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COMMENT – *Editor: Dan Meagher*

Samoa’s Constitutional Crisis of 2021: The Troubling Case(S) of Art 44(1a) – Dylan Asafo	267
A Comment on the Takutai Moana Act 2011 (NZ) – Dr Alex Frame	274
Confidentiality and the National Cabinet – Dr David Tan	281
COVID-19, the Principle of Legality and the “Legislative Bulldozer” of the Biosecurity Act 2015 (Cth): Newman v Minister for Health and Aged Care – Samuel Walpole and William Isdale	287

SPEECH

Communist Party Case: Core Themes and Legacy – The Hon Justice Michelle Gordon AC	291
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ARTICLES

An Analysis of the Enforcement of Duties Owed by Public Sector Officials – Benjamin B Saunders and David Lau

The purpose of this article is to assess the extent to which the duties applicable to public officials and directors of public sector entities have achieved their aim of strengthening public governance in Australia and bringing the applicable standards more closely in alignment with the standards prevailing in the corporate sector. We undertake an analysis of all cases in which a breach of a public sector duty was alleged, focusing on the duties owed by directors of government corporations and the duties owed by officials under public sector legislation. We found a very small number of cases in which a breach of the duties was alleged and only one case where a breach was made out. We conclude that the public governance duties do not significantly contribute to public sector governance. 313

Cyberspace as a Place of Protest and the Constitutional Implied Freedom of Political Communication – Dr Jacob Deem and Dr Alexandra McEwan

This article combines legal analysis with insights from legal geography and deliberative democracy scholarship to develop a perspective on cyberspace as a “place” in which protest occurs, exploring the consequences of cyberspace as “place” for the implied freedom of political communication. Recent amendments to the *Criminal Code Act 1995* (Cth) introducing “ag-gag” provisions and the decision in *Commissioner of Police (NSW) v Gray* provide case studies to consider cyberspace as a “place” where political communication is regulated. As background, we consider the meaning of “protest” and examine how

place functions in a physical protest in the context of recent High Court decisions. We focus on the Court’s view that the place in which protest is held can be integral to the political communication itself, and then demonstrate that protests in cyberspace can fulfil similar functions. Thus, the internet can operate as a “place” at which protest, and political communication occur. 331

The Significance of the Defence Force Discipline Appeal Tribunal: Analysis of Its Activity over Four Years – Pauline Collins

The Defence Force Discipline Appeal Tribunal (DFDAT) is an administrative body, established under the *Defence Force Discipline Appeals Act 1955* (Cth). The Tribunal hears appeals from courts martial and Defence Force magistrate hearings for service offences by Australian Defence Force personnel under the *Defence Force Discipline Act 1982* (Cth). The Tribunal provides the highest-level “appeal.” The Full Court of the Federal Court of Australia can be accessed for questions of law. An appeal from the Federal Court’s decision to the High Court requires special leave. Both types of appeal occur infrequently. Otherwise, the Tribunal’s determination is final. Little academic interest in this specialised area provides minimal scrutiny of the decisions of the Tribunal. This article provides an overview of the type of matters heard in the last four years and the issues highlighted for military discipline. It reveals any current challenges for justice and the rights of military personnel. 348

DEVELOPMENTS 372

VOLUME 32 – 2021

Table of Authors	381
Table of Cases	385
Index	401