

**JOEL I. COLÓN-RÍOS, GUEST EDITOR**

Associate Professor, Victoria University of Wellington - Faculty of Law  
[joel.colon-rios@vuw.ac.nz](mailto:joel.colon-rios@vuw.ac.nz)

**NINA OPACIC, ASSISTANT EDITOR**

Victoria University of Wellington - Faculty of Law  
[nina.opacic@live.com](mailto:nina.opacic@live.com)

**JOHN PREBBLE QC, EDITOR**

Professor of Law, Victoria University of Wellington - Faculty of Law, Gastprofessor, Institut für Österreichisches und Internationales Steuerrecht, Wirtschaftsuniversität Wien, Adjunct Professor of Law, University of Notre Dame Australia - School of Law  
[john.prebble@vuw.ac.nz](mailto:john.prebble@vuw.ac.nz)

[Browse ALL abstracts for this journal](#)

**Links:** [Subscribe ~ Unsubscribe](#) | [Distribution](#) | [Network Directors](#) | [Submit ~ Revise Your Papers](#)

## Announcements

### Lord Cooke of Thorndon: Collected Papers Part XV: Alternative Dispute Resolution

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.

## Table of Contents

### ■ Finality

[Robin Cooke](#), Victoria University of Wellington - Faculty of Law (Deceased), House of Lords (Deceased)

### ■ Party Autonomy

[Robin Cooke](#), Victoria University of Wellington - Faculty of Law (Deceased), House of Lords (Deceased)

[^top](#)

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

### ■ "Finality"

*Inaugural Conference Wellington 2-4 September 1988*

*Victoria University of Wellington Legal Research Paper Series, Cooke Paper No. 65/2017*

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

This paper comprises the notes of a speech given by Sir Robin Cooke at the inaugural conference of the Arbitrators' Institute of New Zealand Inc in Wellington in September 1988. He begins by outlining the New Zealand legislation on arbitration, then contained in the Arbitration Act 1908 and an Amendment Act of 1938. He then provides a "run through" of the thirteen reported decisions on arbitration that had at that point come before the permanent Court of Appeal. He then reports on two patterns emerging from these cases. First, Sir Robin records that the Court of Appeal (then) had a tendency to uphold arbitration and support the finality of awards whenever reasonably possible. Secondly, he comments on the fashion for arbitral law reform, noting the movement towards uniformity in this area of law internationally, and putting forward an argument that adoption of the

Uncitral Model Law might attract "arbitrations with transnational elements, particularly from Pacific rim countries". Sir Robin then states his strong support for arbitration, and suggests that arbitration decisions should only be appealable one, perhaps straight to the Court of Appeal but "certainly by leave only and possibly confined to substantial points of law". He concludes with a discussion of two cases that he believes emphasised the "right modern approach to arbitration", *Queensland Electricity Generating Board v New Hope Collieries* [1984] UKPC 39; and *Attorney-General v Barker Bros Ltd* [1976] 2 NZLR 495 (CA).

## "Party Autonomy"

(1991) 30 VUWLR 257

*Victoria University of Wellington Legal Research Paper Series, Cooke Paper No. 66/2017*

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

Email: [robincookevuw@gmail.com](mailto:robincookevuw@gmail.com)

This article is an augmented version of a paper delivered by Lord Cooke at the International Centre for Alternative Dispute Resolution in New Delhi on 12 and 13 December 1998. In it, Lord Cooke outlines the important concept of party autonomy in arbitration law in the context of Indian, British, and New Zealand frameworks. Party autonomy is the ability of parties in arbitration to select the rules for resolving their dispute. He discusses the concept with particular reference to the ability of parties and arbitrators to select as the substantive law governing their arbitration a system of principles not being part of any specific national system of law. He focuses especially on the development of a "lex mercatoria", which is a body of internationally applicable principles that have emerged as a result of the internationalisation of commerce, which in turn has been accompanied by the growth of international arbitration. Abstract by Elizabeth Chan

[^top](#)

---

## 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.

## Submissions

To submit your research to SSRN, sign in to the [SSRN User Headquarters](#), click the My Papers link on left menu and then the Start New Submission button at top of page.

