

JOEL I. COLÓN-RÍOS, GUEST EDITOR

Senior Lecturer in Law, Victoria University of Wellington - Faculty of Law
joel.colon-rios@vuw.ac.nz

JOHN PREBBLE, EDITOR

Professor of Law, Victoria University of Wellington - Faculty of Law, Gastprofessor, Institut für Österreichisches und Internationales Steuerrecht, Wirtschaftsuniversität Wien, Adjunct Professor of Law, University of Notre Dame Australia - School of Law
john.prebble@vuw.ac.nz

HANNEKE VAN OEVEREN, ASSISTANT EDITOR

Victoria University of Wellington - Faculty of Law
hanneke.vanoeveren@outlook.co.nz

[Browse ALL abstracts for this journal](#)

[Links: Subscribe ~ Unsubscribe | Distribution | Network Directors | Submit ~ Revise Your Papers](#)

Announcements

Lord Cooke of Thorndon: Collected Papers Part II: A Bill of Rights for New Zealand

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.

Table of Contents

A Standard for Justice

[Robin Cooke](#), Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords (deceased)

Practicalities of a Bill of Rights

[Robin Cooke](#), Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords (deceased)

Brass Tacks and Bills of Rights

[Robin Cooke](#), Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords (deceased)

Mechanisms for Entrenchment and Protection of a Bill of Rights: The New Zealand Experience

[Robin Cooke](#), Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords (deceased)

Bill of Rights Reports Launch

[Robin Cooke](#), Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords (deceased)

The New Zealand Bill of Rights Act

[Robin Cooke](#), Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords (deceased)

[^top](#)

"A Standard for Justice"

[1986] NZLJ 149

Victoria University of Wellington Legal Research Paper Series Cooke Paper No. 6/2016

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

This article comprises comments given by Sir Robin Cooke as the invited speaker to the launch of the book *A Standard for Justice* by Dr Jerome B Elkind and Mr Antony Shaw at a function held at the Students Union Building, Victoria University of Wellington, on 15 April 1986. Sir Robin talks widely about the impact of the 1985 White Paper on a possible New Zealand Bill of Rights and notes that many of the freedoms enjoyed by New Zealand citizens have basically been created and developed by Judges. He describes the authors as having admirable qualities of imagination and vision. Sir Robin concludes by noting the two major differences between the authors' approach and the White Paper. First, they would incorporate the International Covenant on Civil and Political Rights. Secondly, they would make the Treaty of Waitangi paramount to all other laws except the Bill of Rights itself, and not subject to interpretation or enforcement by the courts.

"Practicalities of a Bill of Rights"

WK Hastings (ed) F. S. Dethridge Memorial Addresses 1977-1988 (Maritime Law Association of Australia and New Zealand, Wellington, 1989)

Victoria University of Wellington Legal Research Paper Series Cooke Paper No. 7/2016

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

"Commitment to principles needs to be preceded by at least a rough idea of how they are likely to work in practice." In this article, Sir Robin Cooke departs from the usual theme of the Frank Dethridge Memorial Addresses and surveys Privy Council and Canadian decisions on civil rights to give some idea of the impact a New Zealand bill of rights might have. Readers should note that many of the Canadian cases have been appealed, and that the volume of reported Canadian Charter of Rights and Freedoms cases has increased dramatically to the point of practically submerging criminal law in a sea of procedural constitutional challenges. Nevertheless, Sir Robin argues that, while the case for a bill of rights in New Zealand is not pressing, it would be a useful tool with which courts could check invasions of liberties by Parliament and the executive. The responsibility of enforcing rights is one which could be conferred appropriately on judges, and in an era of a distinctive, evolving New Zealand common law, a bill of rights could help to build a sense of New Zealand national identity.

"Brass Tacks and Bills of Rights"

(1995) 25 Hong Kong LJ 64

Victoria University of Wellington Legal Research Paper Series Cooke Paper 8/2016

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

This is the text of Sir Robin Cooke's speech for the inaugural Peter Allan Memorial Lecture at the University of Hong Kong on 28 October 1994. Sir Robin discusses the movement towards formally-enacted human rights protections in Hong Kong and New Zealand through the Hong Kong Bill of Rights Ordinance 1991 and the New Zealand Bill of Rights Act 1990 (NZBORA) respectively. He compares the different judicial approaches to interpreting these enactments. He observes that the NZBORA, unlike the Hong Kong Bill of Rights, does not have paramount effect or an express general remedies clause. He notes, however, that the NZBORA does impose a reasonable limitation on protected rights, unlike the Hong Kong Bill of Rights. Sir Robin argues that a bill of rights need not be entrenched to have virility. The force of a bill of rights turns on the willingness of judges to give human rights effective protection. -- Abstract by Elizabeth Chan.

