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VICTORIA UNIVERSITY OF WELLINGTON LEGAL RESEARCH PAPERS

"De Facto Relationships and the Law"

(1989) 2 Family Law Bulletin 30

Victoria University of Wellington Legal Research Paper No. 10/2016

BILL ATKIN, Victoria University of Wellington - Faculty of Law

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The law relating to de facto relationships remains in a confused state. The conflict between the traditional test of common intention, and the more modern approach of reasonable expectations leaves the current law unclear. This article looks at the de facto relationship cases of *Hopkins v Sturgess* and *Sutcliffe v Reid*. It analyses the different approaches that the judges use in order to solve similar problems. Finally, the author looks at the confusion that these differing approaches cause, and points out the need for reform in the area.

"The Legal World of Unmarried Couples: Reflections on 'De Facto' Relationships in Recent New Zealand Legislation"

BILL ATKIN, Victoria University of Wellington - Faculty of Law

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This article is a revised version of a paper presented at a conference in Vienna 16-20 September 2008, the 13th World Conference of the International Society of Family Law. The paper notes how the New Zealand legislation for most purposes equates the legal position of de facto, civil union and married couples. The main part of the paper focuses on the key definition of "de facto relationship" and draws attention in particular to the leading High Court decision of *Scragg v Scott*. While there will inevitably be borderline situations, most are likely to fall easily within or outside the definition.

"The Challenge of Unmarried Cohabitation -- The New Zealand Response"

Family Law Quarterly, Vol. 37, No. 2, 2003

Victoria University of Wellington Legal Research Paper No. 12/2016

BILL ATKIN, Victoria University of Wellington - Faculty of Law

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Unmarried cohabitation has been one of the most pressing issues in family law to date. Whereas once the law ignored everything but one man and one woman joined in matrimony, it has adapted in the light of the changing nature of relationships. This article first describes the Status of Children Act 1969 as a precursor of changes to come. It then goes through the case law reactions to de facto couples, as well as the steps taken to reform the law. This culminates in the Property (Relationships) Amendment Act 2001. Finally, the article critically analyses the effects this Act has with regards to the equating of de facto relationships and marriages.

"Matrimonial and De Facto Property Law Reform – Some Preliminary Reflections"

(2001) 3 BFLJ 221.

Victoria University of Wellington Legal Research Paper No. 13/2016

BILL ATKIN, Victoria University of Wellington - Faculty of Law

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Ever since the Matrimonial Property Act 1976 was passed, greater reform in the area has been promised. However, this reform has not been forthcoming until recently. This article summarises the changes proposed by the revolutionary Bill. In particular, focus is attracted to de facto couples and their ability to access relationship property, as well the Court's ability to award equal and unequal division of property.

"De Factos Down-Under and Their Property"

Child and Family Law Quarterly, Vol 11, No 1, 1999.

Victoria University of Wellington Legal Research Paper No. 14/2016

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The rise of de facto and same-sex couples in New Zealand has led to a major change in the social and legal environment of New Zealand. However, many distinctions still continue. The De Facto Relationships (Property) Bill was created to address some of this imbalance in terms of relationship property. This article describes the law reform process, including the choice of a separate Bill, rather than an extension of the Matrimonial Property Act 1976. It then goes on to discuss the aims of the Bill, the jurisdictional issues that arise (including the limiting of de facto relationships to heterosexual couples), the division of property, and what happens on the death of a partner. These are contrasted with the Matrimonial Property Act 1976.

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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.

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