

COUNCIL BRIEF

The monthly newspaper of the

WELLINGTON BRANCH
NEW ZEALAND LAW SOCIETY

Council Brief Advertising
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Reynolds Advertising

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MAY 2011

□ President's Column

Pressures on the profession

By Nerissa Barber

We, the junior partners, received the crumbs from our senior partners' plates. Unfortunately our senior partners were very tidy eaters.



THUS recalls a practitioner in the 1960s.

Today the crumbs can sometimes be even smaller.

Many of those practising law, whether in big firms, in sole practice or as in-house practitioners, both here and overseas, face financial pressures and considerable stress. No-one is immune.

But there are people who can help. Julia Coleman provides services on a voluntary basis as a Chaplain, and can be contacted through the Wellington Branch. We also have a Friends Panel, and its members and their details are on my.lawsociety or through contacting our Branch.

At the April New Zealand Law Society Council meeting we discussed the pressures affecting members of our profession and how we can assist.

One possibility is inviting senior members of our profession (and those who have recently retired) to help mentor those practitioners wishing to shift their areas of practice. Another possibility is to per-

haps hold a forum to discuss diversification of areas of legal practice. If you are interested in participating, or can offer support as a mentor, I would appreciate your feedback, either to me or to our Branch manager, Colleen Singleton.

The challenges facing our legal colleagues in Australia are not that dissimilar to our own. Recently, I was delighted to meet Alex Ward, president of the Law Council of Australia. They, too, have the issue of lawyers in the provinces retiring in the next five years with no apparent succession. I am told the Federal Government is even offering tax relief to encourage lawyers to relocate to provincial areas.

Australia also faces the problem that, while there are many women law graduates (often outnumbering males), they too have the difficulty of retaining women in the legal profession, particularly in their thirties and forties. Australia has a specialist group working on the issue both from a humanitarian approach and from an economic perspective.

In April our Wellington Branch Council was fortunate to meet with Dr David Collins QC, Solicitor-General and past president of the Wellington District Law Society, along with members of the Government Legal Services Governance Group – Kevin Kelly, general manager organisational development New Zealand Police, and John

Sneyd, chief legal adviser for the Department of Building and Housing. Nicola Nation and Malcolm Morrison from the Ministry of Economic Development also attended and provided a fascinating update on the procurement projects MED is leading.

Dr Collins and the Government Legal Services Governance Group are undertaking great work to benefit the many lawyers working in government who make up a large portion of our Wellington legal profession.

Dr Collins and members of the group provided invaluable insights, which will be of huge assistance as we commence strategic planning for the next 12 months.

Survey

Thanks again to the many members of our profession who participated in our survey at the end of last year. The report is very helpful in informing our planning, and we are implementing some plans already to address the comments made. The survey report is on my.lawsociety or through contacting our Branch.

If you did not have the chance to complete the survey but have some comments and responses, please let me know.

Obituary

We note with regret the deaths of Norman Carter (Hogg Gillespie Carter and Oakley, and later Carter Mayne) and Robin Randell (retired Bell Gully 1993).

Former Wellington barrister appointed Queen's Counsel in English bar

By Thomas Eichelbaum

IN the mid-1970s John McLinden came to see me at my office at Chapman Tripp, looking for advice on how to start his career as a litigator. He had just qualified and it was the first time we met. Shortly afterwards I heard he had hung up his shingle as a barrister sole. This



John McLinden QC

was not in accord with my thoughts, but his judgment proved better than mine.

For some years John battled to establish himself, doing mainly criminal legal aid work. In this period, it is fair to say, he was not the Wellington Judges' favourite practitioner. His initial idea of advocacy was to engage in warfare with the Bench. John however had a capacity to learn from mistakes and self improve. Also, he had great energy, and dedication to his clients.

He followed some experienced counsel around the courts: many years later he reminded me of long forgotten details of trials he had observed from the back of the court. In time he built up a reasonable practice and had some notable successes in civil cases, including a large jury verdict for

a cancer patient who had been badly treated by Police, and the seminal Bill of Rights case, *Baigent*.

John could have continued comfortably on this path in Wellington but, when he was in his late thirties, it was back to the bottom of the snakes and ladders board; he

decided to see if he could succeed at the bar in London. His mother was English but that aside he had no connections and no prospects. He struggled even to obtain a place in chambers let alone a practice. Over the space of 12 or so years, his persistence and abilities carried him to the point where he had an excellent civil practice, and the opportunity to work with leading counsel, including Sydney Kentridge.

Last month, in the most competitive bar in the English speaking world, John McLinden obtained silk. In any list of outstanding achievements by New Zealand lawyers overseas, this must rank high. Well done John – a tribute to your courage, determination, ability, drive and Irish charm.

Local practitioner appointed District Court Judge

MEMBERS of the Wellington legal profession, family and friends welcomed the appointment of David Cameron to the Bench of the District Court at a swearing-in ceremony on Wednesday 13 April



Judge David Cameron

His Honour commenced legal practice at Swan, Davies, McKay and Co (now Kensington Swan), becoming a partner in the firm in 1979. After a brief time at Holland Beckett in Tauranga, he returned to Wellington to join Morrison Kent as a civil and commercial litigator. Judge Cameron was a partner in the firm for 17 years. In 1999 he set up practice on his own account, acting for the defence mainly in Palmerston North and Levin. More recently Judge Cameron served as a High Court Judge in the Solomon Islands.

His Honour Judge Cameron contributed to restoring law and order to the Solomon Islands, following the ethnic tensions of the late 1990s and early 2000s.

His Honour Judge Ian Mill, Executive Judge Wellington, presided and referred to Judge Cameron's extensive experience, including his most recent role in the Solomon Islands. Judge Mill noted that because of Judge Cameron's abilities and the high esteem with which he was regarded, what was to be a one-year term in the Solomons was renewed each year, and became four years when the tasks came to an end. Judge Cameron's decisions in the Solomon Islands were interesting and varied, and included convicting a man who had subsequently become a popular government minister, of shooting someone.

Attorney-General, Hon Chris Finlayson, spoke of Judge Cameron's significant legal experience. The Attorney-General also commended the service provided by mem-

bers of our legal profession in upholding the rule of law and furthering access to justice in developing countries. This was endorsed by the Wellington Branch President Nerissa Barber.

Nerissa Barber also noted that in December 2010 the Chief Justice of the Solomons, in farewelling Judge Cameron, referred to him as being "a well-seasoned and able judge, reliable and dependable, capable of handling any legal dispute in court", and referred to his being a "fine Judge". The Chief Justice of the Solomons commended Judge Cameron for "leaving a legacy of hard work, commitment, and dedication".

Nerissa Barber also referred to Judge Cameron's wide interests, in sport and in flora and fauna, and to the support his Honour had received from his wife Pru, and sons Andrew, Hamish and Angus.

His Honour will sit in Whanganui.

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Wellington Branch Diary May

- Thursday 5 May**
Swearing-in ceremony for Stephen Kós QC, appointed as a High Court Judge, Courtroom 1, Old High Court, Stout Street, Wellington 3.30pm
- Thursday 5 and Friday 6 May**
Introduction to Company Law. NZLS CLE Workshop. Terrace Conference Centre
- Wednesday 11 May**
Wellington Branch Human Rights Committee seminar, Susan Freeman-Green. 6.00pm. Level 8, Law Society Building, 26 Waring Taylor Street. Wellington. RSVP 472 8978, or claudia.downey@lawsociety.org
- Thursday 12 May**
Employment Law Committee, seminar on employment mediation, presented by Judy Dell. 12.30-1.30pm, Level 8, Law Society Building, 26 Waring Taylor Street. Wellington. Charge: \$15.00. RSVP 472 8978, or claudia.downey@lawsociety.org
- Monday 16 and Tuesday 17 May**
Youth Advocates Conference, Te Papa, Wellington
- Thursday 19 May**
Seminar on new District Court Rules, Courts and Tribunals Committee. 5.30pm. Crown Law Office, Level 10, Unisys House, 56 The Terrace. Cost: \$10. RSVP 472 8978, or claudia.downey@lawsociety.org
- Wednesday 18 May**
Wellington Branch Council meeting
- Monday 23 May**
Wairarapa annual general meeting
- Wednesday 25 May**
Deadline for June issue of *Council Brief*
How to run a District Court trial, NZLS CLE Workshop. Terrace Convention Centre, 9am-5.30pm
Hutt Valley Lawyers' Dinner
- Thursday 26 May**
Public Law Committee, 1pm, Level 3, Law Society Building
Meet the Judges, function for newly admitted practitioners
- Friday 27 May**
Women-in-Law Committee, 1pm, Level 3, Law Society Building.



