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Announcements

Sir Kenneth Keith: Collected Papers Part V: Legal Method, Including Law Reform Part Two

The Keith Papers collect some of the work of Sir Kenneth Keith. He studied law at the University of Auckland, Victoria University of Wellington and Harvard Law School. He was a member of the legal divisions of the Department of External Affairs and the United Nations, a law teacher at VUW, to which he has returned as professor emeritus, a member and president of the New Zealand Law Commission, a judge of appeal in various Pacific courts, an international arbitrator and a judge of the New Zealand Court of Appeal and Supreme Court and the International Court of Justice.

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KENNETH J. KEITH, Victoria University of Wellington - Faculty of Law, Victoria University of Wellington - Faculty of Law

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Sir Kenneth Keith explains the role of the Legislation Advisory Committee in the New Zealand legislative process, and discusses whether the Committee has brought about improvements of process and the greater recognition and implementation of principle in legislation. While the answer to this can depend heavily on political judgments, the author discusses the substance of legislation without considering the merits of particular policies. He does so by reference to three questions: is the legislation necessary as a matter of law? Does the legislation give effect to the policy of the Government? And does the legislation conform with approved principles? The Committee's contribution is particularly significant when seen within the wider context of major government reform and constitutional change taking place at this time.

Abstract by Juliet Bull

"Philosophies of Law Reform"

Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 23/2018

KENNETH J. KEITH, Victoria University of Wellington - Faculty of Law, Victoria University of Wellington - Faculty of Law

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In this lecture, given in memory of Professor Frank Guest, Sir Kenneth Keith considers four questions essential to law reform. First, what is the question? The author reminds us that law reform matters must be seen steadily and whole. He gives several examples showing the importance of getting the content of the question right. Secondly, what are the facts? The author mentions important aspects of the facts which were relevant to three Law Commission inquiries. Thirdly, who should reform the law, and how? This section emphasises two important choices, between the various bodies which clarify and develop the law, and between the processes followed within each of those bodies. And fourthly, by reference to what principles? Here the author gives two illustrations of the relevance and use of principle, discussing the Employment Contracts Bill and the principle against retrospective law-making.

Abstract by Juliet Bull

"Piracy and Other Perils: Can the Law Cope?"

Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 24/2018

KENNETH J. KEITH, Victoria University of Wellington - Faculty of Law, Victoria University of Wellington - Faculty of Law

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The article begins with several facts about present day piracy at sea, emphasising that piracy is a real and current problem. Sir Kenneth Keith then considers aspects of the substantive law of piracy with the purpose not just of description but also for reasons of legal method – to see how the law has developed, how it is enforced, how it is written, and its extension by analogy. This includes consideration of treaty making, state practice, litigation and national legislative processes. In particular the author discusses the United Nations Convention on the Law of the Sea and three problems arising from it. Finally the author asks what the developments mean for our constitution and law making systems and for our understanding of them.

"Policy and Law: Politicians and Judges (and Poets)"

Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 25/2018

KENNETH J. KEITH, Victoria University of Wellington - Faculty of Law, Victoria University of Wellington - Faculty of Law

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This chapter broadly considers the different ways in which the law is made and how the policy of the law is determined and developed. Sir Kenneth Keith considers not just law-making by Parliament and the courts but also contends that our view of the range of ways the law is made is too constricted, both in terms of formal sources and less formal ones. His discussion refers to the separation of powers and to the balance between the institutions which exercise public power. The author's examples emphasise the duty to help those in danger or need, including in particular aspects of the responsibility of the state to provide health care, and the law on the use of nuclear weapons.

"Sources of Law, Especially in Statutory Interpretation, with Suggestions About Distinctiveness"

Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 26/2018

KENNETH J. KEITH, Victoria University of Wellington - Faculty of Law, Victoria University of Wellington - Faculty of Law
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This essay begins by referring to understandings about sources of law that some students and junior lawyers might have had forty years ago. Looking back in this way helps us to understand recent attitudes towards judicial method and to assess changes over the intervening period. The main parts of this essay consider aspects of the sources used, first, in administrative law cases and, second, in other New Zealand statutory interpretation cases. The author emphasises legislation because of its centrality in our law and because of the tendency to neglect it. This discussion provides a basis for some comments about distinctiveness.

"The Commissions' Work and the Shaping of International Law"

Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 27/2018

KENNETH J. KEITH, Victoria University of Wellington - Faculty of Law, Victoria University of Wellington - Faculty of Law
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This text was presented as part of an October 1997 Colloquium in New York and concerns the ways in which the work of the International Law Commission may contribute to the shaping of international law. Within this broad topic, Sir Kenneth Keith discusses four main issues. First, he considers the changing context within which the Commission conducts its work. Secondly, he offers some examples of how the Commission has shaped the law, more specifically the law in action, as opposed to the law as it is found in the books. Thirdly, the author considers the forms which the Commission's work should take in order to enhance its impact on the international legal order. Fourthly, he makes some brief suggestions as to how the Commission's work might be made more relevant and its accessibility improved. This is followed by a presentation from Professor Huang Huikang and a panel discussion.

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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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