

## STUDENT FOREWORDS

In March, 2004, I had just scraped into the law honours programme at Auckland Law School. My South Auckland secondary school had (and, as far as I know, still has) a habit of sending students to honours courses at the law school. From there, the expectation was that we would move to major commercial law firms on Albert or Shortland Streets, in the hope that one day we would become partners and eventually send our children to the same school. This seemed like the path for which I was destined. A course in tax law seemed like a useful thing to do on my way. In my mind, law school was a means to an end: I was to go there to become an adult. My History and French courses were where my mind could do its expanding. I had a mild chuckle at the fact that my contract law lecturer's surname the previous year had been Bigwood and the tax fellow was called Littlewood. (I was, and am, easily amused.) I had no other expectations about what was to follow. Like Mark Richardson in the then-current prime of his second career as an opening batsman, I had hoped to grind things out in this tax course and leave with a vaguely creditable result.

My first inkling that this course might be worth a little bit more attention came in the first class. It was a Monday at lunchtime in a cavernous Chemistry lecture theatre on Symonds Street that bore the unmistakable whiff of the post-oil crisis mid-1970s.

"My favourite section of the Income Tax Act 1994 is section OB1," the open-necked shirt and pair of faded jeans told us. Was this a Star Wars reference? "It sets out the definitions. You should also read the definition of 'income', which is not in OB1. It's long, but rewarding."

Then there was the first volume of the casebook.

"Basically the history of tax is the history of civilisation," we were told. "You can read Joseph Schumpeter to back that up. If the United States suffered a nuclear holocaust, the government department that would be running first in those bunkers is the Internal Revenue Service. So you might as well read a little bit about civilisation and economics, too. We're going to start with Adam Smith; have a look at some Keynes, who not only was very clever, but also invested money on his own account and became rich; some Friedman; and a few other people besides." In a world where state-funded universities were apparently being forced to impart practical, vocational skills in purely utilitarian fashion – and what skill could be more useful than tax law? – Dr Faded Jeans and Shirt was apparently adamant that we were going to get an education, too.

That first lecture was only the beginning of the education that I have been fortunate to receive from Michael Littlewood during the subsequent twelve years. Most of us of that era have seen the list of great works that once adorned the board next to his office on the first floor of 803 Eden Crescent (the U.S. Constitution, *Marbury v. Madison*, *The Wealth of Nations*, *Das*

*Kapital* ...). Only after many years of enquiry (and a few beers) one night in Dubai did Michael explain that it was all, in fact, “a game” to see which students were interested enough to ask about it, and which students would go a step further and actually read the works on the list. He has also never stopped teaching us, years after we stopped paying him to do so. On that same trip of Michael’s to Dubai in 2010, shortly after I had been accepted to Columbia and was feeling reasonably happy with my place in the world, Michael let slip that he had just read my published dissertation<sup>1</sup> again. He had reservations. He proceeded to tell me exactly what his reservations about the piece were, starting with the abstract.<sup>2</sup>

As important to me as Michael’s gifts as a teacher are Michael’s many fine attributes as a person. I was able to benefit from these first-hand from 2005 to 2007, when I had recently been a student of Michael’s advanced taxation course. At the time, the rest of my life no longer seemed as certain as I had initially anticipated it would. My dissertation was also proving a struggle to write. Through these travails, Michael was (and remains) the best kind of sounding board: thoughtful and optimistic, yet pragmatic (as was his colleague Scott Optican). I am sure that I would not have considered going to Dubai, moving to New York, or finally taking up a place at Cambridge in 2015 without Michael’s influence (and apparently inexhaustible fund of references). His enthusiasm and encouragement make the world feel smaller, and everything more achievable.