Case summaries based on those written for LINX database. Copies of the judgments are available from the NZLS High Court Library: wellington@nzlslibrary.org.nz, 64 4 473-6202 o 0800 FORLAW-0800 36 75 29

Westpac Banking Corporation and Bank of New Zealand and ANZ National Bank Ltd v Commission of Inland Revenue – 7 April 2011 – Elias CJ; Blanchard; Tipping; McGrath and Anderson JJ – SC 83-2009
UNCLAIMED MONEY

Unsuccessful appeal by appellant banks - whether provisions of the Unclaimed Money Act 1971 (the Act) applied to sums of money that were to be paid under certain financial instruments issued by appellant banks – financial instruments concerned were foreign currency drafts and bank cheques, which had not been presented for payment by payees within six years of purchase. If provisions of the Act applied, appellants were required to record particulars of the unclaimed money arising over the past 12 months on a register and, if owners did not claim it, pay the money to the Commissioner of Inland Revenue (CIR) – whether moneys represented by foreign currency drafts and bank cheques, that remained unpresented after six years from their purchase, became unclaimed money in terms of s4(1)(e) of the Act – whether, from the time of purchase by customers of the instruments concerned, money was “owing” and “payable” by the bank, within the meaning of s4(1)(e) of the Act. Appellant banks argued that, as their liability to pay moneys under foreign currency drafts and bank cheques was conditional on instruments being presented for payment, there was no obligation to pay until the condition was fulfilled – meaning of “payable” in relation to “unclaimed money” in s4(1)(e) of

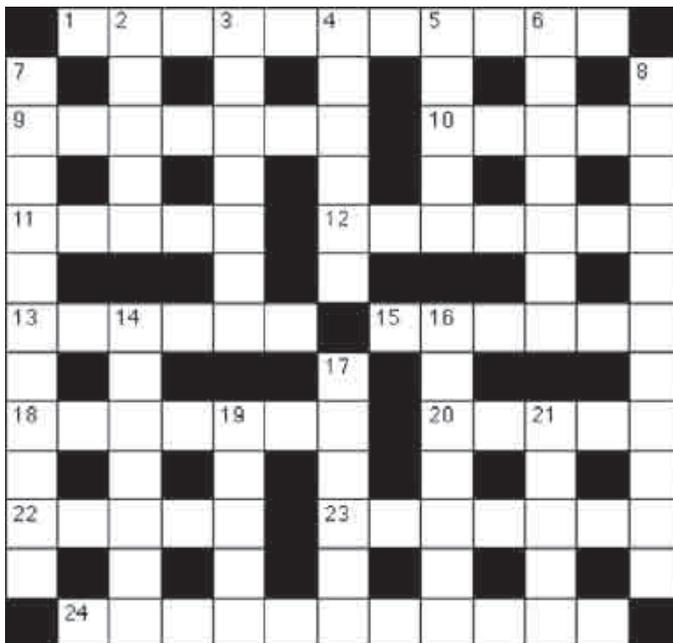
the Act, considered – Privy Council had held in *Commissioner of Inland Revenue v Thomas Cook (New Zealand) Ltd*, that payable in s4(1)(e) meant no more than legally due if demanded, and it was unnecessary that any demand should have been made, or a cause of action for recovery of money should have accrued, for money to be “payable” for the purposes of the Act - HELD: in the present case, the money in issue had been paid by customers to purchase drafts and bank cheques – money was provided to the banks to take up the facility they offered for making payments – although, in form, money was paid to appellants by their customer to acquire an asset (the draft or cheque), in substance customer was putting appellants in funds, against which both parties expected a third party to draw (via another bank, in the case of drafts) – if that expectation was not fulfilled, the situation was one covered by the main purpose of the Act; money which was in the hands of another and not claimed by the owner was not to be retained and treated as the holder’s revenue – approach taken to the Act by the Privy Council in *Thomas Cook* was the correct one, and it applied to foreign drafts and bank cheques in this case - money was payable as soon as demand could be made, which was at the time of purchase of the instruments by the appellants’ customers - if no such demand was made during the period of six years following purchase, the money became unclaimed money under the Act, which had then to be paid by the appellants to the CIR – appeal dismissed

COUNCIL BRIEF CROSSWORD

You can use this diagram for either the Quick or Cryptic Clues, but the answers in each case are different. This month’s solutions are on page 7.

Cryptic Clues

- | | |
|--|---|
| ACROSS | DOWN |
| 1. Evidently doesn't suffer in silence! (5,2,4) | 2. Space is needed for this room (5) |
| 9. Shrub here in the cellar but usually outdoors (7) | 3. After a number on the side (7) |
| 10. One way to score (5) | 4. Selected to play, but not on the wing? (6) |
| 11. One who pays his respects in a lady's boudoir? (5) | 5. Animal comes from the swamp and accepts food (5) |
| 12. Composed and ready for inspection (5,2) | 6. Concentrated in a nervous way (7) |
| 13. A stone in the way perhaps (6) | 7. He probably doesn't engage in serious pursuits (3,8) |
| 15. End of the act (6) | 8. Rows in forms that will please the eye (11) |
| 18. It may accompany a throbbing drum (7) | 14. Line of defence that makes lawyers angry? (7) |
| 20. Coach - or coaches (5) | 16. Put into bonds on account of great interest? (7) |
| 22. Talk or eat perhaps (5) | 17. Continue being eager to hold work up (4,2) |
| 23. They may be tied up with postal deliveries (7) | 19. A solemn profession (5) |
| 24. It throws light on what has been written (7,4) | 21. A light abreast of the ship (5) |



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Quick Clues

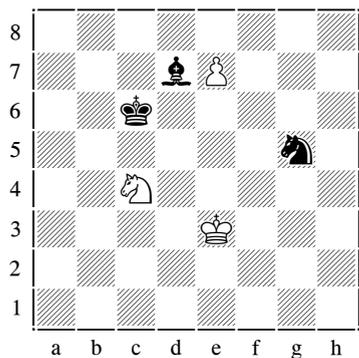
- | | |
|------------------------|--------------------------------|
| ACROSS | DOWN |
| 1. Calamity (11) | 2. Nimble (5) |
| 9. Bankruptcy (7) | 3. Apart (7) |
| 10. Game of chance (5) | 4. Tramples (6) |
| 11. To correct (5) | 5. Young bird (5) |
| 12. Trenches (7) | 6. Axe (7) |
| 13. Ridiculous (6) | 7. A little time later (5,1,5) |
| 15. Talented (6) | 8. Thoughtful (11) |
| 18. Vacation (7) | 14. Wise man (7) |
| 20. Of the sun (5) | 16. Moment (7) |
| 22. Confine (5) | 17. Method (6) |
| 23. Passage (7) | 19. The same (5) |
| 24. News (11) | 21. Lariat (5) |

