

## EDITORS' NOTE

We are proud to present the 47th edition of the Auckland University Law Review. At this year's Alumni Symposium Justice Winkelmann commented on her vision for the Review as an incubator of fresh thought. We are confident that this year's volume continues the Review's proud tradition of publishing student writing that challenges conventional thought and impacts legal discourse.

In this volume we pay tribute to the late Justice Sir Robert Chambers KNZM QC. His many notable contributions include his chairing of the 2011 AULR Annual Symposium, his foresight in promoting the development of New Zealand Law Style Guide and, indeed, his article on relationship property in the 1974 volume of the Review. His invaluable contributions have helped to ensure the health and vitality of the Review. He will be greatly missed. The editors of the Auckland University Law Review respectfully dedicate this volume to Sir Robert.

We are privileged to feature in this volume a lecture given at the University of Auckland Law School by Lord Phillips, recently retired President of the Supreme Court of the United Kingdom. Lord Phillips provides a fascinating account of the introduction of the Supreme Court in 2009 and the challenges faced during this period of change. This year's journal also features two papers presented at the 2012 Alumni Symposium on the subject of "Constitutional Review". Stephen Hunter (1996–1998) considers the merits of granting the New Zealand Bill of Rights Act 1990 "higher law" status, while the Hon Wayne Mapp (1975) provides suggestions as to what a new Constitution Act might look like.

The student articles continue the Review's proud legacy of showcasing the best student writing at Auckland Law School. In his award-winning article, Jack Oliver-Hood (winner of the 2013 Minter Ellison Rudd Watts Prize for Legal Writing) advocates the adoption of a principle of consistency with the principles of the Treaty of Waitangi. This is the first time since 1985 that the winner of the writing prize has been selected from the Ko Ngā Take Ture Māori section of the journal. James Ruddell reassesses the historical underpinnings of the 1896 Jameson Raid into the Transvaal Republic which gave rise to the famous case of *Burrows v Rhodes and Jameson* [1899] 1 QB 816 (QB). Paul Culliford provides an analysis of various possible approaches to the test for taking advantage of market power under the Commerce Act 1986, while Olivia de Pont examines particular elements of company contracting. Michelle Ong and Elizabeth Chan examine areas of international law: jurisdiction clauses and the doctrine of state immunity respectively. In the area of criminal law, Hugh Magee evaluates the use of contemporary offender risk assessment technologies and Alex Mackenzie critiques the removal of prisoners' right to vote.

The commentaries section contains analysis on recent developments in case law and legislation, and reviews of two texts published by members of the Faculty.

In 2013 we ran two Symposia. The Honours Symposium was held for the benefit of students attempting to complete their first piece of written work for the Honours programme. At this Symposium we showcased four of the best Honours Seminar papers from 2012. We thank Julia Adams, Jonathan Dineen, Adam McDonald and David Taylor for presenting at this event.

A highlight of the Review's calendar was the annual Alumni Symposium, chaired by Justice Helen Winkelmann (1984). We were incredibly honoured to host Ian Narev (1989–1991), CEO of the Commonwealth Bank of Australia as our guest speaker. He delivered an engaging presentation to a packed lecture theatre on “Banking Regulation in the current Financial Climate”.

The Symposium was followed by the Alumni Dinner. We were privileged to have an address from Alan Galbraith QC, a founding Editor-in-Chief in 1967, a highly learned and experienced silk and distinguished member of the Bar.

We wish to express our gratitude to those who have supported our efforts this year. We would like to thank our talented team of editors who worked tirelessly throughout the year and our Business and Advertising team: Alice Wang, Brierley Penn, Catherine Wei and Chris Levet. We are grateful to Adam Ross of Chapman Tripp, for generously giving his time to train our editors; and to Minter Ellison Rudd Watts, Bell Gully, Chapman Tripp and the University of Auckland Law School, the sponsors of this year's Review who feature at the end of this volume. We extend our sincere appreciation to Dr Andrew Stockley, Raymond Stein, John Lloyd and the Faculty of Law for its enthusiastic support of the Review. We are particularly grateful to James Ruddell and Augustine Choi for their mentoring and assistance in training editorial staff, and to our Faculty Advisors, Dr Michael Littlewood and John Ip for their guidance and support at every stage this year.

It has been a privilege to serve as Editors-in-Chief of the Auckland University Law Review in 2013. We wish next year's editorial team the very best in publishing the 20th volume of the Review.

Thomas Clark and Nupur Upadhyay

Auckland, October 2013

## *A Tribute to Justice Sir Robert Chambers, KNZM, QC, 1953–2013*

JOHN IP

Justice Sir Robert Chambers, judge of the New Zealand Supreme Court, died on 21 May 2013. He was 59.

Robert Chambers was the youngest of five children, and grew up in Remuera. He attended Parnell School, and then Kings College. From there, he went on to the University of Auckland where he excelled in the study of law. He graduated in 1975 with a Bachelor of Laws with Honours, collecting along the way a bevy of prizes and scholarships. He also published an article on matrimonial property in the 1974 volume of this journal.<sup>1</sup>

From 1974 to 1975, he worked as a judges' clerk at the High Court in Auckland. At the time, the position was new — there was only one clerk for the seven judges. After his departure for Oxford University, he would be replaced by two judges' clerks, one of whom was the late Mike Taggart.

Just as he had excelled as an undergraduate at Auckland, Robert Chambers excelled at Oxford. Indeed, his academic ability was so prodigious that he was invited to be the co-editor of *Salmond and Heuston on the Law of Torts* while still a doctoral candidate at New College.<sup>2</sup> In 1978, he graduated with a DPhil in law. His dissertation was also on a distinctly tortious topic: "The law of nuisance and the rule in *Rylands v Fletcher*."<sup>3</sup>

In 1981, shortly after his return to New Zealand, he began practice as a barrister sole: his colleagues at the time being a coterie of future judges in David Baragwanath, Robert Fisher and Sian Elias. In 1992, he was appointed a Queen's Counsel while still shy of 40. Seven years after that, he was appointed to the bench. He was subsequently elevated to the Court of Appeal in 2004, and the Supreme Court in 2011.

I will not dwell on Robert Chambers' many contributions to the law as a judge and lawyer, as these have been extensively canvassed elsewhere.<sup>4</sup> Rather, I will write from my perspective as one of his former clerks.

I first met Robert Chambers when he was a judge at the Auckland High Court — it was the day of my clerkship interview in 2000. He was the first judge to whom I had ever said more than about one sentence. He was disarmingly charming as we discussed various points arising out of my curriculum vitae. Indeed, at one point, I became so relaxed that I had to save myself from uttering some constitutional heresy concerning the respective

1 R S Chambers "First Wife First? A Husband's Obligations to His First Wife on His Remarriage" (1974) 3 Auckland U L Rev 52.

2 RFV Heuston and RS Chambers *Salmond and Heuston on the Law of Torts* (18th ed, Sweet & Maxwell, London, 1981).

3 Robert S Chambers "The Law of Nuisance and the Rule in *Rylands v Fletcher*" (DPhil Thesis, University of Oxford, 1978).

4 Dame Sian Elias "Eulogy for Justice Sir Robert Chambers" (31 May 2013) *National Business Review* <www.nbr.co.nz>; Hon Christopher Finlayson "Special Sitting of the Supreme Court, in memory of Justice Robert Chambers" (7 June 2013) Office of the Attorney-General <www.beehive.govt.nz>.