Even now, with a chair at the law school and a reputation that extends far beyond Eden Crescent, Michael continues to see his teaching life as a game. Current students to whom Michael introduces me are going to do great things, he assures me when I visit Auckland. Often they are “projects”, sometimes a “little rough around the edges”, but always “very bright”. He is prescient on this front, as the Fulbright, Reynolds, Rhodes, and Vinerian Scholars in the Littlewood stable demonstrate. By having Michael cheerfully, albeit with mock frustration, supervise your papers, coax you towards publishing them, and write your references, you become part of a club and party to an unspoken pact. While we ask of Michael with abandon, when able we are expected to give as freely. (Perhaps it is no coincidence that Keynes was always given much more attention than Friedman in our classes.) It is a source of some pride that Michael thinks highly enough of my colleagues and me to reach out to us when more recent students seek advice or look to meet us when they come to visit the

1 A Basrur “The Conception and Birth of the Stamp Duties Act 1866” (2008) 14 NZJTL 45.

2 Michael subjected himself to reading my article in order to write his own broader take on death duties in New Zealand, since published as M Littlewood, “The History of Death Duties and Gift Duty in New Zealand” (2012) 18 NZJTL 66. The abstract that accompanies my chapter in this volume has been revised slightly as a result.

places where we now live. It is a source of even greater joy that, thanks to Michael's many kindnesses over the years, I am sometimes in a position to offer a little help.

These reflections would be incomplete without noting the effect of Professor Littlewood's service (along with John Ip) as a Faculty Advisor to the Auckland University Law Review since 2005. Michael's care for the journal in which he first published is quiet and unassuming, but perceptible in the facts that a publication without much staff continuity is repeatedly cited the world over and has published several important articles on New Zealand tax law and history over the past ten years. Many are reprinted in this volume.

Michael Littlewood's growing list of publications is evidence that his teaching talents are accompanied by the skills of a first rate author and scholar. As this collection of publications resulting from undergraduate work that he has supervised demonstrates, as a teacher he has few peers. The fruits of his supervision in this collection are, astonishingly, the result of only a decade's work since Michael's return to New Zealand. I am excited by the knowledge that there is much more to come. As the initial draft of a significant work, though, the first decade at Auckland has been very promising indeed. Well done, Michael. And thank you.

*Aditya Basrur*  
*Magdalene College, Cambridge*

In Professor Littlewood's undergraduate tax law classes I learned that taxation was about statutes and cases, and also about economics, history, domestic politics, international relations, and more. We looked at the history of the world as a history of taxation, carried out doctrinal analyses of anti-avoidance rulings, tried to understand the economic rationales for different types of tax, and made wiring diagrams of international tax cases. Professor Littlewood showed us the scope of an entire field, and that got me hooked on tax. Plus, being called on in 8:00am Advanced Tax classes while your brain was still numb from a mid-winter commute ("You!" and some rolled up papers pointed in your direction) was character-building.

Michael's courses showed that tax can combine traditional legal analysis with economics, history, and everything else that gets mixed up in "policy". Learning to think about tax from these different angles has been valuable to me as a practitioner, academic, and policy researcher. And it has made those jobs more interesting and fulfilling than they would have been otherwise.

I am also thankful for Michael's guidance and heroic patience in supervising the dissertation (along with Professor Bruce Harris) that led to the chapter that I contributed to this volume. When I started supervising student dissertations myself, I was reminded of how fortunate I was to have had such thoughtful and engaged supervisors, and tried to emulate Michael's and Bruce's model of skill and care.

Professor Littlewood's approach to teaching tax reflects his rich scholarship, which uses varied and complementary methods to unravel problems in tax. This collection of works by Michael's students is similarly rich, and is one more demonstration that the tax field is stronger because of Professor Littlewood's research, teaching, and supervision. I am very grateful for this opportunity to say thank you to Michael.

*Chye-Ching Huang*  
*Washington, DC*

Michael Littlewood's decade as a tax lecturer at the University of Auckland has shaped a generation of commercial lawyers. I am proud to name myself among them. Michael has inspired countless students to write articles on tax policy and history. His name is acknowledged in dozens of footnotes in far-flung journals. His promotion to professor is to be welcomed. This collection seeks to honour Michael in a manner befitting his service to the law school and its students. Gathering together the articles he encouraged, gently nudged, and sometimes dared to publication is an appropriate way to pay tribute to his time at Auckland, and to combine, in one place, a now considerable body of scholarship on the law and history of taxation. The articles alone are impressive. Combining them allows the reader to view the subject over a broader arch: comparing local and international perspectives, contrasting theory, history, and practice.

