

To Whom It May Concern - You Are Put On Notice

attn: Linda Genders

From this point on, no communication will be entered into other than in writing. Please write any concerns that you may have to me at this address.

Please be aware that you are being put on notice that should you choose to enter the property which you attended today without a police warrant, that you will be trespassing.

This email will be used as exhibit one when a court case ensues should **anyone** from the RSPCA Unanderra enter the property at 53 Auburn Parade, Cringila, New South Wales 2502, including but not limited to you Linda Genders.

Legal Notice - No Trespassing

Admittance by Invitation Only

Exclusion notice - private property

To all men, women, persons and entities including Police / Government / Sheriff / Bailiff / Process Server / Council / RSPCA / Animal Welfare League / Private Investigators / Corporations / Rangers

Trespass charges shall apply upon one step onto the land / property at the address of (my address)

Minimum Penalty **Ten Thousand Dollars** { AUD \$10,000 }

Per man, woman, or person, per entry - Penalty at discretion of the occupant / owner - due in 21 days. By your trespass, you agree to provide full details of your private information for damage claim.

Authorised Precedents

Ruling by the High Court of Australia

- * Kuru vs State of New South Wales [2008] HCA 26: (12 June 2009)
- * Plenty vs Dillon [1990] HCA 5; (1991) 171 CLR 635 F.C. 91/004 (7 March 1991)
- * George vs Rocket [1990] HCA 26 (1990) 170 CLR 104 F.C. 90/026 (20 June 1990)
- * Halliday vs Neville [1984] HCA 80; (1984) 155 CLR 1 (6 December 1984)

* The Commonwealth vs New South Wales 33 CLR IT

You are on notice. Should you choose to ignore this notice you do so at your own financial risk.

s118 Constitution:

Full faith and credit shall be given, throughout the Commonwealth to the laws, the public Acts and records, and the judicial proceedings of every State.

From the office of Madeline Rose.

PUBLIC NOTICE

PRIVATE: This Is Not A Public Communication!

This email is considered a transactional or relationship message, which is specifically excluded from the federal law regulating email communication.

Notice to Principal is Notice to Agent / Notice to Agent is Notice to Principal

This private email message, and any attachment(s) is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521, and is for the sole use of the intended recipient and contains privileged and/or confidential information. To all public servants, including but not limited to Federal, State, or Local corporate government(s): I accept your oath of office as your firm and binding contract between you and me, one of the People, whereby you have promised to serve, protect, and defend me, guarantee all of my unalienable rights, and to work and live according to the principles of The Holy Bible, King James Version, Anno Domini 1611 Edition. Any/all political, private, or public entities, International, Federal, State, or Local corporate government(s), private International Organisation(s), Municipality(ies), Corporate agent(s), informant(s), investigator(s) et. al., and/or third party(ies) working in collusion by monitoring My (this email) email(s), and any other means of communication without My express written permission are barred from any review, use, disclosure, or distribution. With explicit reservation of all My rights, without prejudice and without recourse to any of My rights. Any omission does not constitute a waiver of any and/or all intellectual property rights or reserved rights.

See legal notes following:

"the occupier of any dwelling-house gives implied licence to any member of the public coming on his lawful business to come through the gate, up the steps,

and knock on the door of the house." It's only if after the request to leave is delivered can they be looked at as trespass.

In *Halliday v. Nevill* [1984] HCA 80; (1984) 155 CLR 1, Brennan J. said (at p 10):

"The principle applies alike to officers of government and to private persons. A police officer who enters or remains on private property without the leave and licence of the person in possession or entitled to possession commits a trespass and acts outside the course of his duty unless his entering or remaining on the premises is authorized or excused by law."

Now *Plenty v Dillon* case..

5. The proposition that any person who "set(s) his foot upon my ground without my licence ... is liable to an action" in trespass is qualified by exceptions both at common law and by statute. The first ground relied on to authorize or excuse the entry of Constables Dillon and Will on Mr Plenty's farm on the occasion of the attempted service of the fresh summons was the common law rule known as the third rule in *Semayne's Case* [1572] EngR 333; (1604) 5 Co Rep 91a, at p 91b [1572] EngR 333; (77 ER 194, at p 195) which reads:

" In all cases when the King is party, the sheriff (if the doors be not open) may break the party's house, either to arrest him, or to do other execution of the (King)'s process, if otherwise he cannot enter. But before he breaks it, he ought to signify the cause of his coming, and to make REQUEST to open doors."

The scope of the third rule in *Semayne's Case* is stated in *Tomlins' Law-Dictionary*, 4th ed. (1835), vol.I, tit. Execution, Ill. 3:

"It is laid down as a general rule in our books, that the sheriff, in executing any judicial writ, cannot break open the door of a dwelling-house; this privilege, which the law allows to a man's habitation, arises from the great regard the law has to every man's safety and quiet, and therefore protects them from the inconveniences which must necessarily attend an unlimited power in the sheriff and his officers in this respect; hence, every man's house is called his castle.