Conferences

- May 5-7 2011** – Child Protection in Australia and NZ – Issues and Challenges for Judicial Administration, Brisbane. Australasian Institute of Judicial Administration. gregory.reinhardt@law.monash.edu.au
- May 12-13 2011** – CLANZ 24th annual conference, Napier. www.clanzonline.org
- May 16-17 2011** – Youth Advocates' Conference, Wellington. NZLS CLE
- May 17-18 2011** – Reviewing NZ's Accident Compensation System, Amora Hotel, Wellington. www.conferenz.co.nz
- May 25-26 2011** – 6th Annual Bar Leaders' Conference, Warsaw.
- May 27-29 2011** – 4th Lawasia Children and the Law Conference, Siem Reap, Cambodia. http://lawasia.asn.au
- June 6-10 2011** – Legal study tour to South Africa, Mandela Institute. mandela.institute@wits.ac.za
- June 16-17 2011** – NZLS CLE Trusts Conference, Te Papa. (Also Auckland June 9-10). www.lawyerseducation.co.nz
- June 20-23 2011** – World Justice Forum 111, Barcelona. wjp-forum.org/2011/
- June 23 2011** – Property Law Section lunch and regional meeting, Wairarapa. http://my.lawsociety.org.nz/events/
- September 19-22 2011** – 6th International Conference on Legal, Security and Privacy Issues in IT Law, Nicosia, Cyprus. www.lspi.net/
- October 9-12 2011** – 24th Lawasia Conference, Seoul, Korea. http://lawasia.asn.au
- November 21-22 2011** – NZLS Family Law Conference, Auckland. www.lawyerseducation.co.nz

MADESIGN[™]

A note on reading chess moves



- N** knight
- B** bishop
- R** rook
- Q** queen
- K** king
- +** check
- ++** double check
- #** mate
- ...** black moves
- x** takes
- =** pawn promotes to
- ::** draw or stalemate

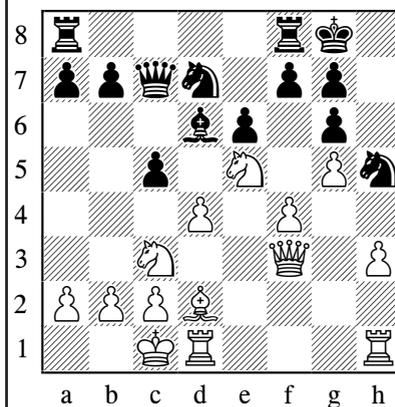
The chess moves recorded in *Council Brief* are set out in a form that is called algebraic notation. Each square on the chess board has a file letter and a row number, a combination that is unique to each square. For example, in the diagram above, black's king is on c6. If it is white's turn to move, white can force a draw. The sequence would be written as **1 Ne5+ Kd6 2 NxBd7 KxNd73 e8=Q KxQe8::**, which reads as: white's knight moves to e5 and checks black's king, black's king moves to d6; white's knight takes black's bishop on d7; white's pawn moves to e8 and promotes to a queen, black's king takes white's queen on e8 and draws (insufficient material to mate). The symbols used are as follows:

A pawn does not have a symbol. In the sequence above, on white's third move, the white pawn on e7 moved to e8, where it became a queen. This was written as 3 e8=Q. If two identical pieces in a player's possession can reach the same square, information identifying the square of origin is given, for example 1 Nc4-e5+, which means white's knight on c4 moves to e5 where it checks black's king.

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Answers: See page 4

- 1 X is to J as V is to ___?
- 2 3 is to D as 4 is to ___?
- 3 Black has just played ... c6-c5. What should white do?



OBITUARIES

LIBRARY

Library News

Rich trove of legal resources available at click of mouse

By Robin Anderson, Wellington Branch Librarian

Google alerts

Do you know that you can get Google to run a prepared search for you on a regular basis. Go to:

<http://www.google.co.nz/alerts?hl=en>

and fill in the blanks. The search will run daily or weekly and the results will be emailed to you. The search can be as broad or narrow as you can craft it, though a narrower more targeted search will usually bring more useful information. And it is free!

Library services

In addition to our document copying and research services, the Wellington library also has lockers available in the High Court Library. There are a number of them that are currently free and available if you are interested. The cost is approx \$150 per year.

Please contact Robin Anderson if you are interested – robin.anderson@lawsociety.org.nz

LINX news

Following the introduction last year of a separate internet catalogue of the books, journals and law reports available in the NZLS Library – (at <http://www.lawsocietylibrary.org.nz/catalogue/>) the books segment of the LINX database is becoming redundant. It is likely that it will go from the database at

New books:

Glanville Williams *Learning the law* 14th ed 2010

Hanbury & Martin *Modern Equity* 18th ed 2009

Law into Action: Economic, Social and Cultural Rights in Aotearoa New Zealand 2011

Law of habeas corpus 3rd ed 2011 (I see that the second edition “went missing” twice.)

Modern Challenges to the Rule of Law 2011

Privacy Law in New Zealand 2010

Winfield & Jolowicz on Tort 18th ed 2010

some point in the near future. Please bookmark our catalogue link above and use that. It offers you a lot more information than we could put on LINX.

Library online resources

The Laws of New Zealand is available online in all NZLS libraries – both branch and main libraries. We also have the online versions of *Halsbury's Laws of England*, *Halsbury's Laws of Australia* and *Halsbury's Laws of Canada*. In addition, the New Zealand, Australian and English editions have references to each other that you can follow at the click of a mouse. Because we subscribe to all New Zealand LexisNexis online case law as well as the All England Reports, any reference to a case reported there can also be accessed by the click of the mouse. This creates a fabulously rich research resource for you just waiting for you to visit. The Wellington Library also has hard copy of *the Laws of New Zealand*, *Halsbury's Laws of England* and *Halsbury's Australia*.

In addition to these resources, *Firstpoint* is also available at the Wellington Library. This is the online successor to the Australian Digest and is much easier to search online than the paper version ever was.

Thomas Gerald Norman Carter – 1916-2011

NORMAN Carter who died recently at the age of 94 has been described as an exemplary practitioner of the old school.

He was born in 1916 in Warkworth and lived in Helensville until the family moved to Lower Hutt in the 1920s where he attended Hutt Valley High School. Until his death he was one of the longest surviving pupils of that school.

He began his legal career in the 1930s as a law clerk at the Wellington firm of Bunny and Barrett, later to be Bunny Gillespie, while studying law at Victoria University College. The Second World War interrupted his studies and led him to a half a decade of character-defining experiences.

As part of the Second New Zealand Expeditionary Force, he went to Scotland in 1940 for basic military training. He fought with the 22nd Infantry Battalion, of which he was one of the original officers, in North Africa and Crete. He was captured in Crete in 1942, and remained a prisoner of war, first in Italy and then in southern Germany, until war's end. In later years, many of his associates enjoyed listening to his vividly recalled stories of that time.

Norman also met his first wife Edna in Scotland in 1940 and they were married in 1945 when he returned to Britain at the end of the war.

He had some involvement in courts martial during his war years which stimulated a strong interest in military law and a text on military law was a prominent feature of his office. He continued service as an officer in the Territorial army for some years.

Norman Carter was admitted to the Bar in June 1947 and by the early 1950s he was a partner in the Lower Hutt firm of Hogg Gillespie Carter and Oakley. Bill Sheat, who remembers meeting Norman working in the Lower Hutt magistrate's court in the 1950s, says Hogg Gillespie Carter and Oakley did most of the Lower Hutt City Council's legal work.

“Neil Gillespie was nominally city solicitor but in fact Norman did much of the work. The firm handled all the legal work for the council ... including the massive subdivision now known as Maungaraki. The firm had many large clients ... in addition to the council there was the regional drainage board, the river board and Foodstuffs.” Norman Carter was involved in the arduous legal work required by the acquisition of the patchwork of land needed for Hutt River flood protection schemes during the 1970s.

But it was as a family lawyer that Norman Carter excelled. As Bill Sheat says, this was not spectacular work but it engendered the trust of his clients. “Norman had a large number of

personal clients who relied on him for a wide range of advice. They recognised his worth and repaid it with long lasting loyalty... You knew that if you had a deal with him everything would be done properly. He could always be relied upon to do the right thing... The many young lawyers who worked for his firm speak well of him as a mentor and teacher.”