There was a time, not so very long ago, when I found the very concept of Michael Littlewood rather terrifying. His use of the Socratic method was legendary. And tax was a notoriously difficult subject. Not one you could wing. Choosing electives at law school is an odd mix of gossip, chance, timetabling, half-formed ideas about your 'future in the law' (if any), and whether you liked the 'sound' of a paper, based on a paragraph written in a prospectus. (Some people used to check old exam questions before selecting their papers, something I never had the stomach for.)

All the older law students I knew raved about his paper – in spite of the subject's difficulty. I took it. I sat in class, a little terrified of being called upon. Asked to define 'income'. Asked to explain 'corn' as in the Corn Laws – what was 'corn'? Not what you might think. But apparently it was the reason Adam Smith wrote *The Wealth of Nations*. It is telling of the intellectual depth and rigour of Michael's teaching that I first read Smith, Marx, Ricardo, and Schumpeter in Michael's tax class, and not in my economics papers. And we really *read* them, rather than read about them. He began at the beginning: the core ideas of tax – not divorced from the world – but seated in their social and political setting. For Michael, the intellectual and political history of his subject was not an indulgence, still less an obligation to be gone through before getting to the law; rather, it was a necessity, a foundation. We then went through the Income Tax Act, provision by provision, concept

by concept. Almost immediately, the classes ceased to be the ordeal you had imagined, and became a conversation between a lecturer and his students, one you looked forward to. His advice in analysing provisions of a tax statute has stayed with me: what could the taxpayer do if this provision was not here?

More important is his influence on my approach to legal writing and research. He urged every student writing a paper, even before they had begun, to think about where it might be published. What good is all that effort if only a handful of people ever read it? If you want to contribute to a body of knowledge, you must do so publicly, or not at all. You owe it to yourself, and you owe it to the material (or, more pretentiously put, 'to history'). In my last year at law school I worked as Michael's research assistant. It was excellent training for my later work. Michael told me to begin with the hardest part first: go through the legislation. Then work your way into the social, economic, and political context. The narrative should be simple and easy to follow. You should be able to tell your 'story', however complex it might be, in such a way that anyone from your grandparents to the editors of the AULR could understand. Anything that falls outside that narrative probably should be 'culled' – but if it is important, then rejig the narrative to match. As for style: bland is best. The older you get, the more flourishes you are allowed. But by that point, you are old enough to know that the best twists come straight out of the material. Nothing is quite as absurd as what actually happens.

In 2014 our paths crossed in Cambridge, where Michael gave a paper at the Tax History Conference, where he is a regular fixture. It was a characteristic performance – an engaging, informative, humorous look at how the early New Zealand government funded itself (in short, not terribly well). It is always revealing to see someone in a different setting. I had known Michael as a lecturer and mentor. It was a privilege to see him speaking with the quiet authority of a man who needs no introduction; to see him in his element, with a dozen doyens of international tax scholarship hanging on his every word. Someone in his position could easily become aloof, arrogant; but Michael is neither of these things. He is unassuming, generous to a fault. He was sure to introduce me to the great and the good, and heaped undue praise on my modest publication record. We spent the rest of the evening poring over Samuel Pepys's coded diary, and drinking warm English beer (not, I assure you, at the same time). Michael listened to the highs and lows of my life as a PhD student, my plans for the future. He gave advice that was impartial, practical – and above all, sincere. Michael takes a genuine interest in his students many years after they have left law school, with career advice and references at the ready.

