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## Announcements

Collected Papers by the Right Honourable Sir Ivor Richardson  
Part XVI Constitutional law and private law aspects of Federal employment in the United States and Crown employment in the United Kingdom and selected Commonwealth jurisdictions.

The Richardson Series collects the papers of the Right Honourable Sir Ivor Richardson, Distinguished Fellow of the Victoria University of Wellington Law Faculty. The Faculty gratefully acknowledges the sponsorship of the New Zealand Branch of the International Fiscal Association, whose generosity funds the Richardson Series.

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

**"New Zealand's Legal Identity"** 

*New Zealand Law Journal*, p. 314, 1987

*Victoria University of Wellington Legal Research Paper Series Palmer Paper No. 25*

**SIR GEOFFREY PALMER QC**, Victoria University of Wellington

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The closing session of the Conference was addressed by His Honour the Chief Justice, the Attorney-General, and Mr Robert Alexander QC. Unfortunately the remarks of the Chief Justice surveying the programme of the Conference were not recorded and cannot therefore be published. The address by the Attorney-General is published below.

## "The Treaty of Waitangi - Principles for Crown Action"

19 *Victoria University of Wellington Law Review* 335, 1989

*Victoria University of Wellington Legal Research Paper Series Palmer Paper No. 26*

**SIR GEOFFREY PALMER QC**, Victoria University of Wellington

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This address was originally presented at the AULSA Conference on 7 July 1989. It elaborates on the five principles established as the policy guidelines for dealing with issues relating to the Treaty of Waitangi. The Waitangi Tribunal is empowered to make recommendations to the Government following inquiry. Its jurisdiction has been extended to consider claims back to the date the Treaty was signed. It has done some outstanding work and its reports have been regarded as scholarly and authoritative. It has produced a dozen major reports, a number of which have received Government action although there are still a number awaiting attention. The public attention concerning these facts, however, is confused and uncertain. Partly this is because it is not clear what the document means. Some of the scholarship surrounding the Treaty is highly suspect, fuelled by political motivation rather than detached analysis, and much misleading information has been conveyed by the media. This has had two effects. It has raised public fears about what the Treaty can bring about. And it has raised Maori expectations about what may be achieved under it for Maori. Both impressions are exaggerated, distorted and unfortunate.

The address discusses the *New Zealand Maori Council v Attorney-General* decision regarding the State-Owned Enterprises Act, viewing it as one of the most important decisions that any New Zealand court has ever made. The Government has had to find, in relation to the Treaty, a place to stand. It has agreed upon a series of principles for Crown action which are aimed to dispel doubt and remove confusion. More importantly, they will give Government Departments and agencies a clean set of policy guidelines about how to approach Treaty issues. It provides a clear articulation of the Crown's responsibilities and a clear delimitation of the Crown's obligations. These principles will guide the Crown's activity in dealing with issues which arise out of the Treaty of Waitangi in New Zealand.

The five principles are: The Principle of Government or Kawanatanga; the Principle of Self-Management, or Rangatiratanga; the Principle of Equality; the Principle of Reasonable Co-operation; and the Principle of Redress. The address considers each principle and discusses where it has been drawn from in the Treaty, its meaning and the implications of such a principle. As the whole picture of this complex matter becomes clear to New Zealand the country will see that this is an issue that can be dealt with calmly and rationally. Moreover they will see that there are no hidden traps and that this is a process from which we can all emerge winners.

## "The Treaty of Waitangi - Where to from here?"

11 *Otago Law Review* 381, 2007

*Victoria University of Wellington Legal Research Paper Series Palmer Paper No. 27*

**SIR GEOFFREY PALMER QC**, Victoria University of Wellington

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The Treaty of Waitangi is a literature of some distinction, unique to New Zealand, and has developed jurisprudence of near Byzantine complexity. This paper attempts to provide an overview of where the New Zealand policy position is now located in relation to the Treaty of Waitangi and where it might lead in future. It considers the development of Treaty policy from 1975 with the establishment of the Waitangi Tribunal. Much was developed in the decade from 1985 to 1996, most of it controversial. But while New Zealand cannot go back, in 2006 there appears to be so much controversy and so little widespread will that going forward may be impossible.

The paper considers the current legal position, finding that the Treaty is half in and half out of the legal system. It discusses the legal difficulties created due to interpretative ambiguities both in the Treaty itself and in the differences between the English and Maori versions. It mentions the complicating factor of aboriginal customary rights, a legal doctrine which consumed New Zealand in the foreshore and seabed saga. This doctrine, strictly speaking, is not part of the Treaty debate at all despite contributing considerably to the unfavourable atmosphere now pervading Treaty issues.

The question remains: what is to be done? This paper suggests that at present nothing ought to be done. Once historical grievances are dealt with and there has been a pause for reflection, consultation, analysis and reconsideration, New Zealand will be better equipped to move forward and bring more constitutional and legal clarity to the Treaty's position. The economic, social and cultural position of both Maori and Pakeha must also be assessed. The scholarly community has much to contribute in the form of developing ideas and policy options outside political and governmental frameworks.

## "Māori, the Treaty and the Constitution"

*Māori Law Review*, June 2013

*Victoria University of Wellington Legal Research Paper Series Palmer Paper No. 28*

**SIR GEOFFREY PALMER QC**, Victoria University of Wellington

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This paper by the Right Honourable Sir Geoffrey Palmer QC, "Māori, the Treaty and the Constitution", was delivered to the Māori Law Review symposium on the Treaty of Waitangi and the constitution, held on 12 June 2013.

This paper is an edited extract from Sir Geoffrey's book "Reform: A Memoir" (Victoria University Press, Wellington, 2013).

## About this eJournal

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 Judicial 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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