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*R v Rapira* [2003] 3 NZLR 794 (CA)

**WITHDRAWAL**

*R v Pink* [2001] 2 NZLR 860

*R v Hartley* [2007] 3 NZLR 299 (CA)

**PART IV**

**ATTEMPT AND CONSPIRACY**

**1 Mens Rea**

*R v Murphy* [1969] NZLR 959 (CA)

*R v Mohan* [1976] QB 1

*R v Khan* (1990) 91 Cr App R 29

*R v L* [2006] 3 NZLR 291

**2 Actus Reus**

1. **The Old Equivocality Test**

*Campbell & Bradley v Ward* [1955] NZLR 471

1. **The Current Test: Immediate or Proximate Connection with the Intended Offence**

*Police v Wylie* [1976] 2 NZLR 167 (CA)

*R v Wilcox* [1982] 1 NZLR 191 (CA)

*R v Yen* [2007] NZCA 203

*Drewery v Police* (1988) 3 CRNZ 499

*R v Hoenderdos* (unreported, High Court, Christchurch, 23 October 1992, T 31/92)

*R v Peneha* (1993) 11 CRNZ 183

*R v Drummond* (1993) 9 CRNZ 228

*R v Crawford* (unreported, High Court, Rotorua, 16 November 2005, CRI-2005-070-3151)

*R v Towgood* [2007] NZCA 359

*R v Bobos* [1993] DCR 1105

*R v Beveridge* (unreported, High Court, Christchurch, 7 September 2001, T19/01)

*R v Burrett, Payne and Phillpott* (unreported, High Court, Wellington, 13 February 2003, T NO. 3347/02)

*Bryant Holdings v Marlborough DC* [2008] NZRMA 485

**3 The Problem of Impossibility**

1. **Legal Impossibility**

*R v Donnelly* [1970] NZLR 980 (CA)

1. **Factual or Physical Impossibility**

*Police v Jay* [1974] 2 NZLR 204

*Higgins v Police* (1984) 1 CRNZ 187

*Collector of Customs v Kozanic* (1982) 2 DCR 3

*R v Hansard* (unreported, Court of Appeal, 17 February 1978, CA 172/77)

**4 Functions of Judge and Jury**

*Leckey v Attorney-General* [1993] 1 NZLR 98

**CONSPIRACY**

**1 Elements and Scope**

*R v Gemmell* [1985] 2 NZLR 740 (CA)

*R v Richards* (1992) 9 CRNZ 403

*R v Lang* (1998) 16 CRNZ 68 (CA)

**2 Completion and Duration**

*R v Johnston* (1986) 2 CRNZ 289 (CA)

**3 Evidence and Proof**

*R v Laugalis* (1993) 10 CRNZ 350 (CA)

*Keegan v R* (unreported, High Court, Auckland, 9 September 2005, CRI 2004-004-006987)

**4 The Problem of Impossibility**

*R v Sew Hoy* (1994) 1 NZLR 257 (CA)

**PART V**

**HOMICIDE**

**A THE STATUTORY PROVISIONS**

CRIMES ACT 1961, sections 150A-187A

SENTENCING ACT 2002, sections 102-105

**B SOME LEADING CASES**

1. **IS IT HOMICIDE?**

*R v Smith* [1959] 2 QB 35 (UK C-M AC)

*R v Blaue* [1975] 1 WLR 1411 (Eng CA)

*R v Tomars* [1978] 2 NZLR 505 (CA)

*R v McKinnon* [1980] 2 NZLR 31 (CA)

*R v Pagett* (1983) 76 CrAppR 297 (Eng CA)

*R v Kennedy* [2008] 1 AC 269 (UK HL)

1. **IS IT CULPABLE HOMICIDE?**
2. *By an unlawful act*

*R v Myatt* [1991] 1 NZLR 674 (CA)

*R v Renata* [1992] 2 NZLR 346 (CA)

*R v Hawkins* (unreported, HC Napier, T18/00, 21 February 2001, Goddard J)

*R v Lee* [2006] 3 NZLR 42 (CA)

See also *R v Powell*, below

1. *By an omission without lawful excuse to perform or observe any legal duty*

*R v Yogasakaran* [1990] 1 NZLR 399

See also *R v Myatt,* above

Note: Crimes Act 1961, s150A, inserted by 1997 amendment

*R v Powell* [2002] 1 NZLR 666 (CA)

*R v Lunt* [2004] 1 NZLR 498 (CA)