In the postscript to my chapter on James Wilson, India's first finance minister (not a fan of the Corn Laws, by the way), I refer to Sir Terence Creagh Coen's comment that the greatest honour for anyone might lie in

the institutions they help to create. Certainly, tax at Auckland has become something of an institution. Sir Terence's comment puts me in mind of one of Kipling's poems, which, ordinarily, Michael would instruct me to 'cull':<sup>3</sup>

They that dig foundations deep,  
Fit for realms to rise upon,  
Little honour do they reap  
Of their generation ...

If not realms, certainly careers have been leavened by his efforts. Tax – the way Michael teaches it – has formed a foundation for the careers of so many of his former students, well beyond those mentioned in this book. There can be no greater tribute than that. Unlike James Wilson, Michael Littlewood – suitably flattered and embarrassed by this book in the way that only a New Zealander can be – is fortunate enough to be honoured in his own lifetime. As far as I know, he is as fit as a flea. I look forward to reading more of his articles and books, and more of his students' articles: those that are still to be written, still to be published – still to be inspired.

*Ten Years of Tax* is a fitting tribute to a great New Zealand scholar, teacher, and friend. It represents a coming of age of tax scholarship in New Zealand – and a call to arms to the next generation of law students.

*Christopher Jenkins*  
*Trinity College, Cambridge*

As it appears to my admittedly inexperienced eyes, a successful academic is one who possesses the following qualities. Not only must he or she be able to research, comprehend and critique the law, but also communicate that law to students in a clear and engaging manner. This must be complemented by the effective supervision of others' attempts at research, comprehension and critique. Finally, there is the ability (both rare and important) to inspire students and guide them through their academic pursuits and the transition to professional life.

If I am correct in the above, Michael Littlewood is the prototypical successful academic.

Michael's engaging lectures have ensured that for a generation of Auckland graduates, tax law has none of its usual connotations: black-letter, academic and, above all, dull. His supervision of student work is legendary, striking just the right balance between giving hands-on guidance and allowing students the freedom to find their own way.

I was the fortunate beneficiary of both of these aspects of Michael during my time at the University of Auckland. My semester of tax law *à la* Littlewood was sufficiently inspirational to compel me to attempt further

3 Rudyard Kipling "The Pro-consuls" (1905) in *Writings in Prose and Verse, Volume XXVII, The Years Between and Poems from History* (Charles Scribner's Sons, New York, 1919) 72.

research on the topic of tax avoidance, the product of which appears in this book. I cannot speak highly enough of his guidance during that project. While he took some persuading to accept the topic (tax avoidance, according to Michael, is a topic that everyone wants to write on, many do, and rarely is anything particularly original or interesting said – a trap I hope I managed to avoid!), once he did he was a highly valued source of information, advice and criticism. As the footnotes in the article demonstrate, his considerable writings on this topic were, and still are, highly influential to my thinking.

Michael's impact also arises through the more holistic care (for want of a better term) he provides to his students. As all of the editors and authors of this book will attest, Michael takes a real interest in his students: their undergraduate experience, their professional aspirations and their goals for post-graduate study. His willingness to talk over ideas and make relevant introductions have assisted countless students over the years, as has his remarkable tolerance for requests for references. I am one of the lucky many who has benefited from Michael's enduring support. That support has played a substantial role in almost all of the most significant events in my recent academic and professional life.

If this book does nothing else but record the gratitude of those involved in its production, it will be a success. Too often such gratitude goes unsaid.

*James Ruddell*  
*London*

I first met Michael Littlewood in 2006. Since then, his classroom instruction, advice, and friendship have had a major impact on the trajectory of my life. I feel some combination of gratitude and amazement as I contemplate how differently the past few years would have unfolded had Michael decided, all those years ago, not to return to New Zealand to teach at the University of Auckland. More bewildering, however, is that he seems to have had an equal if not greater impact on the lives of so many other students as well, as evidenced by the troop of young lawyers now contributing to this commemorative collection. It is indeed a rare thing for a teacher to systematically take such a genuine interest in the advancement of his students.