## Distribution Services

If your organization is interested in increasing readership for its research by starting a Research Paper Series, or sponsoring a Subject Matter eJournal, please email: [RPS@SSRN.com](mailto:RPS@SSRN.com)

## Distributed by

Legal Scholarship Network (LSN), a division of Social Science Electronic Publishing (SSEP) and Social Science Research Network (SSRN)

## Directors

LAW SCHOOL RESEARCH PAPERS - LEGAL STUDIES

BERNARD S. BLACK

Northwestern University - Pritzker School of Law, Northwestern University - Kellogg School of Management, European Corporate Governance Institute (ECGI)

Email: [bblack@northwestern.edu](mailto:bblack@northwestern.edu)

RONALD J. GILSON

Stanford Law School, Columbia Law School, European Corporate Governance Institute (ECGI)

Email: [rgilson@leland.stanford.edu](mailto:rgilson@leland.stanford.edu)

Please contact us at the above addresses with your comments, questions or suggestions for LSN-LEG.

[^top](#)

**Links:** [Subscribe to Journal](#) | [Unsubscribe from Journal](#) | [Join Site Subscription](#) | [Financial Hardship](#)

## Subscription Management

You can change your journal subscriptions by logging into [SSRN User HQ](#). If you have questions or problems with this process, please email [Support@SSRN.com](mailto:Support@SSRN.com) or call 877-SSRNHelp (877.777.6435 or 585.442.8170). Outside of the United States, call 00+1+585+4428170.

## Site Subscription Membership

Many university departments and other institutions have purchased site subscriptions covering all of the eJournals in a particular network. If you want to subscribe to any of the SSRN eJournals, you may be able to do so without charge by first checking to see if your institution currently has a site subscription.

To do this please click on any of the following URLs. Instructions for joining the site are included on these pages.

[Accounting Research Network](#)

[Cognitive Science Network](#)

[Corporate Governance Network](#)

[Economics Research Network](#)

[Entrepreneurship Research & Policy Network](#)

[Financial Economics Network](#)

[Health Economics Network](#)

**Information Systems & eBusiness Network**

**Legal Scholarship Network**

**Management Research Network**

**Political Science Network**

**Social Insurance Research Network**

**Classics Research Network**

**English & American Literature Research Network**

**Philosophy Research Network**

If your institution or department is not listed as a site, we would be happy to work with you to set one up. Please contact [site@ssrn.com](mailto:site@ssrn.com) for more information.

### **Individual Membership (for those not covered by a site subscription)**

Join a site subscription, request a trial subscription, or purchase a subscription within the SSRN User Headquarters: <https://hq.ssrn.com/Subscriptions.cfm>

### **Financial Hardship**

If you are undergoing financial hardship and believe you cannot pay for an eJournal, please send a detailed explanation to [Subscribe@SSRN.com](mailto:Subscribe@SSRN.com)

[^top](#)

---

To ensure delivery of this eJournal, please add **LSN@publish.ssrn.com (Prebble/Opacic)** to your email contact list. If you are missing an issue or are having any problems with your subscription, please Email [Support@ssrn.com](mailto:Support@ssrn.com) or call 877-SSRNHELP (877.777.6435 or 585.442.8170).

### **FORWARDING & REDISTRIBUTION**

Subscriptions to the journal are for single users. You may forward a particular eJournal issue, or an excerpt from an issue, to an individual or individuals who might be interested in it. It is a violation of copyright to redistribute this eJournal on a recurring basis to another person or persons, without the permission of Social Science Electronic Publishing, Inc. For information about individual subscriptions and site subscriptions, please contact us at [Site@SSRN.com](mailto:Site@SSRN.com)

[^top](#)

Copyright © 2017 Elsevier, Inc. All Rights Reserved