*R v Hamer* [2005] 2 NZLR 81 (CA)

1. **IS IT INFANTICIDE, MURDER OF MANSLAUGHTER?**
2. *Mental element for Murder*

*R v Piri* [1987] 1 NZLR 66 (CA)

*R v Harney* [1987] 2 NZLR 576 (CA)

*R v Aramakutu* [1991] 3 NZLR 429 (CA)

1. *Provocation, reducing murder to manslaughter*

*R v Rongonui* [2000] 2 NZLR 385 (CA)

**PART VI**

**SELECTED DEFENCES**

1. **CONSENT**

Crimes Act 1961, ss 2, 20, 59, 61-61A, 63, 127-138, 188-190, 196-197, 201

*R v Barker* [2009] NZCA 186

*R v Mobilio* [1991] VR 339

1. **INSANITY**

Crimes Act 1961, s 23

Homicide Act 1957 (UK), s 2

Mental Health (Compulsory Assessment and Treatment) Act 1992, s 2

*M’Naghten* Rules (1843) 10 Cl & F 200, 8 ER 718

*R v MacMillan* [1966] NZLR 616 (CA)

*R v Dixon* [2008] 2 NZLR 617, 619-625 (CA)

Criminal Procedure (Mentally Impaired Persons) Act 2003, ss 4-9, 20-21, 24-25, 33-34

1. **INTOXICATION**

*R v Kamipeli* [1975] 2 NZLR 610 (CA)

*R v Dixon* [2008] 2 NZLR 617, 625-628 (CA)

*R v Kingston* [1994] QB 81, 84-91 (Eng CA); [1995] 2 AC 355, 360-378 (HL)

*Ministry of Transport v Crawford* [1988] 1 NZLR 762 (HC)

Sentencing Act 2002, s 9

**LABOUR LAW LAWS 413**

**EMPLOYMENT RELATIONS ACT 2000 (FULL TEXT)**

**PART I: INTRODUCTION : THE HISTORICAL AND POLICY CONTEXT**

*R v Keite* (1697) 91 English Reports 989

*Turner v Mason* (1845) 153 English Reports 411

W B Creighton, W J Ford, R J Mitchell, *Labour Law* (Sydney 1983), pp 3-5, 13-18

*Inspector of Awards v Priest t/a Renee Foil Printers* [1979] ACJ 359

P Churchman & P Roth, “The Philosophy Behind the Employment Relations Act” *Employment Relations Act 2000,* New Zealand Law Society Seminar, pp 1-8

Employment Relations Bill, Explanatory Note, pp 1-2

Employment Relations Act, s 3

**PART II: THE CONTRACT OF EMPLOMENT**

1. **The Contract of Service v The Contract for Services**

Employment Relations Act s 5 definition of “employment agreement” : s 6 (“Meaning of employee”): and s 5 definitions of “homeworker” and “dwellinghouse”

*MacGregor v Les Mills Ferrymend Fitness Ltd* (Unreported, CA 1/03)

*Cunningham v TNT Express Worldwide (NZ) Ltd* [1993] 1 ERNZ 695 (CA)

*Curlew v Harvey Norman Stores (NZ) Pty Limited* [2002] 1 ERNZ 114

*Bryson v Three Foot Six Limited* [2003] 1 ERNZ 581 (E.C.)

*Cashman v Central Regional Health Authority* [1997] 1 NZLR 7 (CA)

1. **Formation of the Contract of Service**

Employment Relations Act, s 5 definition of “person intending to work”, s 60 (object of Part 6)

1. **Types of Employment Agreements**

Employment Relations Act, s 66 (fixed term agreements); s 67 (probationary arrangements); s 67A-B (trial provisions)

*Butler v Pakarae Incorporation* (Unreported, AA 194/01)

*Smith v Stokes Valley Pharmacy (2009) Limited* [2010] NZEmpC 111

1. **General and Formal Requirements**

Employment Relations Act, ss 60A-65A; s 5 definitions of “individual employment agreement”, “collective agreement”, “coverage clause” and “employment agreement”

*Warrick Henderson Gallery Ltd v Weston* (unreported CA 80/04, 14 Nov 2005)

1. **Misrepresentation**

Fair Trading Act 1986, s 12

Contractual Remedies Act ss7(1), (3), (4) and 9 (1) (2) (4)

