FOREWORD

JONATHAN TEMM
PRESIDENT, NEW ZEALAND LAW SOCIETY

It is a privilege for me in my capacity as President of the New Zealand Law Society to be asked to write the foreword for the New Zealand Law Student’s Journal for 2012.

The scholarly contribution of essay articles approved by the Editors cover a very diverse range of difficult legal topics. For this reason it is a pleasure to be given the opportunity to commend this year’s journal to the New Zealand law student body and the wider legal profession.

Augustine Choi examines the difficult issue of corporate criminal liability. This article recounts the historical development of the current law and the prevailing ‘nominalist’ model which the author argues is unprincipled and inadequate. Courageously, the alternative models are considered and critiqued. The article’s conclusion is worthy of wider consideration.

The media and reporting of all areas of law is highly topical. Samuel Blackman’s extensive examination of suicide and the media is a valuable contribution to this important debate. The influence of modern media is considered and a combination of education and penalty proposed as to the way ahead. The reluctance of media to accept empirical evidence is highlighted; as are examples of irresponsible media reporting. A commendable and thought-provoking article worthy of wider publication.

A measured critique of contractual law principles as impacted by the Rule against Fetters is the subject of Patricia Ieong’s article. The tension between private and public law contractual outcomes for breach is examined. The case for flexibility of Government is detailed and some consequences of abolition considered. A challenging article topic which contains a number of competing interests and complex considerations.

The colourful and sometimes macabre history of the legal rights attached to the human body as property is examined in this concise
article by Almiro Clere. Growing commercial use of human organs and body parts creates a tension between medical advancement and out of date legal doctrines. Proposals for reform are advanced to recognise those modern medical advances whilst also acknowledging the need for legal certainty to be retained.

Walker MacMurdo’s comprehensive review of copyright will be a rewarding read for those with an interest in this specialist area of law. The article focuses on the two prevailing tests of ‘sweat of the brow’ and the more recent ‘authorship’ test. The author persuasively argues the Court of Appeal, and the case before it yet to be decided, should prefer one test over the other.

Francine Chye grapples with the age of criminal responsibility for children in New Zealand in relation to homicide. There has been an unsatisfactory statutory regime for some period. The article is a compelling treatment of the difficult issues in the area and demonstrates New Zealand’s isolation on the international stage when compared with like-minded countries. In particular, the recent proliferation of developmental research in relation to children’s brains and corresponding culpability must, as a matter of logic, give rise to review of the age of criminal culpability. The trial process for children in this area is also examined in a diligent and thoughtful manner.

I commend the Editorial Board and the Academic Editors who have reviewed these articles and considered them worthy of publication. I agree that these articles add to the important databank of legal writing and scholarship in New Zealand. I am sure that some of the ideas developed here will be considered both locally and overseas. I congratulate the authors and the NZ Law Student’s Association for another fine issue of NZLSJ.

JP Temm
President
New Zealand Law Society