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Announcements

VUWLRPS Special Issue: Accessing and Borrowing from Hans Kelsen – Guidance and Papers by John Prebble QC, Professor of Law, Victoria University of Wellington, Nina Opacic, and Hanneke van Oeveren.

This special issue of the VUWLRPS contains diachronic indexes to Pure Theory of Law and What is Justice by Hans Kelsen. The indexes provide keys to Kelsen's work, enabling scholars to apply his conceptual and analytical frameworks to new areas of law. The indexes enabled the accompanying paper, Kelsen, the Principle of Exclusion of Contradictions, and General Anti-Avoidance Rules in Tax Law to locate Kelsenian insights and reasoning that shed light on certain opaque features of income tax law.

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[John Prebble QC](#), Victoria University of Wellington - Faculty of Law, Institut für Österreichisches und Internationales Steuerrecht, Wirtschaftsuniversität Wien, University of Notre Dame Australia - School of Law
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A Diachronic Index and Glossary to Hans Kelsen: What Is Justice?

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Kelsen, the Principle of Exclusion of Contradictions, and General Anti-Avoidance Rules in Tax Law

[John Prebble QC](#), Victoria University of Wellington - Faculty of Law, Institut für Österreichisches und Internationales Steuerrecht, Wirtschaftsuniversität Wien, University of Notre Dame Australia - School of Law

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LEGAL SCHOLARSHIP NETWORK: LEGAL STUDIES RESEARCH PAPER SERIES **VICTORIA UNIVERSITY OF WELLINGTON LEGAL RESEARCH PAPERS**

"A Diachronic Index and Glossary to Pure Theory of Law by Hans Kelsen"

Victoria University of Wellington Legal Research Paper No. 139/2017

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Pure Theory of Law is not an analysis of a particular legal order, but is a general theory of positive law. "Positive" law in this context refers to laws that are posited within a legal system, in contrast to laws of

nature or moral norms. Kelsen analyses positive law independently of any political theory or ideology to produce a general science of law. The broad scope and applicability of Pure Theory of Law makes it a valuable source for research and writing across jurisdictions and in almost any area of law. Surprisingly for such a highly regarded and influential book, the English version of Pure Theory of Law has no index. This present index aims to provide scholars with a key to access Pure Theory of Law.

Kelsen's tightly packed generalisations and conceptual arguments, which are intended to apply generally to all laws and legal systems, are not accessible to all readers. The Index attempts to present Kelsen's theories in a manner that enables readers to apply them to any area of law and to take full advantage of Kelsen's wisdom. The authors call their work an "index" because it most closely resembles that literary form. However, the work and its companion, A Diachronic Index and Glossary to [Kelsen's] What is Justice? <http://ssrn.com/abstract=3054394> attempt much more. Each has features of a concordance, and each finds conceptual links between Kelsen's insight and legal institutions and reasoning in areas of law that he never considered. A paper that uses the Indexes to examine such links is Kelsen, the Principle of Exclusion of Contradictions, and General Anti-Avoidance Rules in Tax Law: <http://ssrn.com/abstract=2645423>.

The Indexes are presented on SSRN as PDFs designed to print on A5 stock to make books of approximately 200 pages. The PDFs are searchable electronically. Both works may also be viewed in Microsoft Word Outline View, which offers extra searching options. Readers who would like to search the Indexes in Outline View may obtain Microsoft Word Versions from the first named author.

"A Diachronic Index and Glossary to Hans Kelsen: What Is Justice?"

Victoria University of Wellington Legal Research Paper No. 140/2017

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What is Justice? is a compilation of essays by Hans Kelsen that deal with problems of justice and their relationship to law, philosophy, and science. The broad scope and applicability of What is Justice? makes it a valuable source for research and writing across jurisdictions and in almost any area of law. Access to the English translation of What is Justice? is challenging because the book has no index. This present Index aims to provide scholars with a way in to Kelsen's work.