*Skywards Catering v Apthorp-Hall* [1995] 2 ERNZ 218

*Stewart v Industrial Services Nelson Inc,* Employment Relations Authority, CA 85/09, 19 June 2009

*Murray v Attorney-General in respect of the Inland Revenue Department,* Employment Court, Wellington, WC 23/02, 9 July 2002, Goddard CJ

Crimes Act 1961 s 240

1. **Unfair bargaining**

Employment Relations Act, ss 68-69

1. **The Contents of the Contract of Service**
2. **Express terms: Restraint of trade**

Illegal Contracts Act 1970, ss 3, 5-8, 11(1)(a)

*H & R Block Ltd v Sanott* [1976] 1 NZLR 213

*Greenwich v Murray and Stewart* (1979) 1 NZIPR 181

*Airgas Compressor Specialists v Bryant* [1998] 2 ERNZ 42, at 51-55

*Fuel Espresso Ltd v Hseih* [2007] ERNZ 60 (CA)

1. **Incorporated Terms**

Duty of good faith: Employment Relations Act, s 4, s 4A

1. **Implied Terms**
2. **Implied terms generally**

*New Zealand Merchant Service Guild IUOW Inc v New Zealand Rail Ltd* [1991] 2 ERNZ 587

1. **The Implied Term of Confidence, Trust and Fair Dealing**

*Auckland Shop Employees Union v Woolworths (New Zealand) Ltd* [1985] 2 NZLR 372 (CA)

*Marlborough Harbour Board v Goulden* [1985] 2 NZLR 378 (CA)

*Malik v Bank of Credit and Commerce International (in liquidation)* [1997] 3 All ER 1 (HL) – Nicholl and Steyn IJJ only

1. **Implied Duties of the Employee**

*New Zealand Airline Pilots’ Association v Air New Zealand Ltd* [1992] 2 NZLR 656 (CA)

*Hodgson v The Warehouse* [1998] 3 ERNZ 76

*Communications & Energy Workers Union v Tisco* [1992] 2 ERNZ 1087

*Schilling v Kidd Garrett Ltd* [1977] 1 NZLR 243 (CA)

*EIL Brigade Road Ltd v Brown,* High Court, Christchurch, CIV-2001-4-9-00073, 5 August 2004, Fogarty J

*Faccenda Chicken Ltd v Fowler* [1986] 1 All ER 617 (CA)

*Peninsular Real Estate Ltd v Harris* [1992] 2 NZLR 216

**PART III: EMPLOYMENT RELATIONSHIP PROBLEMS**

Employment Relations Act, s 5 definition of “employment relationship problem”

1. **Specialist Employment Law Institutions**

**Institutions generally:** Employment Relations Act, s 143 (object of part 10)

**Mediation services:** Employment Relations Act, ss 144, 145, 147, 149, 149A, 150

**Employment Relations Authority:** Employment Relations Act, ss 157, 159, 160-162, 173, 177, 178, 179, 181

**Employment Court:** Employment Relations Act, ss 187, 189

**Appellate jurisdictions:** Employment Relations Act, ss 214, 214A

1. **Termination of the employment agreement**

*A Worker v A Farmer* CA552/2009 [2010] NZCA 547

1. **Personal Grievances**

Employment Relations Act, ss 103, 112, 114-115, 120

1. **Unjustifiable Dismissal**
2. **General Principles**

Employment Relations Act, s 103A

*Auckland City Council v Hennessey* [1982] ACJ 699

*Wellington Road Transport, etc IUOW v Fletcher Construction Co Ltd* [1983] ACJ 653

1. **Misconduct and Poor Performance Cases**

*W & H Newspapers Ltd v Oram* [2001] 3 NZLR 29

*Air New Zealand Limited v V* [2009] NZEmpC 45

*B W Bellis Ltd v Canterbury Hotel, etc, IUOW* [1985] ACJ 956

*Airline Stewards and Hostesses of New Zealand IUOW v Air New Zealand* (1991) 4 NZELC 95, 261

1. **Constructive Dismissal**

*Wellington, etc, Clerical, etc, IUOW v Greenwich* [1983] ACJ 965

*Marshall Cordner & Co v Canterbury Clerical, etc, Workers’ IUOW* (1987) 1 NZELC 95, 344

*Business Distributors Limited v Faruq Mohammed Patel* [2001] ERNZ 124

1. **Redundancy**

*Vice-Chancellor of Massey University v Wrigley* [2011] NZEmpC 37

1. **Unjustifiable Action**

*Alliance Freezing Co (Southland) Ltd v New Zealand Engineering Workers Union* [1990] 1 NZLR 533 (CA)

