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Announcements

Lord Cooke of Thorndon: Collected Papers Part XIV: Human Rights

The Cooke Series forms part of the Victoria University of Wellington Legal Research Paper Series (VUWLRPS). Lord Cooke (1926-2006) was one of New Zealand's most prominent jurists and the first and only New Zealander to sit as a judge in the House of Lords. He was a Distinguished Fellow of the Victoria University of Wellington Law Faculty. The faculty gratefully acknowledges the generous support of the Cooke family for their sponsorship of the series. Lizzie Chan and Tim Cochrane, Wellington solicitors, abstracted and posted Lord Cooke's papers.

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"Fundamentals"

[1988] NZLJ 158

Victoria University of Wellington Legal Research Paper Series, Cooke Paper No. 60/2017

ROBIN COOKE, Victoria University of Wellington - Faculty of Law (Deceased), House of Lords (Deceased)

Email: robincookevuw@gmail.com

This article was originally given as a paper at the first Canada-Australasia Law Conference, held at the Australian National University, Canberra, in April 1988. Sir Robin Cooke begins by discussing the Canadian Supreme Court and a possible Bill of Rights for New Zealand, before tackling the fundamental question of the paper: the function of the courts in relation to Acts of Parliament and whether this is ultimately only a question of interpretation. Along with references to human rights and natural law, Sir Robin draws together a plethora of authorities on this issue. He emphasised that this paper was an attempt to look directly at the subject rather than explore the labyrinth of academic writings. Recent guidance there, leading in different directions, can be found, Sir Robin suggested, in articles by C de Q Walker "Dicey's Dubious Dogma" (1985) 59 ALJ 276 and George Winterton "Extra-Constitutional Notions" (1986) 16 FL Rev 263. He concludes by suggesting the possibility that 'working out truly fundamental rights and duties is ultimately an inescapable judicial responsibility.'

"The British Embracement of Human Rights"

[1999] 3 EHRLR 243

Victoria University of Wellington Legal Research Paper Series, Cooke Paper No. 61/2017

ROBIN COOKE, Victoria University of Wellington - Faculty of Law (Deceased), House of Lords (Deceased)
Email: robincookevuw@gmail.com

This text is a revised version of a lecture delivered by Lord Cooke at a conference on incorporation of the European Convention on Human Rights held at the University of Edinburgh Law School on June 26, 1998. The author compares the Human Rights Act 1998 with the equivalent provisions of the New Zealand Bill of Rights Act 1990 and draws a number of distinctions. He suggests that the interpretative obligation in section 3 is arguably more emphatic in its terms and may authorize courts to adopt a strained construction of legislation in order to achieve compatibility with Convention rights. This will involve something not far short of a "quantum leap" in the courts' approach to statutory construction. The new declaration of incompatibility is identified as a significant advance on the New Zealand legislation, as is the inclusion of an express remedies clause. Lord Cooke suggests that by requiring courts and tribunals to act compatibly with the Convention, the Act will enable Convention rights to be interwoven with the common law. He concludes that effective legal implementation will require a blend of generosity, sensitivity to the spirit of the legislation, and realism.

"A Sketch from the Blue Train - Non-Discrimination and Freedom of Expression: The New Zealand Contribution"

New Zealand Law Journal, Vol. 10, 1994

(1993) 19 Commonwealth Law Bulletin 1782

Victoria University of Wellington Legal Research Paper Series, Cooke Paper No 62/2017

ROBIN COOKE, Victoria University of Wellington - Faculty of Law (Deceased), House of Lords (Deceased)
Email: robincookevuw@gmail.com

This is a revised version of a lecture originally given by Sir Robin at the Sixth Judicial Colloquium on the Domestic Application of International Human Rights Norms, held at Bloemfontein, South Africa, on 3-5 September 1993. Sir Robin discusses the New Zealand approach to freedom of expression and non-discrimination. He first outlines the place of the New Zealand Bill of Rights Act 1990 within New Zealand's constitutional framework. He then assesses New Zealand's approach to freedom of expression under the NZBORA and Bill of Rights 1689, drawing on major decisions concerning media freedom and parliamentary privilege, *TV3 Network Ltd v Eveready New Zealand Ltd* [1993] 3 NZLR 435, *Television New Zealand Ltd v Prebble* [1993] 3 NZLR 513, and the *Spycatcher* litigation reported at [1988] 1 NZLR 129. Sir Robin then analyses New Zealand's approach to anti-discrimination under the NZBORA and the Human Rights Act. He concludes by considering several Treaty of Waitangi cases, in particular *Te Runanga o Wharekauri Rekohu Inc v Attorney-General* [1993] 2 NZLR 301 (the Sealord case), as potential examples of positive discrimination. Abstract written by Tim Cochrane

"Human Rights in Hong Kong"

Lord Cooke "Human Rights in Hong Kong" (1999) 20 VUWLR 45

Victoria University of Wellington Legal Research Paper Series, Cooke Paper No. 63/2017

ROBIN COOKE, Victoria University of Wellington - Faculty of Law (Deceased), House of Lords (Deceased)
Email: robincookevuw@gmail.com

In this address, originally delivered at the New Zealand Institute of International Affairs commemorative seminar celebrating the 50th anniversary of the Universal Declaration of Human Rights, held in April 1998 at Victoria University of Wellington, Lord Cooke discusses the development of human rights legislation in various jurisdictions in which he has sat as a Judge. He first outlines aspects of the proposed United Kingdom Human Rights Act, then before the House of Commons, and

compares this proposed Act with its weaker New Zealand equivalent, the New Zealand Bill of Rights Act 1990. He then favourably discusses "the trend towards internationally-recognised human rights" with reference to Samoa, Fiji, and Hong Kong. He focuses in particular on the Basic Law of Hong Kong and the related Hong Kong Bill of Rights Ordinance 1991, and comments positively on the potential for fusion Hong Kong presents between western and eastern influences. Lord Cooke concludes by recognising Hong Kong as "cogent evidence" that the world is "moving towards a common law of the world."

"The Constitutional Renaissance"

Victoria University of Wellington Legal Research Paper Series, Cooke Paper No. 64/2017

ROBIN COOKE, Victoria University of Wellington - Faculty of Law (Deceased), House of Lords (Deceased)

Email: robincookevuw@gmail.com

This is a paper presented by Sir Robin Cooke on "the astonishing breadth and depth" of the "rise of constitutionalism and, with constitutionalism, human rights" across the world, through a series of examples. He begins with the United Kingdom, commenting on the Human Rights Act 1998, the three devolution Acts of 1998, and the effect of the European Court of Human Rights on English law. Sir Robin then moves beyond Britain to discuss developments in Canada, India, Africa, Hong Kong, Australia, and New Zealand. These include the enactment of the Canadian Charter of Rights and Freedoms, the work of the Indian Supreme Court as the "guardian" of human rights, the development of the South African Constitutional Court following the end of apartheid, and the protection of human rights by the Hong Kong judiciary following the handover of Hong Kong to China. Sir Robin concludes by stating, first, that courts have a "crucial role" in "the protection of minority rights now and in the future" as "one of the elements of democracy" and, secondly, that it is crucial that judges "not be elected". Abstract by Tim Cochrane.

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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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