Norman was a dedicated Rotarian for 50 years. He was Lower Hutt club president for 1976/77, and was awarded a Paul Harris Fellowship in 1996, the highest Rotary award for outstanding service, and the Sapphire Pin in 2007. He continued his interest in Rotary until prevented by ill health, and was awarded honorary membership. He was also active in the Hutt Valley Chamber of Commerce and was elected its president in 1967.

The firm of Hogg Gillespie Carter and Oakley worked as two more or less independent offices for many years, one in Lower Hutt and the other in Wellington. The split was formalised from the beginning of 1990 with the establishment of Oakley Moran in Wellington and Carter Mayne in Lower Hutt. Norman Carter continued in partnership with David Mayne until his retirement from practice late in the 1990s.

Robin William Randell CSTJ – 1933-2011

ROBIN Randell was admitted in February 1958, after working for several years as a law clerk with Bell Gully and Co. He became a partner at Bell Gully in April 1962 and remained in the same firm until his retirement in February 1993.

A diligent worker, Robin developed a formidable knowledge of the law across the firm's property, commercial and litigation departments. He was highly regarded among his peers and it is said that his cases were always immaculately prepared and authoritatively presented.

He was particularly knowledgeable in the area of motor spirit licensing, specialising in town planning requirements for oil companies relating to the Town and Country Planning Act 1977 and the Resource Management Act 1991. He acted for Mobil Oil New Zealand Limited and the then Atlantic Oil Company Limited.

Robin Randell had wide interests outside the law. He was an ardent devotee of cricket and was a life member of Cricket Wellington. He was a stalwart of Taita Districts

Cricket Club, was its honorary solicitor for 47 years, served as club president and was a longtime committee member. He was the Hutt Valley Cricket Association's delegate to the Wellington Cricket Association for many years.

Robin also did extensive work for the Salvation Army and the Order of St John. He was solicitor for the latter organisation and undertook significant work related to the transfer of property and provided advice about trusts and on some international issues. After his retirement from Bell Gully he joined the St John national rules committee at the time when the Order of St John was preparing for new challenges as a Christian order in an increasingly secular world. Peter Wood of St John says Robin's contribution brought balance to every discussion but “... he always kept his copies of the rules of 1140 and Queen Victoria's 1888 statutes close at hand”.

“While he appreciated that St John (like every big organisation) had to have a ‘mission statement’ and a ‘statement of future direction’, he would always gently steer

the discussion back to the base ethos of the Order – the care of the sick and the poor.”

Mr Wood says Robin's contributions to the rules committee were written in longhand, usually on the back of some gestetnered cricket club minutes from the 1970s.

With the sanction of the Queen, Robin was admitted to the Order of St John in the Grade of Officer in 1995 and promoted to Commander in 2001.

The citation for his promotion reads:

Mr Randell is the former Priory solicitor, and since his retirement he has served on the Priory Rules Committee. With dedicated commitment, he has acquired a mastery of the evolution, traditions and heritage of the Order. Mr Randell gave freely of his time, knowledge and expertise in providing practical advice to those responsible for the governance and management of Priory affairs.

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LICENSED PRIVATE INVESTIGATORS

Fascinating insights into the workings of Parliament

A LARGE and appreciative audience on 20 April were given entertaining and informative addresses about ‘Lawyers on the Inside’ – the inside scope on the inner workings of Parliament.

Three women occupying key positions in Parliament – Debra Angus, Deputy Clerk of the House of Representatives, Rebecca Kitteridge, Secretary to the Cabinet and Clerk of the Executive Council, and Catherine Rodgers, Legislative Counsel and Legal Adviser to the Regulations Review Committee – spoke of their roles in a seminar jointly organised by the Wellington Women Lawyers’ Association and the Women-in-Law Committee of the Wellington Branch NZ Law Society.

Debra Angus

Debra Angus described the multifarious roles that the Clerk of the House performs. The Clerk is the principal procedural officer in Parliament and adviser to the Speaker, but also chief executive of the 120-member staff of the Office of the Clerk. The Office is an advisory body to Parliament, separate to Parliamentary Services which provides support to Members and to the House, and manages the buildings within the Parliamentary precinct.

The Clerk has statutory functions, one of the most important being to certify that Bills are in the proper form for consent by the Governor General.

The Clerk also processes amendments to Bills, working closely with the Parliamentary Counsel Office. This work can be very demanding, with amendments at times posted moments before debate. The supplementary order paper for the Christchurch Earthquake Recovery Bill, for instance, was available at a very late stage. The Clerk also certifies for the Prime Minister and the Governor General that the legislation as written is what was passed by the House.

The Clerk keeps the records of the House including Hansard. New technology has presented challenges here, with questions as to the continuing efficacy of bound volumes of written material appearing periodically, compared with placing everything online, as some parliaments are considering doing. The Clerk is the broadcaster of Parliamentary television proceedings, unlike in the UK where the BBC is responsible. This can present problems, such as in cases where a Member breaches a court order in the House. The member is protected by Parliamentary Privilege but should the material be later broadcast the Clerk may not be, and this leads the Office to have to make difficult editorial decisions at times.

Other statutory responsibilities include presiding over the election of the Speaker, witnessing the dis-

solution of Parliament, swearing in Members, and assisting in determining the wording for citizen initiated referenda – a task that can be daunting.

The Clerk’s office supports the profession of clerks, and works closely with other parliaments particularly in Australia and Pacific nations. Building capability in Pacific parliaments is an important role, and Ms Angus has spent time assisting in the democracy reform process in Tonga, a task which she says she has found very rewarding.

Rebecca Kitteridge

Rebecca Kitteridge, as Secretary of the Cabinet and Clerk of the Executive Council, reports directly to the Governor General and the Prime Minister. She has worked so far with four Prime Ministers and three Governors General. She spoke entertainingly of her work, using humorous anecdotes to highlight some of the more human aspects of the very formal work of being Secretary to the Cabinet, and the personal dimension of working closely with Ministers, including being present at their demise, politically speaking.

The Cabinet Office is virtually invisible to the public but every three years there is a very public moment with the swearing-in of Ministers at the beginning of a new parliament. This is a hugely complex occasion in the full glare of the media. The Governor General, for instance, has to sign over 100 different documents and the pressure to ensure that everything is correct is very great. During this event Rebecca’s role is that of the Clerk of the Executive Council, but once the ceremony is over, she reverts to Secretary of the Cabinet.

Despite the formality and the constitutional significance of the events in her job, normal life continues, a fact that she pointed out with an amusing story that, suffice to say, involved birthdays, icing a Tinkerbell cake, a Burmese kitten, a dead cell phone zone, as well as the imminence of APEC and a change of government!

A new administration comes with a different style, Rebecca says, which has to be adjusted to. “We have to be very responsive to the way the government works – you have to be aware in my job of what matters and what doesn’t, what you can be flexible with and where you need to stand firm. It’s an unforgiving environment if you get things wrong, but it’s very interesting and very satisfying – we are motivated by fundamental principles of democracy and the rule of law...”

Catherine Rodgers

Catherine Rodgers who has practised widely as a Crown prosecutor, a civil litigator and as assistant director of human rights proceedings with the Human Rights Commission among other areas, is part of a team of six law-



Rebecca Kitteridge, Secretary to the Cabinet and Clerk of the Executive Council, Debra Angus, Deputy Clerk of the House of Representatives, and Catherine Rodgers, Legislative Counsel and Legal Adviser to the Regulations Review Committee.

yers who provide legal advice to the Clerk and Deputy Clerk. This has included parliamentary television and the question of privilege, and the wording and timeframes of citizens’ initiated referenda.

She provides legal advice to select committees, which covers a very wide range of areas, and on petitions; she also advises on MPs’ expenses and the pecuniary interests register for MPs.

Her team drafts members’ bills using the software of the Parliamentary Counsel Office. This is a non-partisan service to Members whose Bills come up in the ballot. “They tell us what policy they are trying to achieve and we go away and find the words and put them into a Bill for them.” She says this is satisfying but challenging work, demanding that the adviser become quickly familiar with legislation that they may not have previously studied in any depth, and then to determine where the Member’s

amendment should fit and how it would work.