1. **Industrial Action**

Employment Relations Act, ss 80-88, 97, 99, 100

*Carter Holt Harvey v National Distribution Union Inc* [2002] 1 ERNZ 239 (CA)

*NZ Dairy Workers’ Union Inc v Open Country Cheese Company Ltd* [2011] NZCA 56

*Air Nelson v New Zealand Amalgamated Engineering, Printing and Manufacturing Union Inc* [2010] NZSC 53

**LAW AND MEDICINE**

**LAWS 447**

**MENTAL HEALTH (COMPULSORY ASSESSMENT AND TREATMENT ACT) 1992; FULL TEXT**

1. INTRODUCITON TO NEW ZEALAND HEALTH CARE LAW
2. **The Statutory Compensation Scheme and the Limited Role of Tort Actions**

*Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

Injury Prevention, Rehabilitation and Compensation Act 2001 ss 1-5, 20-21, 25-28, 32-34, 317, 319

1. **The Important Role of the Code and the Commissioner**

Health and Disability Commissioner (Code of Health and Disability Services Consumers’ Rights) Regulations 1996

Health and Disability Commissioner Act 1994 ss 1-75

Human Rights Act 1993 ss 93-94, 98-108

*Marks v Director of Health and Disability Proceedings* [2009] 3 NZLR 108

1. **The Required Standard of Care**

*Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

*Bolitho v City and Hackney Health Authority* [1998] AC 232

1. CONSENT TO MEDICAL PROCEDURES
2. **Consent to Medical Treatment: Introduction**

Health Practitioners Competence Assurance Act 2003 ss 3-4, 7-11, 34-36, 45, 49, 64-71, 84-92, 100-101, 174

*State of Queensland v Nolan* [2001] QSC 174

1. **Capacity/Competence to Consent to Treatment**

*Re C (Adult: Refusal of Treatment)* [1994] 1 WLR 290

Protection of Personal and Property Rights Act 1988 ss 1-10, 12-23, 93A-108

Care of Children Act 2004, ss 1-38

1. **The Duty to Inform and Legally Effective Consent**

*Rogers v Whitaker* (1992) 175 CLR 479

*B v Medical Council of New Zealand* (1996) [2005] 3 NZLR 810

*Harman v Director of Proceedings* HC Auckland, CIV-2007-404-003732, 12 Mar 2009, Wild J (extracts)

P D G Skegg, “English Medical Law and ‘Informed Consent’: An Antipodean Assessment and Alternative” (1999) 7 *Medical Law Review* 135-165

1. **Legal Justifications for Treatment Without Consent**

*St George’s Healthcare NHS Trust v S* [1999] Fam 26-27, 34, 43-50

*Re B (Adult: Refusal of medical treatment)* [2002] 2 All ER 449

New Zealand Bill of Rights Act 1990 ss 1-11, 13-15, 21-23, 27-28

Mental Health (Compulsory Assessment & Treatment) Act 1992 ss 2, Pt V & s 110A

Tuberculosis Act 1948 s 16

Health Act 1956 ss 79, 88, 90, 126, 129

Alcoholism and Drug Addiction Act 1966 ss 2-3, 9, 38

Contraception, Sterilisation and Abortion Act 1977 ss 4, 7, 34

*In re F* [1990] AC 70

*R v Harris* HC, Palmerston North, CRI-2006-054-1008, 21 Nov 2006, Miller J

1. THE END OF LIFE
2. **Relief of Pain and Active Euthanasia**

Crimes Act 1961 ss 150A-187A

1. **Omissions to Prolong Life and ‘Passive Euthanasia’**

Crimes Act 1961 ss 150A-187A

*Airedale NHS Trust v Bland* [1993] AC 789, 824-834 (Hoffman LJ in Eng CA)

*Re G* [1997] 2 NZLR 201

*W Healthcare NHS Trust v H* [2004] EWCA Civ 1324

*Shortland v Northland Health Ltd* [1998] 1 NZLR 433

*Shortland v Northland Health Ltd* M. 75/97 13-14

1. **Death**

P D G Skegg, “The Edges of Life” (F W Guest Memorial Lecture) (1988) *6 Otago Law Review* 517

