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Announcements

The Law on Protest - Papers by Tony Smith, Professor of Law, Victoria University of Wellington

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**LEGAL SCHOLARSHIP NETWORK: LEGAL STUDIES RESEARCH PAPER SERIES
VICTORIA UNIVERSITY OF WELLINGTON LEGAL RESEARCH PAPERS**

"Protecting Protest -- A Constitutional Shift"

(2007) 66 CLJ at 253.
Victoria University of Wellington Legal Research Paper No. 121/2017

A. T. H. SMITH, Victoria University of Wellington - Faculty of Law, University of Cambridge
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The law regulating public protest has previously been governed by a mixture of common law and statutes. It is now also covered by the Human Rights Act 1998, and Articles 10 and 11 of the European Convention on Human Rights which protect freedom of expression and freedom of assembly respectively. The Laporte case held that in order for those seeking to exercise their Article 10 or 11 rights to be stopped in some way by those claiming to prevent a breach of the peace, a breach of peace must be imminent. There has been a slight shift in protection of what the author refers to as a right to demonstrate.

Abstract by Rose Goss.

"Policing Protest after the Human Rights Act 1998"

(2004) 63 CLJ at 535.
Victoria University of Wellington Legal Research Paper No. 122/2017

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The enactment of the Human Rights Act 1998 has meant that there is more scrutiny and control of police actions relating to protests. This became evident in the case of R (Laporte) v. Chief Constable of Gloucestershire, which involved police stopping and searching buses on the way to a protest. It was held that this did not violate the claimant's rights to freedom of expression or freedom of assembly, protected by Articles 10 and 11 of the ECHR respectively. There was however a breach of Article 5, freedom from unlawful arrest, as the prospect of a breach of the peace was not sufficient to justify that extent of detention. The case leaves a number of questions unanswered, mostly relating to how the police should behave in these types of situations.

Abstract by Rose Goss.

"Constraining Arrest for Breach of the Peace"

(2000) 59 Cambridge Law Journal at 421
Victoria University of Wellington Legal Research Paper No. 123/2017

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Given that it was no more than a decision of the Divisional Court, and a pre-War decision at that, the case of Duncan v. Jones [1936] 1 K.B. 218 has exercised a remarkably enduring influence. The case appeared to give the police enormous operational discretion in dealing with actual and prospective breaches of the peace. When a constable reasonably apprehended a breach of the peace, he could take steps (arguably, only reasonable steps) to prevent it or its recurrence. This disarmingly simple formula made it very difficult to challenge, let alone control, the way in which the police exercised their powers.

"May Day, May Day -- Policing Protest"

(2008) 67 CLJ at 10.
Victoria University of Wellington Legal Research Paper No. 124/2017

A. T. H. SMITH, Victoria University of Wellington - Faculty of Law, University of Cambridge
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The May Day Protests in London in 2001 presented a serious risk of public disorder, and led to the case of Austin and Saxby v. The Commission of Police of the Metropolis. In that case the liberty of citizens had been interfered with, although this could be justified due to either the police power to prevent a breach of the peace, the defense of necessity, or the Public Order Act 1986. The first of these justifications was relied on and led to the conclusion that the police acted appropriately, even though they could not have known specifically that the appellants would cause a breach of the peace.

Abstract by Rose Goss.

"Regulating Protest"

(1996) 55 Cambridge Law Journal at 404
Victoria University of Wellington Legal Research Paper No. 125/2017

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Recent protests have allowed the courts multiple opportunities to address how public authorities should respond to unlawful protest. In order to uphold the rule of law, police and public authorities must safeguard the right of others to continue to go about their daily business. The author examines the relevant cases of R. v Coventry City Council, ex parte Phoenix Aviation, and Reg. v Chief Constable of Sussex, ex parte International Trader's ferry and concludes that decisions like these may ensure better protection of the rule of law. Abstract by Rose Goss.

"Squatting and Sitting in -- Another View"

[1977] Crim LR at 139.

Victoria University of Wellington Legal Research Paper No. 126/2017

A. T. H. SMITH, Victoria University of Wellington - Faculty of Law, University of Cambridge
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The Law Commission has concluded that the criminal law has a diminished role to play in regard to trespass to land, a concept which includes both squatting and sitting in. The purpose of this article is to comment on the Law Commission's proposals in regard to forcible entry and detainer and conspiracy to trespass, and the repeal of the Forcible Entry Acts. It analyses the substituted offences of using violence for the purpose of entry and remaining, having been asked to leave by the displaced residential occupier. The author outlines a number of issues relating to these provisions, and doubts that these reforms will have significant practical impact. Abstract by Rose Goss.

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Victoria University of Wellington Legal Research Papers Series primarily contains scholarly papers by members of the **Faculty of Law at Victoria University of Wellington**. Some issues collect a number of papers on a similar theme to form a suite of papers on a single topic. Others issues are general or distribute mainly recent work.

The Student/Alumni Series is a subseries of the Victoria University of Wellington Legal Research Paper Series. The subseries started in 2015 and publishes papers by students and alumni of Victoria University of Wellington, comprising primarily work for honours and postgraduate courses. Papers are collected into thematic or general issues.

The Victoria University of Wellington was founded in 1899 to mark the Diamond Jubilee of the reign of Queen Victoria of Great Britain and of the then British Empire. Law teaching started in 1900. The Law Faculty was formally constituted in 1907. The first dean was Richard Maclaurin (1870-1920), an eminent scholar of both law and mathematics. Maclaurin went on to lead the Massachussetts Institute of Technology as President in its formative years. Early professors included Sir John Salmond (1862-1924), still one of the Common Law's leading scholars. His texts on jurisprudence and torts have gone through many editions and remain in print.

Alumni include Sir Robin Cooke (1926-2006), one of the leading judges of the British Commonwealth. As Baron Cooke of Thorndon, he sat on over 100 appeals to the Appellate Committee of the House of Lords, one of very few Commonwealth judges ever appointed to do so.

Since 1996 the Law School has occupied the Old Government Building in central Wellington. Designed by William Clayton and opened in 1876 to house New Zealand's then civil service, the building is a particularly fine example of Italianate neo-Renaissance style. Unusually among large colonial official buildings of the time it is constructed of wood, apart from chimneys and vaults.

The School is close to New Zealand's Parliament, courts, and the headquarters of government departments. Throughout Victoria's history, our law teachers have contributed actively to policy formation and to law reform. As a result, in addition to many scholarly articles and books, the Victoria SSRN pages include a number of official reports.

Victoria graduates approximately 230 LLB and LLB(Hons) students each year, and about 60 LLM students. The faculty has an increasing number of doctoral students. Ordinarily there are ten to twelve students engaged in PhD research.

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