A key area for Ms Rodgers is as legal adviser to the Regulations Review Committee. This is a multi-party select committee chaired by an opposition member, currently Charles Chauvel. The committee examines all regulations and deemed regulations. Many piles of regulations arrive in her office and she must read them all, assessing them against grounds set out in the Standing Orders of Parliament. It is not policy she is looking at but at technical grounds on whether particular regulations are justified by statute. “It is a technical ticking the boxes process.”

She also reads all the Bills that go through Parliament, a process that she finds interesting. She looks at regulation making powers, to see if any clash with good legislative process. Among these may be exemption making clauses such as ‘Henry VIII clauses’, where regula-

tion is allowed to override primary legislation.

The Regulations Review Committee also has a complaints function by which members of the public may complain about regulations, a “poor man’s judicial review”.

It goes without saying that Catherine Rodgers’ job requires a great deal of reading over a very wide range of areas. “Often I don’t retain a lot but advise and move on... some legislation and regulations are very technical... I like reading legislation and trying to work out the puzzle of what the words are trying to say.”

She says being a lawyer in Parliament demands more than legal skills – she must be aware of wider issues, such as standing orders, and procedural matters of Parliament, as well as constitutional history and the development of Parliament.

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MADESIGN™

Answers for puzzles from page 2

- 1 J. X is the roman numeral for 10 and the tenth letter in the alphabet is J. V is the roman number for 5 and E is the fifth letter in the alphabet.
- 2 g. 3 looks like E upside down and backwards and D is the letter before E; 4 looks like h upside down and backwards; and g is the letter before h.
- 3 **1 Nb5 Qb6** (if 1...NxNe5 then 2 dxNe5 Qb6 {if 2...Qc6 then 3 QxQc6 bxQc6 4 NxBd6} 3 NxNd6) **2 NxNd7 QxNb5 3 NxRf8 KxNf8**

Council Brief

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VUW LAW FACULTY

The wonder that is Italy and our Kiwi heritage

By Professor Tony Smith,
Dean of Victoria University's Law School



Professor Tony Smith

IN the course of the Easter/Anzac break, I had the good fortune to spend some time in the company of a visitor to the Victoria's Law Faculty, an Italian professor of constitutional law, now living and working in Rome, who had also spent some of his career in Padua. The experience has emboldened me to broach a topic that has been exercising me for a while, even though somewhat removed from the law, namely the increasing influence that Italy has exerted upon New Zealand's national identity.

I was irritated some months ago by an article in the *Dominion Post*, written by a senior journalist who ought to know better, belittling Italy and its culture. He was extrapolating from the travails of Italy's current leader, Mr Berlusconi, to make claims that Italy had only ever excelled in unreliable cars, even more unreliable soldiers and ... It was a feeble attempt at humour, tired and lazy journalism, but of sufficient potency to draw a protest letter to the newspaper from the Italian ambassador to New Zealand.

Storm in an espresso cup, one might think. But as an admirer of Italy and its culture, perhaps I may offer a word or two by way of balance. Starting with architecture. Victoria's Law Faculty occupies one of the most important build-

ings in the country. It could hardly be more Italian in its influences. Tuscan columns, rather than Ionic, Doric or Corinthian, but in the eaves of the Old Government Buildings can be seen the town houses of Vicenza (and to a lesser extent in Padua). If you want to see Corinthian columns, you can simply go over the road to the old High Court building, and have a look too at the 1930s bit of Parliament. Inside that building, the ornamentation includes fasces, the symbol from which fascism took its name. It was, one supposes, popular at the time.

The Palladian origins of these architectural styles were admittedly transmitted to New Zealand through English architects (such as Inigo Jones, Lord Burlington and William Kent) and Scottish ones (the Adams brothers and James Gibbs), the latter of whom was responsible for the church of St Martin-in-the-Fields, which has been copied in ecclesiastical and public buildings throughout the new world. I mention Palladio because he too, like my current Italian colleague, spent some time in Padua (in the 1530s at the same time as the founder of my Cambridge College, John Keys, was studying medicine there). He became John Caius, and is immortalised as such in Shakespeare's *Merry Wives of Windsor*. Our current Prime Minister, I note, has resisted the urge to Latinise his name in a comparable manner. Probably wise.

Cuisine, anyone? When I was growing up in New Zealand in the 1950s, it was impossible to obtain many of the staple ingredients of

good Italian cooking. Garlic was regarded for the most part as nasty foreign muck, and olive oil was bought in miniscule quantities from pharmacists, for putting in one's ears. Elizabeth David's books (and her wonderful *Italian Food* in particular, making the point that there was no such thing as "Italian" food – as opposed to the intensely regional cuisine that genuinely comprises the Italian table) contained reference to ingredients to which we simply had no access. Not so now, and we appreciate the Parma ham (and its associated cheese Parmesan) and the wines (Chianti, Barolo and others made from the grapes that some of our more adventurous wine makers in New Zealand have been experimenting with increasing success). My little granddaughter can easily identify at least half a dozen different pasta shapes, and will eat it in preference to potato any day. Luciano Pavarotti's home town is Modena, by the way, whence comes balsamic vinegar. Modena, where the Ferraris are made, and the Maserati just down the road. Dodgy Italian cars, eh?

In the last few months, the opera has been in town. It is enormously popular and is composed by artists such as Verdi, Donizetti, Rossini, Puccini, Italians all). Mozart wrote some of his operas in Italian (Cosi fan Tutte), because of the language (those familiar with the film *A Fish Called Wanda* will be aware of the seductively erotic possibilities of the cadences of that language). Vivaldi did not do words, but

Monteverdi's vespers compensate for that. Western art was reborn in Florence, Rome and Venice as they led Europe out of the Dark Ages in painting, sculpture, architecture and literature.

A law professor ought, perhaps, to finish by reflecting upon the inheritance which was (and is) Roman Law. I suspect that it is of little direct relevance to the New Zealand experience – not much call on Lambton Quay these days for precedents on how to manumit slaves. It is possible to argue that, in Europe, it is the foundation for much of the modern Civil Law, in particular Italian, but also French and to a lesser extent German, and for that reason Roman Law is still a compulsory first year subject in both Cambridge and Oxford (the latter having recently reinstated it, having abandoned it

briefly a decade or so ago).

In the course of one of our walks over the weekend, the Italian professor mentioned Monte Cassino, a major battle in which the Kiwi troops were heavily involved. We agreed that the destruction of a major cultural construct was an unfortunate event, explicable only by the imperatives of war. We spoke too of Italian friends of his who had migrated to New Zealand shortly after the War, and of the warmth of the reception that greeted them here, notwithstanding the hostilities not long completed. It is, of course, vitally important that we can put such sadnesses behind us. But we should not forget them either. Nor should we be blind to the cultural influences that have their origins in far off places other than the British Isles. Those influences too help to explain who and what we are.

NEW GRADUATES

CV scheme works for graduates and employers

THE Wellington Branch NZLS is continuing the long-standing practice of holding CVs of newly qualified lawyers who are looking for work.

When law graduates complete their professional legal studies training they are encouraged to place their CVs at the Society so that potential employers can scan through them looking for likely matches to their requirements. Employers can also contact Claudia Downey, administrator at the Branch, to see if there are likely candidates for the positions they are offering.

Nanette Moreau, who is deputy commissioner at the Office of the Electricity and Gas Complaints Commissioner, says their office has gone to the Law Society a number of times over the past five or so years and has had great success in recruiting new graduates.

"We have appointed a number of graduates through the scheme and have had nothing but success. Many have later gone on to successful positions in government departments or other organisations and in private practice."

Ms Moreau says that it is useful to potential employers if students can be specific about their interests and what they can offer, and also about course work they have done.

"We offer training in dispute resolution so we are particularly interested in graduates with an interest in that direction," she says.