1. **Use of Corpses for Medical Purposes**

Human Tissue Act 2008

Coroners Act 2006 ss 31-56

**LAWS 420**

**LAW AND THE DEMOCRATIC PROCESS**

**PART ONE: LAW AND THE ELECTORAL PROCESS**

1. **Introduction**
2. **Law and Representative Democracy**

* L. Massicotte, et al, “Establishing the Rules of the Game”, (2004) pp 3-10 **CM 1**
* A. Gauja, *Political Parties and Elections: Legislating for Representative Democracy* (Ashgate 2010), pp 6-10 **CM 5**
* A. Geddis, *Electoral Law in New Zealand,* pp 7-23 **CM 8**

1. **Overview of MMP**

* A. Geddis, *Electoral Law in New Zealand,* pp 24-39
* *Report of the Electoral Commission on the Review of the MMP Voting System,* 29 October 2012 **CM 19**

1. **Who Participates – the right to vote.**

* A. Geddis, *Electoral Law in New Zealand,* pp 24-39
* *Electoral Act 1993,* ss. 60, 72, 74, 75, 80, 82 **CM 41**
* *New Zealand Bill of Rights Act 1990,* s. 12 **CM 45**
* *A. Geddis,* ‘Prisoner Voting and Rights Deliberation: How New Zealand’s Parliament Failed’ (2011) 3 New Zealand Law Review, pp 443-467 **CM 46**

1. **Who Participates – candidates and political parties.**

* A. Geddis, *Electoral Law in New Zealand,* pp 72-82
* *Electoral Act 1993,* ss. 47-53, 127-128, 143-145, 146D **CM 59**
* *Electoral Act 1993,* ss. 62-71B **CM 64**
* Electoral Commission, *News Release: National Front logo registered to appear on ballot papers,* 9 Feb 2006 **CM 71**
* A. Geddis, “Fighting the 2008 election in the courts”, (2008) *NZLJ* 279-282 **CM 72**
* C. Morris, “Political parties and natural justice”, (2008) 399-400 **CM 74**

1. **Drawing the Electorate Boundaries**

* A. Geddis, *Electoral Law in New Zealand,* pp 83-92
* *Electoral Act 1993*, ss. 28, 35-38, 46, 269 **CM 76**
* *Timmins v Governor-General* [1984] 2 NZLR 298 **CM 80**
* **Optional additional reading on reserve:** Graham Beever “The New Game with the old rules: Boundary Determination under MMP”, 34 *VUWLR 135* (2002)

1. **The Māori Seats**

* A. Geddis, *Electoral Law in New Zealand,* pp 93-110
* Ann Sullivan, “Māori Participation”, in Miller (ed) 5th ed, *NZ Government & Policy*, pp 538-547 **CM 87**
* *Electoral Act 1993,* ss. 3(1) (definitions of Māori, Māori electoral district, Māori electoral population) 45, 76-79 **CM 92**
* **Optional additional reading on reserve:** A. Geddis, “A Dual Track Democracy? The Symbolic Role of the Māori Seats in New Zealand’s Electoral System”, (2006) 5(4) *Election LJ* 347

1. **Protecting the integrity of the election process**

* A. Geddis, *Electoral Law in New Zealand,* pp 113-132
* *Electoral Act 1993,* ss. 215-228 **CM 96**
* *Electoral Act 1993,* s. 199A **CM 96**
* *Human Rights Act 1993*, s. 61(3), 131-132 **CM 101**

1. **Funding election campaigns – general issues**

* A. Geddis, *Electoral Law in New Zealand,* 151-157
* A. Geddis, “Debating Election Finance Reform”, in Miller (ed) *NZ Government & Policy*, pp 326-338 **CM 102**

1. **Regulating ‘third party’ election funding**

* Andrew Geddis, *Electoral Law in New Zealand* (2nd edition) – **DRAFT ONLY**, 9.3 **CM 109**
* *Electoral Act 1993,* ss ss 3A-3E, 204A-204X, 206S-206ZH **CM 115**

1. **Regulating the election funding of political parties and individual candidates**

* Andrew Geddis, *Electoral Law in New Zealand* (2nd edition) – **DRAFT ONLY**, 9.4-9.5 **CM 129**
* *Electoral Act 1993,* ss 205-205S, 206-206R, 207-210F **CM 142**

1. **Regulating election broadcasting**

* A. Geddis, *Electoral Law in New Zealand,* pp 156-170
* *Broadcasting Act 1989,* ss. 69-76, 77-80A **CM 166**
* Electoral Commission, *Decision of the Electoral Commission – Te Katiaki Take Kowhiri, on allocation of time and money to eligible political parties for broadcasting of election programmes for the 2011 General Election* **CM 173**
* *Alliance v Electoral Commission* [2010] NZCA 4 **CM 179**