Yet in favour of executions, which are the life of the law, and especially in cases of great necessity, or where the safety of the king and commonwealth are concerned, this general case has the following exceptions:

1st. That whenever the process is at the suit of the king, the sheriff or his officer may, after request to have the door opened, and refusal, break and enter the house to do execution, either on the party's goods, or take his body, as the case shall be.

In *Plenty v Dillion* they lost because they left the direct path from gate to front door. They tried to argue that the driveway to the garage was part of said path. It wasn't.

So there are exceptions. For instance, if you have mains power to your property the power representatives have the right to inspect the meter via the most open direct route. A home occupier agrees to this when they sign up for power. If you have mains water, the meter is within your property. By connecting to the mains water, you give the right to an inspector to review and check the meter. If your property has a council sewer pipe within an easement traversing your property they only need to give you prior notification that they are inspecting their pipe. Again, provided that they follow their pipe and do not deviate from the easement they do have a right to be on your property.

However it does not apply if there is a locked gate and a sign, they must get approval to be on your property as the locked gate gives notice of the removal of free entry. If entry or access is open then yes sign or even a shut gate doesn't stop entry but a locked gate does.

The policy of the law is to protect the possession of property and the privacy and security of its occupier: *Semayne's Case* (1604), at p 91b (77 ER 194, at p 195)

Entick v. Carrington (1765) at p 291 *Southam v. Smout* (1964) 1 QB 308, at p 320; *Eccles v. Bourque* (1975) 2 SCR. 739, at pp 742-743; (1974) 50 DLR (3d) 753, at p 755; *Morris v. Beardmore* (1981) AC 446, at p 464. A man or woman who enters the property of another must justify that entry by showing that he or she either entered with the consent of the occupier or otherwise had lawful authority to enter the premises: *Entick*, at p 291 (p 817 of ER); *Morris v. Beardmore*, at p 464; *Southam v. Smout*, at p 320; *Halliday v. Nevill* [1984] HCA 80; (1984) 155 CLR 1, at p 10. Except in the cases provided for by the common law and by statute, constables of police and those acting under the Crown have no special rights to enter land.

In *Robson v. Hallett* (1967) 2 QB 939, Lord Parker C.J. said (at p 951): "the occupier of any dwelling-house gives implied licence to any member of the public coming on his lawful business to come through the gate, up the steps, and knock on the door of the house."

This implied licence extends to the driveway of a dwelling-house: *Halliday*. However, the licence may be withdrawn by giving notice of its withdrawal. A person who enters or remains on property after the withdrawal of the licence is a trespasser. In *Davis v. Lisle* (1936) 2 KB 434, police officers who had lawfully entered a garage for the purpose of making enquiries were held to have

become trespassers by remaining in the garage after they were told by the proprietor to "get outside".

5. The common law has a number of exceptions to the general rule that a man or woman is a trespasser unless that man or woman enters premises with the consent, express or implied, of the occupier. Thus, a constable or citizen can enter premises for the purpose of making an arrest if a felony has been committed and the felon has been followed to the premises. A constable or citizen can also enter a premise to prevent the commission of a felony, and a constable can enter a premise to arrest an offender running away from an affray. Moreover, a constable or citizen can enter a premises to prevent a murder occurring. In these cases there is power not only to enter a premises but, where necessary, to break into the premises. However, it is a condition of any lawful breaking of a premises that the man or woman who is seeking entry has demanded and been refused entry by the occupier. See *Swales v. Cox* (1981) QB 849, at p 853. Furthermore, a constable, holding a warrant to arrest, may enter premises forcibly, if necessary, for the purpose of executing the warrant provided that the constable has first signified "the cause of his coming, and ... (made) request to open doors": *Semayne's Case*, at p 91b (p 195 of ER); *Burdett v. Abbot* [1811] EngR 83; (1811) 14 East 1, at pp 158, 162-163 [1811] EngR 83; (104 ER 501, at pp 561, 563); *Lippl v. Haines* (1989) 18 NSWLR 620, at p 631.

But no public official, police constable or citizen has any right at common law to enter a dwelling-house merely because he or she suspects that something is wrong: *Great Central Railway Co. v. Bates* (1921) 3 KB 578, at pp 581-582. Nor, except in the instances to which we have referred, can any man or woman enter a premises, without a warrant, to apprehend a fugitive who may be on the premises: *Lippl v. Haines*, at p 636. Another exception to the general rule that a man or woman who enters premises without the express or implied consent of the occupier is a trespasser is the rule that the sheriff can enter premises, by force if necessary, for the purpose of executing process in cases where the Sovereign is a party to the action: see the third resolution in *Semayne's Case*, at p 91b (p 195 of ER). Moreover, if the door of premises is open the sheriff may enter "and do execut(ion) at the suit of any subject, either of the body, or of the goods" (at p 92a (p 197 of ER)). But the right to execute at the suit of a subject does not extend to breaking open the outer doors of a dwelling-house: *Semayne's Case*, at pp 92a, 92b (pp 197, 198 of ER); *Burdett v. Abbot*, at pp 154-155 (p 560 of ER); *Southam v. Smout*, at pp 322-323, 326, 329;