Ms Moreau says that most recently, instead of visiting the Society, Claudia Downey selected a number of CVs in which the graduates had indicated areas that the Office of the Electricity and Gas Complaints Commissioner was interested in. From these they selected two, both of whom started work last week.

The new graduates, Annika Thurlow and Hannah Morgan-Stone, placed their CVs at the Branch at the end of their IPLS course in January. Both agree the scheme is a useful approach for young lawyers who are seeking employment. Hannah says that Claudia Downey was very helpful in letting her know that there was interest in her CV and also asking if she was still looking for employment.

Nanette Moreau says she is pleased with the calibre of graduates that have come through the scheme. She has one proviso: it is useful for those who have gained employment to inform the Society.

Anyone offering employment opportunities that would suit new graduates and interested in the CV scheme should contact Colleen Singleton or Claudia Downey at the Wellington Branch.



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COMMUNITY LAW CENTRE

Restorative Justice in District Courts

Geoffrey Roberts
Manager, Wellington Community Law Centre

IN last month's *Council Brief* we wrote about the use of restorative justice in schools. Continuing on that theme, this month we begin by looking at what we and other community groups are doing to further the use of restorative justice in its traditional place in the justice system – particularly in District Courts.

New Zealand has an international reputation as one of the most progressive countries in the world when it comes to using restorative justice ("RJ") in the court process. The 2002 Sentencing, Parole, and Victims' Rights Acts encourage the use of restorative justice processes,¹ requiring consideration of RJ outcomes in sentencing,² and allowing adjournment of proceedings for RJ processes to happen.³ The Corrections Act names access to RJ processes as a guiding principle of the corrections system.⁴ RJ conferences are a legitimate part of dealing with criminal offending in New Zealand, and the recent recommendations of the Ministry of Justice victims' rights review suggest that use of RJ will increase.

What is restorative justice?

At its core, restorative justice seeks to move away from a retributive model of justice to one that restores the status quo as it was prior to the offence. The onus for righting any wrong done shifts from the State to the individuals involved. There are a variety of ways to achieve this but all involve a process that is more personal than the Court process and which brings people together to address the offending, to work out an appropriate form of reparation, and to help restore trust and respect within a community.

RJ conferences give victims the chance to confront the offender with the impact the offence has had on them. For offenders, seeing the personal impact of their actions is often a powerful and compelling motivation away from further offending. *R v Buttar* [2008] NZCA 28 discusses how RJ can be taken into account at sentencing (in this case it was a factor contributing to a 50 percent discount from the

starting point).⁵ The District Court judgment suggests that the RJ process was successful for the community in which the offenders and the victim all live, in this case the Sikh community in Auckland.⁶

Victims' rights review suggests requiring District Courts to refer to RJ

In *R v Buttar*, the victim reported that after the RJ conference he was no longer afraid of the offenders.⁷ The Ministry of Justice "Enhancing Victims' Rights Review" recognises that RJ processes can empower victims. The reform package announced on 20 April includes proposed changes to the Victims' Rights Act 2002 to encourage wider use of restorative justice. The changes would require that victims are informed about RJ options, and require District Courts to refer to RJ services unless there are reasons not to do so.⁸

RJ in the District Courts now: Restorative Justice Services Wellington Trust

The Restorative Justice Services Wellington Trust is the Wellington-based provider of RJ services.

The Trust employs a coordinator who works to promote RJ conferences at the District Courts in Wellington, Porirua and Lower Hutt. The Trust then coordinates the conferences between the victim and the offender with professional facilitators.

The Trust is about to implement a new initiative in partnership with the Wellington Community Justice Project, a group established by Victoria University law students. Law students will attend the list days of the Wellington District Court and approach counsel if the circumstances of the case are appropriate for an RJ conference. We hope this will boost referral to the Trust substantially and also raise the profile of RJ in the legal community.

We encourage all members of the Wellington legal community to support the Trust in its work and to consider RJ conferencing as an option in every case. If you would like further information, please contact rjcoordinatorwgt@paradise.net.nz. If you are a practising criminal law-

yer, please look out for the Trust's Coordinator, Marie Consedine, and the new team of law students working with her from June this year.

A new branch of the Howard League for Wellington

Another group of law students within Victoria University's Community Justice Project is working with the Howard League and the Wellington Community Law Centre to establish a new Howard League branch in Wellington. The Howard League is a penal reform organisation dating from 1866, named after John Howard, an early penal reformer in Britain. The Howard League works to promote open and rational debate on issues of crime, punishment, rehabilitation and alternatives to prison in New Zealand. There are branches in Christchurch, Auckland and Dunedin. For more information see www.howardleague.co.nz.

This is an important time to present an alternative view to populist criminal justice policy in the capital city. All those who would like to be involved should contact Andy Grieve: andy@wellingtoncjp.org.

Footnotes

- 1 See for example Victims' Rights Act 2002 s9.
- 2 Sentencing Act 2002 s8(j). Parole Act 2002 s7(2)(d) requires the Board to give due weight to restorative justice outcomes. Other Parole Act sections also contemplate RJ as part of the parole process.
- 3 Sentencing Act 2002 s25.
- 4 Corrections Act 2004 s6(1)(d) states that one of the "principles that guide the operation of the corrections system" is that "offenders must, where appropriate and so far as is reasonable and practicable in the circumstances, be provided with access to any process designed to promote restorative justice between offenders and victims".
- 5 *R v Buttar* [2008] NZCA 28 at [18] and [25]-[27].
- 6 *R v Buttar* (14/9/07, District Court at Auckland, Judge McElrea) particularly paragraphs 19-24. Available at <http://www.restorativejusticeaotearoa.org.nz/files/File/Court%20Cases/R%20v%20Buttar%20sentence.pdf>.
- 7 See paragraph 20 of the District Court decision cited above.
- 8 <http://www.justice.govt.nz/policy/supporting-victims/enhancing-victims-rights-review/encouraging-wider-use-of-restorative-justice>



Invitation to attend full-day training on Education Law Thursday 19 May 2011

Presented by Wellington Community Law Centre lawyers and guest speakers, this workshop will provide youth and community workers (and other interested professionals) with a working knowledge of the law as it relates to state and integrated schools. The workshop will take participants through common legal issues at school (such as truancy, school uniforms, criminal matters, student privacy and school fees), and will look in detail at specific areas of education law (suspensions and exclusions, bullying at school, and students with disabilities). The workshop will also discuss how and where to access legal information. We invite all community workers with an interest in this area to attend. Full programme overleaf.

Venue:	Wellington Community Law Centre Level 2, 84 Willis Street Wellington
Time:	9.30am – 4pm There will be a break for lunch Tea, coffee, morning and afternoon tea will be provided Participants will need to bring or buy their own lunch
Cost:	\$25 per person (Group discount: \$20 per person if two or more people from any group attend)

TO REGISTER: Return this Registration Form

Name: _____

Organisation: _____

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Phone: _____

I have enclosed \$ _____ in payment for this workshop

Return form with payment to:

Community Education Worker
Wellington Community Law Centre
PO Box 24005
Wellington 6142

Or contact Alex, WCLC Community Education Worker
Tel: (04) 499 2928
Email: alex@wclc.org.nz

Please book early, places are limited. Please advise us if you have any special needs. And for any difficulties meeting these course charges, please contact us directly.

LECW: Legal Education for Community Workers, workshops run by the Wellington Community Law Centre

Applications to Council

29 April 2011

The Council of the Law Society considers it appropriate that names should be published to the profession of applicants seeking to practise on their own account, seeking a Practising Certificate pursuant to s41 of the Act, or a candidate seeking admission.

If you have any comments to make

Applicants to Practise on Own Account

Pursuant to section 30(1)(a) of the Lawyers and Conveyancers Act 2006, applicants seeking to practise on their own account are required to satisfy the Council that they are a suitable person to practise on their own account. To assist in this assessment, the Society seeks references from persons, including previous employer(s), nominated by the applicant and conducts an interview with the applicant.

