

ALLEGRA CRAWFORD, ASSISTANT EDITOR

Research Assistant, Victoria University of Wellington School of Law
allegra.crawford@vuw.ac.nz

LAURA LINCOLN, ASSISTANT EDITOR

Research Assistant, Victoria University of Wellington School of Law
laura.lincoln@vuw.ac.nz

JOHN PREBBLE, EDITOR

Professor of Law, Victoria University of Wellington - Faculty of Law, Adjunct Senior
Research Fellow, Monash University, Gastprofessor, Institut für Österreichisches
und Internationales Steuerrecht, Wirtschaftsuniversität Wien
john.prebble@vuw.ac.nz

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Part XX Employment Cases in the Court of Appeal

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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Myth or Reality: Employment Law Cases in the Court of Appeal

Ivor Richardson, Victoria University of Wellington - Faculty of Law

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"Myth or Reality: Employment Law Cases in the Court of Appeal"

Employment Law Institute, Wellington, 20 August 1999

Victoria University of Wellington Legal Research Paper Series Richardson Paper No. 98

IVOR RICHARDSON, Victoria University of Wellington - Faculty of Law

Email: richardsons@xtra.co.nz

In an earlier article, The role of the courts in industrial relations, written in 1987, Sir Ivor Richardson examined the role of the High Court and the Court of Appeal in industrial relations in the context of the soon-to-be enacted Labour Relations Act 1987. In this article, written 12 years later, Sir Ivor discusses the approach of the Court of Appeal under the Employment Contracts Act 1991 and the myths about the Court's approach that emerged in the first eight years following the legislation's enactment. Through a discussion of the decisions that have been the subject of critical commentaries, Sir Ivor considers the validity of the myths and offers another perspective on the approach of the Court of Appeal.

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

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RONALD J. GILSON

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

Email: rgilson@leland.stanford.edu

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