1. **Election oversight by Administrative Agencies**

* *Electoral Act 1993,* ss 4B-9, 20A-26, 204I **CM 187**
* Justice and Electoral Select Committee, Electoral (Administration) Amendment Bill 93-2, pp 1-8 **CM 193**
* “About the Electoral Commission”, [www.elections.org.nz](http://www.elections.org.nz) **CM 197**

1. **Election oversight by the Courts**

* A. Geddis, *Electoral Law in New Zealand,* pp 219-236
* *Electoral Act 1993,* ss. 229-231; 235-244; 258-260; 262 **CM 198**
* *Payne v Adams* [2009] 3 NZLR 834 **CM 203**
* Boscawen v Attorney-General [2009] NZCA 12 **CM 218**
* **Optional on reserve:** J. Boston *et al. “*Courting Change: The Role of the Judiciary in Altering an Electoral System” (1997) 8 *Public LR* 229

1. **Election oversight by Parliament**

* A. Geddis, *Electoral Law in New Zealand,* pp 237-256
* Justice and Electoral Committee, *Inquiry into the 2008 general election* **CM 227**

**PART TWO: LAW AND THE LAWMAKING PROCESS**

1. **Parliament: its role and its rules**

* *Constitution Act 1986,* ss. 10-20 **CM 235**
* D. McGee, *Parliamentary Practice in New Zealand*, pp 1-6; 113-121 **CM 237**

1. **The legislative process**

* G Palmer & M Palmer, *Bridled Power (4th ed),* pp 181-201 **CM 245**
* R. Malone, “Rebalancing the Constitution”, (2008) pp 201-226 **CM 256**
* **Optional additional reading on reserve:** Jeremy Waldron: “Parliamentary Recklessness: Why we need to legislate more carefully”

1. **Limits on Parliament’s lawmaking powers?**

* A. Geddis, *Electoral Law in New Zealand,* pp 45-47
* *Electoral Act 1993,* s. 268 **CM 269**
* *Standing Orders of the House of Representatives,* SO 267 **CM 269**
* *Shaw v Commissioner of Inland Revenue* [1999] 3 NZLR 154 **CM 270**
* *Westco Lagan v Attorney-General* [2001] 1 NZLR 40 **CM 273**
* *New Zealand Center for Public Law, “Parliamentary Sovereignty”, in Constitutional Arrangements Committee, Inquiry to review New Zealand’s existing constitutional arrangements,* Appendix F (2005) **CM 285**
* **Optional additional reading on reserve:** Hon Michael Kirby, “Deep Lying Rights – A Consitutional Conversation Continues” 3(2) *NZJPIL*

1. **Parliament and the *New Zealand Bill of Rights Act 1990***

* *NZBORA 1990,* s 7 **CM 289**
* *Standing Orders of the House of Representatives,* SO 266 **CM 289**
* A. Butler & P. Butler, *The New Zealand Bill of Rights Act: A Commentary*, pp 197-208 **CM 290**
* Legislation Advisory Committee, *Guidelines on Process & Content of Legislation,* ch. 4 **CM 296**
* A. Geddis, “The Comparative Irrelevance of the New Zealand Bill Of Rights Act to Legislative Practice”, (2009) 23/4 *NZULR*, pp 465-488 **CM 305**
* Attorney-General’s report on Public Safety (Public Protection Orders) Bill, 14 October 2012 **CM 318**

1. **Parliamentary Privilege**

* *Legislature Act 1908,* s. 242 **CM 321**
* D. McGee, *Parliamentary Practice in New Zealand,* pp 605-616 **CM 322**
* *Buchanan v Jennings* [2004] 3 WLR 1163 **CM 328**
* Privileges Committee, *Question of privilege referred 21 July 1998 concerning Buchanan v. Jennings* (I.17G) (2005) **CM 335**
* *Attorney-General v Leigh* [2011] NZSC 106 **CM 340**

1. **Contempt of Parliament**

* P. Joseph, *Constitutional and Administrative Law in New Zealand*, pp 450-57 **CM 345**
* *Standing Orders of the House of Representatives,* SO 399-400 **CM 349**
* Privileges Committee, *Question of privilege referred on 16 February on the action taken by Television New Zealand in relation to its chief executive, following evidence he gave to the Finance and Expenditure Committee (I.17A)* (2006) **CM 350**
* A. Geddis, “Fines for Contempt in New Zealand’s House of Representatives”, [2007] *Public Law* 425 **CM 355**

