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VICTORIA UNIVERSITY OF WELLINGTON LEGAL RESEARCH PAPERS

Vol. 7, No. 38: Nov 16, 2017

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Announcements

Sir Kenneth Keith: Collected Papers Part IV: International Law - Law of Treaties

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

"New Zealand Treaty Practice: The Executive and the Legislature"

(1964) 1 NZULR 272
Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 12/2017

KENNETH J. KEITH, Victoria University of Wellington - Faculty of Law, Victoria University of Wellington - Faculty of Law
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This article is primarily concerned with the role played by the executive and the legislature in making and implementing international treaties in New Zealand. Kenneth Keith considers various issues relevant to this topic, starting with the process for signing treaties and entering into agreements. He outlines several exceptions to the general rule that the executive has unlimited power to enter into treaties, discussing the role of the legislature in treaty making and the constitutional convention that Parliament has the right to debate the question of acceptance of important treaties. This leads to a consideration of which treaties are deemed "important" and who decides this. In the final part of the article, the author considers the various methods of giving legislative effect to international treaties, weighing the advantages and disadvantages of each.

Abstract by Juliet Bull.

"State Succession to Treaties in the Commonwealth: Two Replies"

(1964) 13 ICLQ 1441
Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 13/2017

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In his 1963 article, A. P. Lester contended that newly independent States commence life with a "clean slate" so far as treaty obligations are concerned. In this reply, Kenneth Keith suggests that Mr. Lester's argument is not supported by recent practice. He does not argue that newly independent States succeed to all treaties to which the parent State was a party; instead Keith asserts that it is not possible to adopt an "all or nothing" answer to the question. The author considers recent state practice under various heads, illustrating that there is no single answer to the question of State succession to treaties.

"Succession to Bilateral Treaties by Seceding States"

(1967) 61 AJIL 521
Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 14/2017

KENNETH J. KEITH, Victoria University of Wellington - Faculty of Law, Victoria University of Wellington - Faculty of Law
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The conventional view is that new states start life unencumbered by the treaties which applied to their territories before independence. This article tests that view by reviewing some recent practice relevant to succession to bilateral treaties. The author considers the exercise of treaty-making powers by dependent territories and their practices relating to those treaties after independence. The second section outlines practice relevant to treaties which are not reciprocal in effect and which confer continuing benefits on formerly dependent territories. Thirdly, the author discusses practice relevant to different types of bilateral treaties which are of reciprocal effect. This shows that in fact new states often succeed to treaties. In the final sections, the author argues that this succession is required, in many instances, by customary international law.

"Treaties and Legislation"

(1970) 19 ICLQ 127
Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 15/2017

KENNETH J. KEITH, Victoria University of Wellington - Faculty of Law, Victoria University of Wellington - Faculty of Law
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This article discusses some of the issues concerning the implementation of international treaties into domestic legislation. It does so by examining in detail the decision Corocraft Ltd v Pan American Airways Inc, a case which concerned the interpretation of the Warsaw Convention on Carriage by Air and the domestic legislation which implemented that Treaty. It considers in particular the purpose of the Warsaw Convention and the relevance of a treaty's purpose to interpretation of its implementing legislation.

"Succession to Treaties by Newly Independent States"

In Jean G Zorn and Peter Bayne (eds) Foreign Investment, International Law and National Development: Papers presented at the Seventh Waigani Seminar (Butterworths, Sydney, 1975) 8.
Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 16/2017

KENNETH J. KEITH, Victoria University of Wellington - Faculty of Law, Victoria University of Wellington - Faculty of Law
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Among the many issues facing newly independent states is the attitude that they should adopt towards the treaties that became applicable to their territory before independence. That issue is the focus of this paper. Taking Papua New Guinea as an example, the author first briefly describes the range of treaties usually applicable to a state about to become independent. He then looks at the current views of the law and current state practice. The traditional rule that succeeding states start life with a "clean slate" so far as treaty obligations are concerned is not wholly supported by state practice. The author therefore concludes by outlining the various factors that can be used, in a highly contextual analysis, to determine whether treaties will continue to apply after independence.

"Bilateralism and Community in Treaty Law and Practice – From Warriors, Workers and (Hook-) Worms"

Ulrich Fastenrath, Rudolf Geiger, Daniel-Erasmus Khan, Andreas Paulus, Sabine von Schorlemer and Christoph Vedder (eds) From Bilateralism to Community Interest: Essays in Honour of Bruno Simma (Oxford University Press, Oxford, 2011) 754
Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 17/2017

KENNETH J. KEITH, Victoria University of Wellington - Faculty of Law, Victoria University of Wellington - Faculty of Law
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This chapter tests the strength of Judge Bruno Simma's thesis – that community interest must have an increasingly prominent role in international law – by reference to three different areas of international regulation, namely armed conflict, labour and epidemics. The author considers the principles underlying the law in each of these three areas; the processes for the preparation of the law and its coming into force; its application, interpretation and implementation; and withdrawal from it. While the legal regimes in each area have a treaty base, it is argued that they may not be usefully considered in purely contractual or transactional, bilateral and private interest terms which emphasise the reciprocal interests of the State parties. Ideas of public good and public interest, legislation, administration, adjudication, and constitutionalisation are also required. The chapter undertakes the examination by reference to the Vienna Convention on the Law of Treaties, a text of fundamental authority which extends far beyond its formal reach.

"Aspects of the Law of Treaties"

in Cedric Ryngaert, Erik J Molenaar and Sarah MH Nouwen (eds) What's Wrong with International Law? (Brill Nijhoff, Leiden, 2015) 265
Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 18/2017

KENNETH J. KEITH, Victoria University of Wellington - Faculty of Law, Victoria University of Wellington - Faculty of Law
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This paper considers whether some present day scholarship on the law of treaties sufficiently takes into account the diversity of functions and legal character of instruments referred to under the term "treaty". The author draws on and highlights the continuing value of Arnold McNair's scholarship in this area. McNair contrasted the internal laws of the modern state, which offer legal instruments of marked variety, with the assumption that transactions at international law can be governed solely by treaties under rules of universal or general application.

The author considers the question by reference to state practice and judicial decisions relating to different categories of treaties. He focuses particularly on the preparation of the Vienna Convention on the Law of Treaties 1969, which recognises the existence of different categories and functions of treaties and of the consequences of those differences. This discussion suggests the need for further scholarship which sees the value of drawing on relevant national experience.

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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 Massachussetts 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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