Kelsen's tightly packed generalisations and conceptual arguments, which are intended to apply generally to all laws and legal systems, are not accessible to all readers. The Index attempts to present Kelsen's theories in a manner that enables readers to apply them to any area of law and to take full advantage of Kelsen's wisdom. The authors call their work an "index" because it most closely resembles that literary form. However, the work and its companion, A Diachronic Index and Glossary to [Kelsen's] Pure Theory of Law? <http://ssrn.com/abstract=3054772> attempt much more. Each has features of a concordance, and each finds conceptual links between Kelsen's insight and legal institutions and reasoning in areas of law that he never considered. A paper that uses the Indexes to examine such links is Kelsen, the Principle of Exclusion of Contradictions, and General Anti-Avoidance Rules in Tax Law: <http://ssrn.com/abstract=2645423>.

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"Kelsen, the Principle of Exclusion of Contradictions, and General Anti-Avoidance Rules in Tax Law"

WU International Taxation Research Paper Series No. 2015-23

Victoria University of Wellington Legal Research Paper No. 141/2017

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Kelsen's huge opus contains little on taxation law. Nevertheless, several of his remarkable insights shed light on certain oddities of income tax law. General anti-avoidance rules, or "GAARs", are an example.

GAARs are generally thought to be necessary; at least, many countries have enacted them in recent decades. But GAARs are subject to extensive criticism for vagueness. The reason is that GAARs override transactions that other parts of tax law permit, but it is difficult to determine which transactions GAARs apply to. Kelsen's discussion of the logical Principle of Exclusion of Contradictions sheds light why this is so and on the fundamental nature of GAARs, which are an unusual form of law by any criterion.

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About this eJournal

Victoria University of Wellington Legal Research Papers Series primarily contains scholarly papers by members of the **Faculty of Law at Victoria University of Wellington**. Some issues collect a number of papers on a similar theme to form a suite of papers on a single topic. Others issues are general or distribute mainly recent work.

The Student/Alumni Series is a subseries of the Victoria University of Wellington Legal Research Paper Series. The subseries started in 2015 and publishes papers by students and alumni of Victoria University of Wellington, comprising primarily work for honours and postgraduate courses. Papers are collected into thematic or general issues.

The Victoria University of Wellington was founded in 1899 to mark the Diamond Jubilee of the reign of Queen Victoria of Great Britain and of the then British Empire. Law teaching started in 1900. The Law Faculty was formally constituted in 1907. The first dean was Richard Maclaurin (1870-1920), an eminent scholar of both law and mathematics. Maclaurin went on to lead the Massachusetts Institute of Technology as President in its formative years. Early professors included Sir John Salmond (1862-1924), still one of the Common Law's leading scholars. His texts on jurisprudence and torts have gone through many editions and remain in print.

Alumni include Sir Robin Cooke (1926-2006), one of the leading judges of the British Commonwealth. As Baron Cooke of Thorndon, he sat on over 100 appeals to the Appellate Committee of the House of Lords, one of very few Commonwealth judges ever appointed to do so.

Since 1996 the Law School has occupied the Old Government Building in central Wellington. Designed by William Clayton and opened in 1876 to house New Zealand's then civil service, the building is a particularly fine example of Italianate neo-Renaissance style. Unusually among large colonial official buildings of the time it is constructed of wood, apart from chimneys and vaults.

The School is close to New Zealand's Parliament, courts, and the headquarters of government departments. Throughout Victoria's history, our law teachers have contributed actively to policy formation and to law reform. As a result, in addition to many scholarly articles and books, the Victoria SSRN pages include a number of official reports.

Victoria graduates approximately 230 LLB and LLB(Hons) students each year, and about 60 LLM students. The faculty has an increasing number of doctoral students. Ordinarily there are ten to twelve students engaged in PhD research.

Victoria University observes the British system of academic ranks. In North American terms, lecturers and senior lecturers are tenured doctrinal scholars, not legal writing teachers. A senior lecturer corresponds approximately to a North American associate professor in rank.

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