1. **Membership of Parliament**

* *Constitutional Act 1986,* ss. 10, 14 **CM 235**
* *Electoral Act 1993,* ss. 54-56 **CM 361**
* C Morris, “On Becoming (and Remaining) a Member of Parliament”, [2004] *Public Law* 11 **CM 363**
* A Geddis, “Proportional Representation, ‘Party Hopping’ and the Limits of Electoral Regulation: A Cautionary Tale from New Zealand”, (2006) 34(4) *Common Law World Review* 24 **CM 371**
* **Optional additional reading on reserve:** C Geiringer, “Judging the Politicians: A Case for Judicial Determination of Disputes over the Membership of the House of Representatives”, (2005) 3 *NZJPIL* 131.

**PART THREE : A DIRECT DEMOCRACY ALTERNATIVE**

1. **What is Direct Democracy?**

* John Parkinson, “Decision-making by Referendum”, in Miller (ed) *NZ Government and Politics* pp 571-583 **CM 385**
* Royal Commission on the Electoral System, *Towards a Better Democracy,* pp 167-181 **CM 392**

1. **The Citizens’ Initiated Referendum Act 1993**

* P. Joseph, *Constitutional and Administrative Law in New Zealand,* pp 185-188 **CM 400**
* C. Morris, “Improving Our Democracy or a Fraud on the Community? A Closer Look at New Zealand’s Citizens Initiated Referenda Act 1993” 25 *Statute LR* 116 (2004) **CM 402**
* Bridget Fenton & Andrew Geddis, “Citizens Initiated Referenda”, (2009) *NZLJ* 334-336 **CM 411**

**CRITICAL JURISPRUDENCE**

**LAWS 302**

1. **Introductory Lecture**

* Critical jurisprudence introduced
* The role of background ideas stressed as the key concept for this semester

1. **Determinacy and Indeterminacy in Law Revisted**

* Gerald Frug, “A Critical Theory of Law” (1989) 1 *Legal Educ. Rev.* 43
* Stanley Fish, *Is There a Text in This Class?* (1980) chs. 13, 14
* Stanley Fish, “The Law Wishes to Have a Formal Existence” in *There’s No Such Thing as Free Speech* (1994) 141-156
* Stanley Fish, “There is No Textualist Position” (2005) 42 *San Diego L. Rev* 62

1. **Ideology and Politics in Law**
2. **Anti-foundationalism, ideology, and critical theory**

* Notes: Ideology
* Excerpt from Richard Fischl, “Some Realism About Critical Legal Studies” (1987) 41 *U. Miami L. Rev.* 505 at 527
* Michael Venture, “Someone is Stealing your Life”, *Utne Reader*, July/August 1991 at 78-80
* Excerpt from Michael Moore, *Downsize This!* (1996) 282-287

1. **Ideology in law: Overview**

* Notes: Gordon
* Robert Gordon, “New Developments in Legal Theory” in *The Politics of Law* (1982) ch. 14
* William Allen, “Contracts and Communities in Corporation Law” (1993) 50 *Wash. & Lee L. Rev.* 1395

1. **Are bills of rights ideological?**
2. **Liberalism and bills of rights**

* Notes: Liberalism in Context
* Notes: Classical Liberalism and Rights
* Notes: Modern Liberalism and Rights
* Bhikhu Parekh, “The Cultural Particularity of Liberal Democracy” in *Prospects for Democracy* (1993) 156-175

1. **Critical jurisprudence and bills of rights**

* Notes: Critical Jurisprudence and Liberal Rights

R. H. Tawney, *The Acquisitive Society* (1921) chs. 2, 3

* Morton Horwitz, “Rights” (1988) 23 *Harv. Civ. R/Civ. Lib L Rev.* 393
* Ronald Beiner, *What’s the matter with Liberalism?* (1992), ch. 4
* Kathleen Mahoney, “The Limits of Liberalism”, in *Canadian Perspectives on Legal Theory* (1991) 57

1. **Is criminal law Ideological?**
2. **Historical examples**

* Notes: Hay
* Douglas Hay, “Property, Authority, and the Criminal Law”, in *Albion’s Fatal Tree* (1975) ch. 1
* E. P. Thompson, *Whigs and Hunters* (1975) 258-269

