



LEANZ is an organisation dedicated to the advancement and understanding of law and economics in New Zealand.

The Law & Economics Association of New Zealand (LEANZ) together with the New Zealand Centre for Public Law invite you to an evening seminar in Wellington on Monday 23rd August 2010



LEANZ Seminar

Topic: Direct (Anti-)Democracy

Speaker: Professor Maxwell Stearns, University of Maryland School of Law, USA

Date: Monday 23rd August 2010

Venue: Government Buildings Lecture Theatre 3, 15 Lambton Quay, Wellington

Time: 5.30 pm for 6.00 pm start, followed by refreshments

RSVP: email: Francesca.Wilson@treasury.govt.nz or phone: (04) 472 2733

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Topic: Is a referendum, or other forms of citizen "direct democracy", actually democratic?

Over the past two decades New Zealand has had a number of referenda on constitutional or policy questions. Following the highly controversial "smacking of children" vote, there is a petition currently being circulated that would allow the public to vote on whether such referenda, otherwise known as "direct democracy", should be binding on parliament. In the US, as in New Zealand, initiatives and referendums have been increasingly promoted as a means of finding a democratic outcome to social questions. But scholars from a range of perspectives have expressed strong disagreement as to the wisdom and efficacy of direct democracy. So how should we make comparisons across different forms of decision-making (such as direct democracy, judicial tribunals, and representative legislatures)?

Professor Stearns presents a novel methodological approach to overcome the difficulties of

comparisons across these different forms of decision-making. Relying upon social choice, he identifies a common set of normative benchmarks for these comparisons. He demonstrates that direct democracy, with its focus on discrete legal or policy questions, contains many of the features that are considered anti-democratic in the context of judicial decision making. In contrast, legislatures spread policy-making over multiple issues in a manner that allows constituents to express the intensities of their preferences for particular issues of interest.

Speaker: Professor Stearns is presently a visiting Erskine Fellow at the University of Canterbury, Department of Economics, where he is teaching public choice theory. He is Professor of Law and Marbury Research Professor at the University of Maryland School of Law.

Professor Stearns has recently published *Public Choice Concepts and Applications in Law* (West 2009) (with Todd Zywicki), a book designed to instruct students of law in the topics of public choice, including interest group theory, social choice theory, and elementary game theory. His work has appeared in a number of the leading academic journals, including the *Yale Law Journal*, the *University of Pennsylvania Law Review*, the *California Law Review*, the *Stanford Law Review* and the *Vanderbilt Law Review*.

There will be an opportunity for questions and discussion following the presentation.

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