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Announcements

Victoria University of Wellington Student and Alumni Subseries Issue XXIV: State Power and Accountability Part Two

State Power and Accountability Part Two is the seventh in 2017 of several issues of The Student/Alumni sub-Series of the VUW Legal Research Papers.

The Student/Alumni sub-Series was launched in 2015. It publishes a selection of honours and postgraduate papers from Victoria University of Wellington Law School.

The sub-Series includes both general and thematic issues.

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

"A Call for Candour: Accepting the Necessity of Judicial Activism in Statutory Interpretation"



Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 27/2017

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Nowadays it is commonly accepted that some degree of judicial law making is necessary. However, judicial activism is controversial. In his article "Judicial Activism – Justice or Treason?" Tom Campbell outlines strict parameters for judicial activists, judges who do not apply existing law to reach a decision but instead applies his or her own views as to what the law ought to be. Building on Campbell's article,

this paper investigates judicial activism in the context of judicial gap filling of accident compensation legislation. This paper argues that judicial activism should be accepted as a necessary and significant part of statutory interpretation. Statutory gaps are inevitable. In order to fill such gaps a judge must both make law and be activist. Judges should be allowed to make law and be activist to the extent that it is necessary to fill statutory gaps. Although judicial law making and judicial activism is not ideal, filling the statutory gap is preferable to the alternative of leaving the case undecided. We ought to be candid about this reality of judicial law making.

"The Other Side: Vexatious Litigants in New Zealand"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 28/2017

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This paper aims to critique recent law reforms regarding the restriction of vexatious claims in New Zealand civil courts. The paper views this legislation through the lens of access to justice and the adversarial adjudicative model in New Zealand, focusing on the relationship between vexatious litigation and lay litigation. I cautiously hypothesise that there may be a causative link between access to justice issues for lay litigants and "vexatious" litigation - as lay litigants are marginalised and "othered" by the civil justice system. I suggest that the relationship between the lay litigant experience and the vexatious litigant experience is complex and that renovation and renegotiation of court space through the use of intermediaries and advocates may do much to mitigate the "othering" of these litigants. Also, it is beneficial for lawmakers to keep in mind the status of querulent and persistent litigants as a subset of lay litigants, so that options which are of utility to the whole spectrum of litigants can be considered.

"The Case Against Electing District Health Boards"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 29/2017

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This paper argues that District Health Boards (DHBs) should be abolished. This argument comprises the first half of the paper. The argument has two broad steps. The first focuses on the elections themselves. It shows that most voters are uninterested in and uninformed about DHB elections. The second step focuses on the powers and limitations of DHBs. It shows that DHBs' primary function is to implement health policy set by central government, not to implement the wishes of or represent their electors. The combined force of these steps provides a sufficient reason to abolish DHB elections. In short, the lack of public interest and the degree of ministerial oversight means there is no real scope for democracy. Accountability mechanisms should focus on the responsible Minister. The second half of the paper determines what the alternative should be. It canvasses a number of possibilities. I conclude that the best alternative is that DHB Boards should be entirely appointed and that their consultation function should be carried out by a committee of a local authority.

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About this eJournal

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 Massachusetts 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.

Victoria University observes the British system of academic ranks. In North American terms, lecturers and senior lecturers are tenured doctrinal scholars, not legal writing teachers. A senior lecturer corresponds approximately to a North American associate professor in rank.

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