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## **Announcements**

### **Lord Cooke of Thorndon: Collected Papers Part VII: Administrative Law**

The Cooke Series forms part of the Victoria University of Wellington Legal Research Paper Series (VUWLRPS). Lord Cooke (1926-2006) was one of New Zealand's most prominent jurists and the first and only New Zealander to sit as a judge in the House of Lords. He was a Distinguished Fellow of the Victoria University of Wellington Law Faculty. The faculty gratefully acknowledges the generous support of the Cooke family for their sponsorship of the series. Lizzie Chan and Tim Cochrane, Wellington solicitors, abstracted and posted Lord Cooke's papers.

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## "Administrative Law - Natural Justice - Right to a Hearing"

[1954] CLJ 14

Victoria University of Wellington Legal Research Paper Series, Cooke Paper No. 29/2016

**ROBIN COOKE**, Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords  
Email: robincookevuw@gmail.com

In this article, Robin Cooke discusses when the administrative law duty to provide a hearing to persons likely to be prejudicially affected arises. He discusses this duty, also known as the rule audi alteram partem, in light of *R v Metropolitan Police Commissioner* [1953] 1 WLR 1150 (QB). He compares the "form over substance" approach adopted by Lord Chief Justice Goddard with the approach of the New Zealand Court of Appeal in *New Zealand Dairy Board v Okitu Dairy Co Ltd* [1953] NZLR 366 (CA). After providing three caveats to his advice, Mr Cooke draws from these and other cases seven factors indicating that a right to a hearing should be implied. Abstract by Tim Cochrane.

## "Fairness"

(1989) 19 VUWLR 421

Victoria University of Wellington Legal Research Paper Series, Cooke Paper No. 30/2016

**ROBIN COOKE**, Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords  
Email: robincookevuw@gmail.com

This speech was delivered on 10 July 1989. In it Sir Robin reviews recent decisions of the Court of Appeal in the fields of the Treaty of Waitangi, administrative law, employment law and constructive trusts with an eye to the weight given to the idea of fairness in New Zealand jurisprudence. Sir Robin argues that the ideal of fairness and a sense of what it requires should be a guiding force in the development of the law. He rejects the argument that the criterion of fairness produces more uncertainty than a technical approach to deciding hard cases. Indeed, Sir Robin argues that where the law produces a result that is not fair, the law has failed. Abstract by Elizabeth Chan.

## "Launch of New Zealand Constitutional and Administrative Law (2nd Ed)"

Victoria University of Wellington Legal Research Paper Series, Cooke Paper No. 31/2016

**ROBIN COOKE**, Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords  
Email: robincookevuw@gmail.com

These are the notes for Lord Cooke's speech at the launch of Philip Joseph's second edition of *Constitutional and Administrative Law in New Zealand* at the Grand Hall of Parliament in Wellington on 10 October 2001. Lord Cooke begins by commenting on his surroundings, and the events of the recent week (noting that a re-shuffle of the New Zealand Cabinet has just taken place). He then discusses developments in the second edition, including New Zealand's adoption of the Mixed Member Proportional voting system and the rise of constitutional review, as well as hinting at a "new confidence" in the author himself. Lord Cooke then muses on "the best legal text book ever written," commenting fondly on several great legal authors. Lord Cooke concludes by commending Philip Joseph's second edition as "unifying but balanced." Abstract by Tim Cochrane.

## "Administrative Law: The Vanishing Sphinx"

[1975] NZLJ 529

Victoria University of Wellington Legal Research Paper Series, Cooke Paper No. 32/2016

**ROBIN COOKE**, Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords  
Email: robincookevuw@gmail.com

In this article, Mr Cooke discusses administrative law as an evolving area of law. He begins by identifying key English, Australian, and New Zealand texts on administrative law. He then discusses two major decisions on substantive administrative law in the House of Lords, *Animisnic Ltd v Foreign Compensation Commission* [1969] 1 All ER 208 (HL) and *Padfield v Minister of Agriculture* [1968] 1 All ER 694 (HL), as well as discussing developments in procedural administrative law. Lastly, he outlines some institutional/statutory aspects of administrative law, including the possible extension of the Ombudsman's functions, the establishment of the Administrative Division of the (then) Supreme Court, the enactment of the Judicature Amendment Act 1972, and the work of statutory tribunals. Abstract by Elizabeth Chan.

## "The Discretionary Heart of Administrative Law"

Robin Cooke "The Discretionary Heart of Administrative Law" in Christopher Forsyth and Ivan Hare (eds) *The Golden Metwand and the Crooked Cord: Essays in Honour of Sir William Wade QC* (Clarendon Press,

**ROBIN COOKE**, Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords  
Email: robincookevuw@gmail.com

This chapter argues that administrative law is so much occupied with defining the boundaries of discretion when the substance of decisions is under review that it would not be inappropriate to give it an alternative name of the law of public discretions. Likewise, the requirements of natural justice and legitimate expectations may be seen as boundaries of different kinds, superimposed by the courts to supplement or qualify the bare bones of generally-worded discretions. And just as the subject-matter of judicial decisions in the whole field is essentially the scope of discretions, so the remedies which the courts may grant are very largely discretionary.

### "The Struggle for Simplicity in Administrative Law"

Michael Taggart (ed) *Judicial Review of Administrative Action in the 1980s: Problems and Prospects* (Oxford University Press: Auckland, 1986).

Victoria University of Wellington Legal Research Paper Series, Cooke Paper No. 34/2016

**ROBIN COOKE**, Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords  
Email: robincookevuw@gmail.com

This is a revised version of a paper presented on 20 February 1986 by Sir Robin Cooke on administrative law. Sir Robin draws on more than 35 years of experience in the field to articulate what he considers to be a more "simple" approach to understanding administrative law. He begins with some warnings, cautioning counsel against the following: relying on extra-judicial comments by the judiciary (especially out of context), a dogmatic labelling of particular legal issues as being either "public" or "private", and the use of obscure complications of principle. He then explains that the essential function of judicial review is to ensure that decision-makers act in accordance with the law, fairly and reasonably. Sir Robin then discusses each of these three heads, noting that they overlap. In doing so, he draws on cases, including *Northumberland* [1952] 1 KB 338, *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* [1948] 1 KB 223 (CA), and *Bromley London Borough Council v Greater London Council* [1983] 1 AC 768.

Abstract by Tim Cochrane

### "The Swing of the Pendulum"

Victoria University of Wellington Legal Research Paper Series, Cooke Paper No. 35/2016

**ROBIN COOKE**, Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords  
Email: robincookevuw@gmail.com

This paper comprises notes for an address delivered by Lord Cooke at the Administrative Law Conference in Wellington on 25 March 1998. In it, Lord Cooke discusses changing trends in judicial review in jurisdictions beyond New Zealand. He begins by outlining general principles relating to judicial review, then considers recent cases in Samoa, Fiji, Hong Kong, and the United Kingdom. In this discussion, Lord Cooke comments on the operation of the (then) new Court of Final Appeal in Hong Kong. He also notes *R v Secretary of State for the Home Department, ex parte Fayed* [1997] 1 All ER 228 (CA), described by Lord Cooke as "a triumph for the principle of fairness", and outlines the content of a recent text by Christopher Forsyth and Ivan Hare, *The Golden Metwand and the Crooked Cord: Essays on Public Law in Honour of Sir William Wade QC* (Clarendon Press, Oxford, 1998), a collection of essays on public law. He closes by commenting favourably on the recognition of a common law duty to give reasons for administrative decisions, drawing on two essays from this text. Abstract by Tim Cochrane.

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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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