze, for many in the field it was their first look at the new Harewood design, which has not yet fully “bedded in”. The course was testing and in places quite long.

Some players may have seen more of the course than they bargained for and there were reports that it was a good day for the ball manufacturers as a number of balls remain unaccounted for. The team from SBS was always on hand to provide the appropriate refreshments around the course. After the round the players were ably catered for by the staff and caterers at Harewood and it was another good chance to catch up with colleagues.

When the scores were tallied Mark Sherry was declared the winner of the Hunter Cup for 2012. Congratulations to him.

As always, events like this do not organise themselves. A huge vote of thanks is once again due to the organising committee and to the sponsors who make the day possible. Attendance at events like the Hunter Cup does not require golfing ability. All practitioners should be encouraged to attend events like this as now, more than ever, collegiality is essential.

Brendan Callaghan

Competitors and supporters enjoying a social hour after the golf.

Julian Clarke presents the Hunter Cup to Mark Sherry.