France, Sharon Leigh Jordan, Andrea Jane Kilbride, Michael George

Candidates for admission as a barrister and solicitor

Candidates for admission as a barrister and solicitor are required to produce to the Court evidence to establish that they are of good character and that they are fit and proper persons for admission. The Law Society is required to certify that it has made full enquiry and is satisfied that the candidate is of good character and that the Society's Council knows of no objections to the granting of the application for admission. To assist in this assessment, the Society seeks references from persons nominated by the applicant and also a certificate of standing from the Dean of the law school attended.

Adams, Lauren Nicole
Baird, Alexandra Edith Falvey
Croft, Amy Maree
Higbee, Pollyanne Hester
Holgate, Grace Maree
Jenkins, Laura Caroline
Johnson, Sharlene Kathryn
Jones, David Rodney
Kim, Elena Rie
(Also known as Kim, Narie)

Leloir, Louis Neil Philippe
Mercer, Michael Aaron Ross
(Also known as Ross, Michael Aaron)
Montgomerie, Thomas James Sproat
O'Driscoll, Anne Edna Ellen
Percival, Latoya
Russell, Caroline Lucy
Thurlow, Annika
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BREAKING THE CYCLE

After Rimutaka – the Taita-Pomare Project

By Anne Hannah

TUCKED away in Taita is St Matthews, a small suburban Anglican church headed by a large hearted Priest, Rev Charles Noanoa.

Charles is a man with a vision; he wants to create an urban marae, housing people who many don't wish to know. They are the prisoners who have left the faith-based unit, He Korowai Whakapono, at Rimutaka Prison. The first three to six months is the crucial period when leaving prison. Newly released prisoners need help with housing, life skills, employment, and family relationships. If they receive this the chance of reoffending drops by 40 percent.

These, mainly Maori, men have spent time with Charles while in prison and Charles has prepared their way back to the Taita community – for re-integration and a new life free from crime.

Now entering its third year this re-integration project takes a holistic approach. Charles is available on a seven-day-a-week basis. He works with those released to build on the trade skills they have learned in prison, assisting them to seek employment. He also looks to provide help in learning new skills. For example, a teacher is being sought for a 50-year-old man who cannot read. He is in the process of starting his own business and a level of literacy is essential.

The faith-based programme is the only one of its type in New Zealand. It is an 18 month

programme which has a daily prayer at its centre along with regular worship and bible study with clergy and teachers from local churches. The Prison Fellowship website states:

“Prisoners are confronted with the harm they have done to others, and challenged to restore relationships with their victims, family members and the wider community. This in turn motivates them to address the behaviour which triggers offending, including violence, drug and alcohol abuse and other inappropriate behaviour.

“Trained Christian mentors work on a one to-one basis with the prisoners eight months before they leave the prison, and for up to two years after they are released. The mentors are supported by their church, which undertakes to provide the offender and their family with moral and spiritual support after release. This approach empowers offenders and volunteers alike to take responsibility for restoring personal, family and community relationships.”



Tumeke Taita Touch Team

Overseas and New Zealand experience demonstrates a very low recidivist rate for people who engage in these programmes. This is at variance with recidivist rates for other prisoners.

Charles also involves the men in the work of the community he has created. This community includes a food bank currently providing assistance to 45 families who total around 165 people. The food parcels are supplemented by produce from the community gardens which are tended by the ex-prisoners and others from within the St Matthews family. Alongside the food bank is a new food cooperative which sees families contributing around \$3 per week to assist with the bulk purchase of staples such as flour, milk and soap powder when prices are favourable.

The ‘face of the future’ is the Tumeke Taita Touch Team. This team, comprising mainly Taita College boys, has played together for two seasons. Decked in vivid blue Diocesan sponsored uniforms the boys have won their grade and are busy fundraising to get to the Maori Touch games and Touch Nationals in December. Charles oversees the team who are coached and managed by two young men from the Taita community.

Charles’s work is supported by the neighbouring parish of Avalon, whose vicar Derek Keatley and a parish committee provide supervision and governance to the project. Tom Brown, Bishop of Wellington is its patron.

The Taita Pomare project is entirely dependent on grants and

donations. It receives no government funding. If you’re wanting to donate to this innovative and worthwhile project please send a cheque to: Anglican Diocese of Wellington, PO Box 12046, Wellington 6144. Please mark the back of your cheque Taita-Pomare Project.

For I was hungry and you gave me something to eat, I was thirsty and you gave me something to drink, I was a stranger and you invited me in, I needed clothes and you clothed me, I was sick and you looked after me, I was in prison and you came to visit me.’ Matthew 25:35-40

□ Anne Hannah is the funding manager for the Anglican Diocese of Wellington

World Justice Forum III to bring international focus to the rule of law

AS political instability defines one region and natural disasters threaten others, and while economic uncertainty persists around the globe, challenges to the rule of law – the foundation of prosperous and equitable societies – are unprecedented.

From 20-23 June 2011 in Barcelona, Spain, over 450 leaders from over 100 countries and representing over 20 work disciplines will convene at World Justice Forum III to incubate projects that will advance the rule of law in communities around the world. Invited by hosting organisation the World Justice Project (WJP), participants include heads of state and supreme court jus-

tices, public health workers, military and public safety officials, religious leaders, school teachers, business people, journalists, engineers, environmentalists and artists.

The rule of law is essential to the work of all parts of society. It is the key to the promotion of political stability, economic opportunity, social progress and fundamental fairness and equity. Without the rule of law, women and children suffer atrocities, corrupt governments divert public resources needed for public works and economic growth is stifled.

World Justice Project Founder, president and CEO, William H. Neukom, says the rule of law is essential for the eradication of the world’s gravest ills. “It is the foundation for economic opportunity and accountable government. It is not the rule of lawyers; all of us are stakeholders.”

The World Justice Forum is the world’s largest global multidisciplinary gathering of policymakers, advocates and representatives to advance the rule of law, and is the only such platform in the world. The objective of the Forum is the design of multidisciplinary projects by Forum participants that can be im-

plemented locally to strengthen the rule of law. Examples include ensuring women’s rights in Sierra Leone, helping marginalised communities in India obtain basic health care, promoting labour rights of indigenous workers in Mexico, combating corruption in construction in Tunisia, protecting the rights of pollution victims in China and increasing access to civil justice for the poor in the United States.

The Forum will feature inspiring panel discussions on pressing rule of law issues relating to public health, the environment, underground economies, human trafficking, fair elections, freedom of press, as well as economic development. Confirmed speakers include: WJP honorary co-chairs William H. Gates Sr. co-chair of the Bill & Melinda Gates Foundation, and Mary Robinson, former president of Ireland; Amr Musa, secretary-general of the Arab League; Michael J. Holston, executive vice president and general counsel of Hewlett-Packard; Adama Dieng, registrar for the United Nations International Criminal Tribunal for Rwanda; and Somaly Mam, Cambodian sexual slavery survivor, anti-human

□ Continued page 8

COUNCIL BRIEF

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Crossword Solutions

From page 2

Cryptic Solutions

Across: Yells in pain; 9 Arbutus; 10 Notch; 11 Bower; 12 Drawn up; 13 Cobble; 15 Repeal; 18 Earache; 20 Train; 22 Orate; 23 Parcels; 24 Reading lamp.

Down: 2 Elbow; 3 Lateral; 4 Inside; 5 Panda; 6 Intense; 7 Gay bachelor; 8 Shapeliness; 14 Barrage; 16 Enthal; 17 Keep on; 19 Creed; 21 Abeam.

Quick Solutions

Across: Catastrophe; 9 Failure; 10 Lotto; 11 Emend; 12 Ditches; 13 Absurd; 15 Gifted; 18 Holiday; 20 Solar; 22 Limit; 23 Transit; 24 Information.

