

FOREWORD

A Foreword celebrating a distinguished legal career like that of Professor ATH Smith (Tony) almost writes itself. Tony's legal expertise is deep and wide-ranging. His teaching and scholarship span criminal law, criminal procedure, civil liberties, constitutional and public law, administrative law, contempt of court, media law, medicine and the law, and jurisprudence. He has been Dean at the University of Durham, the University of Reading and Victoria University of Wellington (where he was also Pro Vice-Chancellor), and chairman of the Faculty at the University of Cambridge. He holds an LLB and LLM from the University of Canterbury and a PhD and LLD from the University of Cambridge. He has been a door tenant at Stout Street Chambers in Wellington and at London media chambers, 5RB, and, in 2000, became an Honorary Bencher of the Middle Temple.

Tony started his fulltime academic career in 1973 as a Fellow and Lecturer in Law at Gonville and Caius College in Cambridge, working under the mentorship of Professor Glanville Williams QC. Soon after leaving (to take up a readership at Durham and then a professorship at Reading), he published his first book *The Offences Against Public Order*.¹ Other books on criminal law soon followed: *Property Offences: The Protection of Property Through the Criminal Law*,² and *Harm and Culpability* co-edited with Professor Andrew Simester (a contributor to this collection).³ These publications, along with dozens of case notes and articles, have established him as one of the Commonwealth's leading criminal lawyers.

Tony has a particular interest in the points at which criminal and public law intersect. He is a leading authority on the law of contempt. His book, *Arlidge, Eady and Smith on Contempt* (now in its 5th edition and co-written for many years with another contributor to this collection, Sir David Eady) is the leading work on the subject.⁴ Tony has also had stewardship of the significant book *Glanville Williams: Learning the Law* – the first book many of us encountered as law students – since his eponymous mentor passed the mantle to him in 2002.⁵

We are delighted that so many people who have worked with Tony over the years have come together to celebrate his career with this volume. They include Tony's colleagues from Victoria and

1 ATH Smith *The Offences Against Public Order* (Sweet & Maxwell, London, 1987).

2 ATH Smith *Property Offences: The Protection of Property Through the Criminal Law* (Sweet & Maxwell, London, 1994).

3 AP Simester and ATH Smith (eds) *Harm and Culpability* (Clarendon Press, Oxford, 1996).

4 Patricia Londono, David Eady, ATH Smith and Lord Eassie (eds) *Arlidge, Eady and Smith on Contempt* (5th ed, Sweet & Maxwell, London, 2017).

5 Now in its 17th edition: ATH Smith (ed) *Glanville Williams: Learning the Law* (17th ed, Sweet & Maxwell, London, 2020).

Cambridge law faculties and former law Fellows of Caius. It contains contributions from former students and distinguished academics who share Tony's interests in criminal, media and public law. We also greatly welcome contributions from practitioners and former judges who have worked with Tony over the years.

As the distinguished character of these contributors demonstrates, the significance of a festschrift reaches beyond the individual whose achievements it celebrates. In its form and content, the genre honours the academic endeavour itself. Given the nature of the festschrift genre, the contributions are a mixture of short reflections and longer articles of a more sustained kind. But sitting behind each of the scholarly contributions to this volume is the kind of dedication to advancing knowledge and understanding of law that characterises academic work.

A festschrift provides a valuable opportunity to reflect on the importance of this work. And such reflection is particularly fitting in a collection for a distinguished university leader such as Tony. As mentioned, Tony was Dean, Pro Vice-Chancellor or Chair at Durham, Reading, Cambridge and Victoria. He also represented academic interests in various national bodies including as chair of the United Kingdom Committee of the Heads of Law Schools. As Dean of Victoria law faculty, Tony directed much of his attention to protecting his academic colleagues from increasing pressures of the academic job. He modelled, and unashamedly expected from others, excellence in both teaching and research. He worked hard to carve out space – as much as university realpolitik would permit – for colleagues to pursue those aims unaffected by external interference. This was not because of arrogance or sensitivity to critique. On the contrary, he was acutely aware that institutions such as ours spend considerable public and privately-sourced funds and of the responsibilities that come with that. What Tony communicated to his Victoria colleagues was a deep understanding of and commitment to the academic enterprise and the wider good that it can do.

It is perhaps poignant that we should be reflecting on this important aspect of Tony's career at a time when law faculties are under such significant pressure. The most obvious pressures are financial: law schools are increasingly asked to do more with less. Law school classes are getting larger while, in absolute terms, funding is reducing. Mercifully, in this country, academics have not been subject to resource-draining litigation by interest groups determined to chill or shut down fields of inquiry or the advancement of ideas with which they disagree. Even so, members of the legal academy receive seemingly relentless directives and advice as to what law schools should be doing. The sources are well-meaning and various: from time to time, university central service units, students, the judiciary, the Tertiary Education Commission, funding organisations, government agencies, and senior members of the legal profession all voice views about what should go on in buildings such as ours.

Everyone has a stake in the question: how does a leading law school honour its responsibilities? Tony's own example and his encouragement of others' work suggest two answers: independence and excellence. Both are underscored by s 268 of the Education and Training Act 2020, which stipulates that the principal aim of a university is to develop intellectual independence and insists that academics "meet international standards of research and teaching". For legal academics, this implies that our

primary work must be *dis*-interested, immune from the exigencies of government, the interests of the private sector, or, indeed, from directives, however well-intentioned, from those who hold powerful positions in the universities or legal profession. But an insistence on excellence is the quid pro quo of this special kind of independence. The teaching and scholarship must be rigorous and expert; it must reflect deep engagement with legal questions and the societal problems with which the law interacts. It must meet international scholarly standards developed and sustained by the community of legal scholars. Tony knew, as only somebody of his experience and standing could, that these are demanding taskmasters. And he never failed to live up to these standards himself.

The values that inform both intellectual independence and excellence are manifest in all of the work that is collected together in this volume. It is difficult to imagine a more fitting tribute to a scholar who has, throughout his career, done his best to help those of us who have chosen this profession to do *our* best to live up to these standards and ideals. The contributions reflect that kind of dedication to this task. We are also delighted that the volume contains practitioner contributions, signalling that the best scholar-teachers engage with the wider legal community, through teaching, mentoring, and through the reach of the scholarly enterprise itself.

We wish to acknowledge the stellar work by the Victoria University of Wellington Law Review Student Editor-in-Chief, Alexandra Briscoe, and her team of student editors. We are indebted to all of the students for their excellent work. We recognise that checking footnotes and citations can seem like arduous toil; we also hope that for the students involved educational benefits were derived from being exposed to splendid legal writing by leading practitioners and scholars. We are also grateful to our law faculty colleagues who comprise the Editorial Board of this law review, both for their support of this endeavour and for giving us largely free rein over the project, and to Denise Blackett who skilfully manages the production of this publication. And considerable thanks are due to the Borrin family for their support of the VUWLR. The Preface by Justice William Young is an apt and elegant tribute.

We also wish to thank the authors of the individual articles. As mentioned, the contributors come from both the scholarly world and from the practice of law. The project attracted leaders in their fields and exciting new voices. Our call for contributions was answered swiftly and graciously. The response attests to the respect and esteem with which Tony is held in the legal academy and beyond. We have enjoyed working with each of the contributors and engaging with the ideas and insights they advance in their papers. Finally, our thanks to Tony, for being the inspiration for this volume, and for the mentorship and leadership he has provided for generations of legal scholars and practitioners.

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