1. **Contemporary examples**

* Edwin Sutherland, “White Collar Criminality” in *White Collar Crime* (3rd ed, 1995), originally published 1940, 29-38
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**[9.1] Relationship Maintenance**

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**[11.1] Children in Need of Care, Protection or Control**

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**PROPERTY LAW**

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Sarah Worthington *Equity* (Oxford University press, 2003) pp 47-51

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Sarah Worthington *Equity* (Oxford University press, 2003) pp 53-54

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1. **Risk of damage or destruction of goods in the course of being sold**

Sale of Goods Act 1908, ss 22, 8 and 9

*Oldfield Asphalts v Grovedale Coolstores (1994) Ltd* [1998] 3 NZLR 479 (Gallen J)

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Fratcher, *Scott on Trusts* (4th ed) Vol 1, 1-9

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Fratcher, *Scott on Trusts* (4th ed) Vol 1, 40-51

Property Law Act 2007, s 25

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*Paul v Constance* [1977] 1 WLR 527 (CA)

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*Gillies v Keogh* [1989] 2 NZLR 327

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Trustee Act 1956, ss 2(4), 13 A-F, M and Q, as amended

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**(b) Complex mixed claims**

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*Clerk & Lindsell on Torts* (supra) paras 19-70, 19-71, 19-25

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Blanchard, *A Handbook on Agreements for Sale and Purchase of Land* (4th ed 1988) 609

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*Clarke v Ramuz* (1891) 2 QB 456 (extract)

*Phillips v Silvester* (1872) LR 8 Ch App 173

Insurance Law Reform Act 1985 (as amended by the Property Law Act 2007), ss 13 and 14

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Land Transfer Act 1952, ss 141 & 137

*Bevin v Smith* [1993] 3 NZLR 648 (CA), 660-666

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*Pennington v Waine* [2002] 1 WLR 2075

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F H Lawson and B Rudden *The Law of Property* (3rd ed, 2002) pp 124 -125

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*Sibrad Company Ltd v Kanters and Edwards* HC Hamilton, CIV-2008-419-000440, 8/5/08/ Asher J

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Property Law Act 2007 ss 137, 185

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Property Law Act 2007 s 176

*Apple Fields Ltd v Damesh Holdings Ltd* [2002] 2 NZLR 586 (CA)

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F H Lawson & B Rudden *The Law of Property* (2ed, 1982) 127-128

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F H Lawson & B Rudden *The Law Of Property* (3ed, 2002), 154

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*Re Ellenborough Park* [1955] 3 All ER 667

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Property Law Act 2007, s 4

Hinde, McMorland and Sim, *Land Law in New Zealand* (2008) 17.003-17.004, 17.006-17.006

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Te Ture Whenua Māori Act 1993, s106

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*Re Hilton* [1997] 2 NZLR 734

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Property (Relationships) Act 1976, s88(2)

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E. T. Durie, *Will the Settlers Settle? Cultural Conciliation and Law* (1996) 8 O.L.R 449 (extract only)

The Native Lands Act 1862 preamble

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*Ngati Apa v Attorney-General* [2003] 3 NZLR 643 (CA) (extract)

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Te Ture Whenua Maori Act 1993, ss 145-146, 4, 147, 147A, 148(1), s 4 ‘preferred class of alienees’, 150C, 156(1)

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**4. To change the status of Māori land to general land**

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*Congregational Christian Church Board of Samoa Henderson Trust Board v Broadlands Finance* [1984] 2 NZLR 704 (HC)

*Duncan v McDonald* [1997] 3 NZLR 669, 680-683 (CA)

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*Smith v Hugh Watt Society* [2004] 1 NZLR 537 (HC)

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**(d) Statutory exceptions to indefeasibility: fraud**

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Land Transfer Act 1952, ss 141, 147, 147A

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PPSA s 24, s 45

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**(b) Money in mixed bank accounts**

Walsh, C. ‘*An Introduction to the New Brunswick Personal Property Security Act’,* p137-138

**(c) Assets bought out of mixed bank accounts**

Walsh, C. ‘*An Introduction to the New Brunswick Personal Property Security Act’,* p138

*Agricultural Credit Corporation of Saskatchewan v Pettyjohn* [1991] 3 WWR 689

**Statutory Material**

**I PPSA sections collated from the course material**

**II PPSRegs collated from course material**