

*John Logan\**

**REMARKS ON THE LAUNCH OF  
*KEEPING THE PEACE OF THE REALM*,  
AUTHORED BY SAM WHITE**

I INTRODUCTION

In the foreword to my sometime associate, Sam White's recently published work, *Keeping the Peace of the Realm*, I sought to highlight a fundamental difference in a constitutional monarchy such as ours between the military and a civilian police force by the observation that '[t]he role of the military is to kill the Queen's enemies. The role of the police is to keep the Queen's Peace.'<sup>1</sup>

That observation was true in its generality in relation to their respective primary roles. But it was not wholly true of the military. I was reminded of that when looking at some personal service files, via the wonderful digital resource offered by the National Archives of Australia, for the purpose of preparing these remarks.

When (Dudley) Bruce Ross, a graduate of this University's Law School, later a King's Counsel, a Justice of the Supreme Court of South Australia and a Knight Bachelor,<sup>2</sup> enlisted in the Australian Imperial Force ('AIF') in Adelaide on 29 February 1916, the oath which he took bound him to 'resist His Majesty's enemies and cause His Majesty's peace to be kept and maintained'.<sup>3</sup> He served in France and Flanders in the ranks in the field artillery doing the former but not the latter.<sup>4</sup> Another later King's Counsel, Justice of that court and knight, George Coutts Ligertwood, after

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<sup>1</sup> Justice JA Logan, 'Foreword' in Samuel White, *Keeping the Peace of the Realm* (LexisNexis, 2021) v, v.

<sup>2</sup> 'Australian Honours Search Facility: Judge Dudley Bruce ROSS', *Department of the Prime Minister and Cabinet* (Web Page) <<https://honours.pmc.gov.au/honours/awards/1083082>>.

<sup>3</sup> 'NAA: B2455, Ross Dudley Bruce', *National Archives of Australia* (Web Page) <<https://recordsearch.naa.gov.au/SearchNRetrieve/Interface/ViewImage.aspx?B=8038277>>.

<sup>4</sup> Ibid.

whom this Law School's home building is named, took that same oath when he enlisted in the AIF in May 1918.<sup>5</sup>

## II ROLE OF THE MILITARY

Troops may be deployed in aid of a civil power but that is not the primary emphasis in their training. For example, '[t]he role of the Infantry is to seek out and close with the enemy, to kill or capture them, to seize and hold ground, repel attack, by day or by night, regardless of season weather or terrain'.<sup>6</sup>

There is nothing in this role statement about cleaning up after floods, fighting bushfires or preventing fellow citizens from crossing a state border or leaving hotel quarantine during a declared public health emergency. As members of a physically fit, disciplined force, soldiers can usually be relied upon to approach such tasks actively, enthusiastically, and for long hours in arduous conditions. There is no overtime in the army. But every hour spent on such tasks is an hour not spent in preparing to undertake their primary role.

In contrast, those who serve in a legacy force of Sir Robert Peel's London Metropolitan Police Force do have the primary role of keeping the Queen's peace and undertake training accordingly.

While each is a disciplined force, the core ethos of the military and the police are very different, and must be if each is efficiently to perform their primary roles.

A decision to deploy members of the Australian Defence Force ('ADF') in aid of a civil power is, under our system of government, one for the Australian government. It is always, I respectfully suggest, a serious thing.

The law governing the provision of such aid has not hitherto received much attention outside specialist branches within government. It is highly desirable that its content be conveniently detailed and critiqued in a readily available publication.

## III SAM WHITE'S BOOK: *KEEPING THE PEACE OF THE REALM*

This makes Sam's book a useful addition to legal literature. Although latterly he has served in the Australian Army Legal Corps, Sam earned his commission the

<sup>5</sup> 'NAA: B2455, Ligertwood George Coutts', *National Archives of Australia* (Web Page) <<https://recordsearch.naa.gov.au/SearchNRRetrieve/Interface/ViewImage.aspx?B=8198948>>; Howard Zelling, 'Ligertwood, Sir George Coutts (1888–1967)' in John Ritchie (ed), *Australian Dictionary of Biography* (Melbourne University Press, 2000) vol 15.

<sup>6</sup> 'Infantry Soldier', *Defence Jobs* (Web Page) <<https://www.defencejobs.gov.au/jobs/army/infantry-soldier>>.

hard way, as a general service officer. He then undertook his initial corps training as an infantry officer. More recently, he has pursued post graduate studies in law and seen, firsthand, how the processes within the Defence Department whereby requests for aid to the civil power are actioned.

Sam's membership of two of the great learned professions, the profession of arms and the legal profession, did not just make him well-placed to author this book but also to understand the tumultuous path through constitutional history in relation to the very existence of a standing army in countries of British heritage. It is impossible to divorce the subject of aid to the civil power from that understanding.

As Sam, I and everyone who has served in the ADF knows, absolute, apolitical subservience to the civil power is an article of faith. The resonance through history and into military training of the threat to democracy which the backing by the New Model Army of Oliver Cromwell's dictatorship represented is a loud one. As was that of the initial *Mutiny Act* after the Restoration in the mid-17<sup>th</sup> century,<sup>7</sup> a purpose of the *Defence Force Discipline Act 1982* (Cth) is to enforce that subservience within the ADF. It truly is a fraught thing for politicians to cultivate soldiers and the reverse is also true.

#### IV CONCLUSION

This Law School has a military law program, headed by Dale Stephens. He, too, is a member of the same two learned professions I have mentioned, although his membership of the profession of arms is in the Senior Service. That there is here such a program so headed makes it truly fitting that this book launch occur in this place. It gives me much pleasure now to do just that.

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<sup>7</sup> *Mutiny Act 1689*, 1 Wm & M, c 5.