Down: 2 Agile; 3 Asunder; 4 Treads; 5 Owlet; 6 Hatchet; 7 After a while; 8 Considerate; 14 Solomon; 16 Instant; 17 System; 19 Ditto; 21 Lasso.

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Rachael Dewar is pleased to announce that **Shelley Stevenson** joined the firm as an Associate in November 2010, and **Nisha Dahya** joined the firm as a Solicitor in April 2011.

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BENEVOLENT FUND

Benevolent Fund for members' benefit

IN June 1941 a member of the profession in Wellington gave the Wellington District Law Society a New Zealand inscribed stock certificate for 300 pounds maturing in 1953 and non-interest bearing until 1943, as the start of the Benevolent Fund for the assistance of members of the profession in the City of Wellington.

No conditions were attached to the gift, except that the fund was to be used to assist practitioners of the City of Wellington. However, the donor had in mind the case of two of his contemporaries who after losing their practices through protracted illness might have been able to start again had such a fund been available.

In July 1941 the fund was boosted by a gift of 50 pounds from Mr C W D Bell, a solicitor practising in Featherston Street. Other gifts and bequests were made between 1941 and 1960.

From 1943 to 1960 practitioners were levied five shillings each year to increase the value of the fund. The records do not show any further gifts or bequests.

The Trust deed was updated in 2008 and includes as one of its Objects and Purposes:

To provide funds as the Trustees may from time to time determine for the purpose of providing pecuniary or other assistance for the relief of poverty or otherwise to persons in need of assistance who are or have at any time been financial representative members of the Wellington District Law Society (and if it shall cease to exist then persons who are or have at any time been financial representative members of the Wellington Branch of the New Zealand Law Society, their spouses and partners (including those who are in same sex relationships, de facto relationships and civil unions) or children or parents of any such persons, whether by way of gift, grant or loan and on such terms as the Trustees in their absolute discretion from time to time shall think fit.

From time to time the Trustees consider applications from practitioners.

Any inquiry should be made to the Branch Manager, Colleen Singleton.

Ten percent of New Zealand's legal spend up for grabs?

Following earlier revelations of a rise in New Zealand's legal spend even as law firms suffered falling revenues ("New Zealand's legal bill jumps as lawyers beat recession", December 2011), Council Brief asked legal services expert Ron Pol to comment on recent developments. Does a government tender process offer hope for struggling firms, and what does it mean for barristers and in-house counsel?



Ron Pol

Council Brief: Changes to legal aid and the justice system have been well publicised, but another process has been quietly taking place. What's happening with government agencies' legal spend?

Ron Pol: After an all-of-government tendering process for vehicles, stationery, computers and printers, the Ministry of Economic Development last year turned its procurement mandate to the government's own spend on legal services.

CB: How much does the government spend on lawyers?

RP: Figures vary; depending what agencies are counted, and which elements of their budget. One figure suggested within government is \$68 million (representing 3 percent of the country's legal spend) but this excludes some important elements. The most extensive independent analysis reveals that the government actually spends more than \$250 million on lawyers each year; around 10 percent of 'NZ Inc's' entire legal bill of \$2.6 billion. Add local authorities and it's more than \$300 million a year. Even excluding the cost of government legal departments and focusing only on the amount spent with law firms and barristers, that's quite a big footprint. And that doesn't include legal aid.

CB: What's the current process the government's following in relation to this legal spend?

RP: MED spent many months on an information-gathering exercise, pushing out their intended April 2011 launch date of an RFP process. It looks as if it will now go out in the next few months.

CB: In your opinion is it a good process?

RP: They have lots of competent procurement specialists on board, so it will certainly be a good process in the sense that someone will be able to tick all the boxes and produce an output. And that output can't fail to produce a 'saving', so will equally inevitably be deemed a success.

CB: And is that output likely to be the best outcome?

RP: On current indications the output might miss the optimal out-

come, by a long margin. This is because it seems they're following standard procurement processes, yet professional services are different from pencils; and there seems little if any investment in more sophisticated specialist legal services procurement processes designed to help open up the vastly more extensive benefits available when lawyers and government do things differently.

For example, I've recently been involved in an all-of-government legal services initiative overseas, and have been closely tracking a series of other international developments where governments and others have actively invested in very smart ways to get much more legal bang for their buck. Our international peers are well beyond the usual tender exercises that pluck the 'low hanging fruit'; they're seeking a real step-up in the entire value proposition.

Things are now changing so quickly in the legal services space that I think it's fair to say that if we simply carry on with the same old processes we may end up locking in sub-optimal arrangements for years to come.

CB: In a practical sense, what do you think is the likely result in New Zealand?

RP: My pick is that a tender will ultimately generate an apparent headline 'saving', the usual big firms will be shuffled around, and there'll be fewer firms on the panel.

CB: What does this mean for individual firms?

RP: Many firms will likely disappear from government panels. Some smaller firms will however stay or join the panel, particularly specialists such as top-end advisory boutiques and mid-sized firms that efficiently produce great quantities of some of the commodity work that still needs to be done.

The real winners will be the remaining big firms. Some of them might actually see their share of government work increase dramatically; consolidating the very strong hold a few already enjoy.

Some 'innovative solutions' will no doubt be trumpeted, such as fixed pricing and retainer work in some areas, but the reality is that the big losers will be those firms, large and small, willing and able to really do things differently. The 'best' firms in terms of the traditional 'tick-the-box' procurement factors such as lower hourly rates might succeed, whereas the growing number of international examples of more effective innovative practices might struggle to be seen here.

The real crux of it is that firms and practices that might actually help reduce the government's legal risk profile (and sustainably reduce its need for legal services) or which could dramatically alter the way in which legal services are delivered (sustainably reducing the entire cost base) might not feature in New Zealand to the extent they are beginning to appear elsewhere.

CB: What about the impact on barristers?

RP: Standard RFP processes don't easily deal with barristers, so there's a risk they'll feature 'outside panel'. It would be unfortunate if this results in agencies using fewer barristers, because savvy in-house counsel within some agencies have made very effective use of barristers over the past few years; some at lower rates than law firms, others without the teams of lawyers that drive up costs, and some even with apparently high hourly rates delivering the efficiency of extreme expertise.

CB: In Wellington especially lots of in-house lawyers are employed in government agencies. Will there be any impact on them?

RP: At one level, the MED process is about external lawyers, so there should be no direct impact. But the reality is that in-house counsel are being squeezed from all directions. For contestable work, they've been told to use Crown Law more. The result of the current process will likely further reduce their choices. They've also been told not to increase in-house numbers, to do more with less. And it's an election year, so any issues capable of ambiguity risk becoming front page news. With all that, it's a wonder we have any innovative lawyers out there at all.

Thankfully, however, some in-house leaders are more actively exploring ways to truly get more value from their legal portfolio. It's too early to tell exactly what direction this might take across government, but I'm optimistic that these future beacons of excellence will eventually shine through all the barriers; to deliver far greater value, sustainably, than any tender process.

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World Justice Forum

trafficking activist and founder of The Somaly Mam Foundation.

The Forum participants will also be provided with new data from the WJP Rule of Law Index, the WJP's quantitative assessment tool measuring countries' adherence to the rule of law. Launched in October 2010, the Rule of Law Index will be expanding to include data from 65 countries-including Brazil, China and Russia. The new data will be released this June, in time to aid dialogue and project planning at the Forum.

More information:

www.wjp-forum.org/2011/

WILL ENQUIRIES FOR URGENT ACTION

Please contact the solicitors concerned if you are holding a will for any of the following:

WALKER, Rosalind Beatrice
Formerly of Porirua. Cleaner.
Died on 5 February 2011.
Peter Harrison
PO Box 50179, Porirua 5240
DX SP32501
Tel 04 237 5421 Fax 04 237 5496
harrisonlaw@xtra.co.nz

■ The charge for publishing a will notice is now \$57.50 including GST. Please send payment with your notice.

■ Will notices should be sent to the Branch Manager, NZ Law Society Wellington Branch, PO Box 494, Wellington.