In a field as convoluted as tax law, Michael has a unique style of classroom instruction. I have yet to meet another professor who employs the Socratic method as deftly as he does. He has an ability to communicate the most abstract concepts through a conversational, seemingly impromptu back-and-forth with his students. This skill alone would warrant all the praise he has received to date. As we all know, legal concepts can be rather dull – dense text that is sometimes incomprehensible and often rambling. Tax law, in particular, is prone to needless complexity. Because of this, it takes a professor of considerable talent to animate the subject in a way that renders

it accessible, even enjoyable, to students visiting the material for the first time. Michael is a master at this. While other teachers may be tempted to dive into the law, conveying rule after rule at a frenetic pace, Michael wisely steers clear of this approach, in order to avoid alienating students who may not be as familiar with or enthusiastic about the topic at hand. Also, I realised from his classes that a legal concept is far more digestible if the policies and principles underlying it are well understood. To that end, Michael would always begin any new topic – such as tax avoidance or the capital/revenue distinction or trusts or GST – with a thorough consideration of its theoretical and political foundations.

This “first principles” approach to pedagogy, together with Michael’s conversational and measured teaching style, seem to have worked rather well. Since taking the reins of the Auckland Law School’s tax programme in 2003, Michael has transformed it from the obscure course it once was into a mainstream one that is now routinely oversubscribed. Even non-tax lawyers will appreciate the significance of this achievement – tax is not supposed to be interesting. Yet today, the Tax and Advanced Taxation courses offered by Michael are highly regarded by students, faculty, and practitioners alike. Indeed, I have been privy to numerous conversations in which senior lawyers at Auckland firms have commented on Michael’s excellent instruction and the impact it has had on the popularity of tax law among incoming graduates.

On a personal note, I cannot overstate Michael’s positive influence. He took an interest in my academic development very early on, and his advice and wisdom over the years have, in many ways, shaped my life. One example is when I approached him about supervising my law school dissertation. He suggested a topic – a new international tax regime that New Zealand was about to adopt – that I strongly resisted, at least initially. Although the topic was interesting, I was put off by the amount of technical and extraterritorial research it would entail. But Michael persisted, emphasizing both the international focus of the topic and the fact that its novelty lent itself to publication. At the time, I did not see the value in either of these things, but Michael reiterated the importance of both if ever I were to decide to head overseas (again, not something I had in mind). Of course, as was likely the case for many of his other students, Michael’s aspirations for me preceded my own by several years, and the dissertation subsequently proved instrumental in securing both postgraduate admission and a law firm position in the United States. Without this critical guidance from Michael a decade ago, I am certain that the past few years of my life would have turned out very differently.

The foregoing is just one example of what I consider Michael’s standout quality as a teacher. He inspires students to work toward goals they would not have otherwise thought of, or thought possible. It is no coincidence that a prolific number of students have published research under his supervision. Nor is it just happenstance that so many of the contributing authors in this

collection have spent time overseas. Michael is constantly encouraging his students, both in class and one-to-one, to achieve their potential. In the New Zealand context, at least, this generally entails some time spent abroad (ideally Hong Kong, of course). This should not be viewed as unpatriotic, for I know he loves New Zealand. (The morning after the French ejected the All Blacks from the 2007 World Cup, he walked into our Advanced Taxation class crestfallen.) He just appreciates, from his own experience, how enriching a few years abroad can be with respect to one's personal and professional growth; and a part of him, I imagine, feels impelled to share that insight with his students.

Of course, no one doubts that Michael is an excellent teacher: wise, articulate, and always engaging. But the trait that perhaps most endears him to students is, I think, his generosity. He goes to extraordinary lengths to help those who could never return the favour – from simple but thoughtful gestures, like taking the time to cull unnecessary passages from casebooks to make them (somewhat) more readable; to more significant undertakings, like patiently and expertly guiding young lawyers through the vicissitudes of their careers. His generosity in all such cases is without any expectation of recognition or reciprocity. He is just happy to help. And other than saying “thank you”, there is little any of us could ever do to show our gratitude – other than, perhaps, this collection. Thank you, Michael.

*Sehj Vather*  
*New York*