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## Announcements

Collected Papers by the Right Honourable Sir Geoffrey Palmer QC Part XIX: General Issue

The Palmer Series collects the papers of the Right Honourable Sir Geoffrey Palmer QC, Distinguished Fellow of the Victoria University of Wellington Law Faculty. The Palmer series is sponsored by an anonymous donor whom the Faculty gratefully acknowledges.

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

### **"The Admissibility of Judgments in Subsequent Proceedings"**

*3 New Zealand Universities Law Review 142, 1968*

*Victoria University of Wellington Legal Research Paper Series Palmer Paper No. 84/2015*

**SIR GEOFFREY PALMER QC**, Victoria University of Wellington - Faculty of Law

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This article critically examines aspects of the law relating to the admissibility of judgments in subsequent proceedings, with special reference to decisions of courts in the United States, the United Kingdom and New Zealand.

### **"The Judiciary as an Institution"**

*46 Victoria University of Wellington Law Review 257, 2015*

*Victoria University of Wellington Legal Research Paper Series Palmer Paper No. 85/2015*

**SIR GEOFFREY PALMER QC**, Victoria University of Wellington - Faculty of Law

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This issue of the Victoria University of Wellington Law Review contains a symposium of student work on the judiciary. This introductory article sets out the circumstances surrounding the preparation of the

articles and the course of instruction that preceded them. It also sets out the constitutional background relation to the New Zealand judiciary and introduces the articles themselves. It refers to some changes contained in the Judicature Modernisation Bill that was nearing the end of its parliamentary passage when editing of this symposium was completed.

## "Westco Lagan v Attorney-General"

*New Zealand Law Journal* 163, 2001

*Victoria University of Wellington Legal Research Paper Series Palmer Paper No. 86/2015*

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The case *Westco Lagan Ltd. v. Attorney-General* [2001] 1 NZLR 40 (HC) contains as rich a mixture of constitutional issues as it is possible to assemble in a single case in a country with an unwritten constitution. In these remarks the author concentrates upon the property aspects of the decision and considers legal approaches to property and the law. The issue of alleged government interference with property rights arises surprisingly frequently in New Zealand public law, in a number of different contexts involving government regulatory activity. It is a recognised principle that the state should not appropriate private property for a public purpose without just compensation. But that is only one very clear form of expropriation; issues arise on many occasions outside the context of the compulsory taking of land for public purposes. The transaction costs involved in arguing about property rights and expropriation are quite considerable where there are no plain ascertainable principles.

The article briefly explains the facts of *Westco Lagan v. Attorney-General* before turning to the arguments put forward and the outcome of the case. An argument was made based on the Magna Carta that the provision in the disputed Bill denying liability to pay compensation was inconsistent with the terms and principles of the Magna Carta. It was an expropriation of property rights otherwise than in accordance with the law of the land. This argument, along with others based on the Bill of Rights Act, was unsuccessful; the Judge held that Parliament can pass any legislation it sees fit and in particular, Parliament can enact laws expropriating property without compensation. From the perspective of the author, the decision is, though not adventuresome, in accordance with the orthodox understanding of existing law.

The author then turns to the second part of discussion, asking if it is up to Parliament to give and take away rights and to provide compensation, what did Parliament do about it or say about it? Though there was mention of private property rights during the readings of the Bill in Parliament, it cannot be said that property rights points were extensively pursued, nor were they pursued with any great detail. The paper discusses protection for private property in the Bill of Rights Act and in common law, noting that the absence of express protection for private property rights in New Zealand's constitutional documents does not preclude the protection of those rights under common law. It also considers international law protections including the ICCPR and the Universal Declaration of Human Rights, as well as other matters such as the institution of property itself, the Treaty of Waitangi, and political considerations. Arguments in favour of constitutional protection for property must be balanced against competing arguments for the protection of interests other than those of private enterprise.

In New Zealand, absent any statutory obligation, the principle of no state appropriation without just compensation is one that must be honoured by the executive and by Parliament. It cannot be implemented by the Courts. But the relative indifference of Parliament to what must be regarded as an important principle is of concern. A statute which adequately addressed the values and provided a mechanism for resolution would not be a simple undertaking to construct. Nor would it protect against future Parliamentary derogation in the form of fresh statutes. But something better than ordinary political debate is required so that the issues are at least properly considered. The matters at stake are worrying and they need to be addressed in some systematic manner. New Zealand needs a better and more principled way of identifying and dealing with these issues.

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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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