"Mechanisms for Entrenchment and Protection of a Bill of Rights: The New Zealand Experience"

[1997] 5 EHRLR 490

Victoria University of Wellington Legal Research Paper Series Cooke Paper 9/2016

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

This text is a revised and annotated version of a lecture delivered by Lord Cooke at a conference on a Bill of Rights for the United Kingdom held at University College London on July 4, 1997 sponsored by

Bindman and Partners. The author draws on his experiences of the New Zealand Bill of Rights Act 1990 and outlines some of the issues faced over the years. Without urging any particular solution to the incorporation issue in the United Kingdom, he questions whether a merely interpretive Bill would truly amount to incorporation of the Convention. He examines the relationship between the Convention and the common law, statutes, statutory instruments and judicial authority, as well as the requirements of a remedies clause. He argues that what is needed is not only an Act of Parliament but also an act of the mind to bring in a Bill of Rights, an understanding of its aims and a receptiveness to its purposes.

"Bill of Rights Reports Launch"

[1993] NZLJ 123

Victoria University of Wellington Legal Research Paper Series Cooke Paper 10/2016

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

This article is a revised version of the comments given by Sir Robin Cooke on 23 March 1993 in the Wellington boardroom of Chapman Tripp Sheffield Young at the launch of the new series of law reports, the Bill of Rights Reports. In these comments, Sir Robin thanks the authors, Antony Shaw and Andrew Butler, and the publisher, the Oxford University Press. His comments discuss the development and significance of the New Zealand Bill of Rights Act 1990, and touch on the jurisprudence generated as a result of this legislation. Sir Robin notes that the New Zealand courts have looked mainly to North American and European authority for assistance in interpreting the NZBORA, but he also pays tribute to Lord Wilberforce's judgment in *Minister of Home Affairs v Fisher* [1980] AC 319 (PC) as a "shining exception". He concludes by noting that the Reports will be "the chart of our course" of the development of human rights in New Zealand.

"The New Zealand Bill of Rights Act"

Victoria University of Wellington Legal Research Paper Series Cooke Paper 11/2016

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

This is the text of Sir Robin Cooke's contribution to the New Zealand Law Conference held in Wellington on 3 March 1993. In it, he explains the symbolic significance of the New Zealand Bill of Rights Act 1990 and offers his view on how judges should approach its interpretation. He describes the New Zealand Bill of Rights Act 1990 as a confirmation of New Zealand's "commitment to rights and freedoms implicit in modern democracies". He argues that even if society falls short of these ideals, the law should express the values that it aims to serve. So he says that judges must not decline to decide a case simply because it is difficult to apply generalised rights in individual cases. In his view, a Bill of Rights must be interpreted generously and simply, whether it is entrenched law or not. Abstract by Elizabeth Chan.

[^top](#)

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.

Submissions

To submit your research to SSRN, sign in to the [SSRN User Headquarters](#), click the My Papers link on left menu and then the Start New Submission button at top of page.

Distribution Services

If your organization is interested in increasing readership for its research by starting a Research Paper Series, or sponsoring a Subject Matter eJournal, please email: RPS@SSRN.com

Distributed by

Legal Scholarship Network (LSN), a division of Social Science Electronic Publishing (SSEP) and Social Science Research Network (SSRN)

Directors

LAW SCHOOL RESEARCH PAPERS - LEGAL STUDIES

BERNARD S. BLACK

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

Email: bblack@northwestern.edu

RONALD J. GILSON

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

Email: rgilson@leland.stanford.edu

Please contact us at the above addresses with your comments, questions or suggestions for LSN-LEG.

[^top](#)

Links: [Subscribe to Journal](#) | [Unsubscribe from Journal](#) | [Join Site Subscription](#) | [Financial Hardship](#)

Subscription Management

You can change your journal subscriptions by logging into [SSRN User HQ](#). If you have questions or problems with this process, please email Support@SSRN.com or call 877-SSRNHelp (877.777.6435 or 585.442.8170). Outside of the United States, call 00+1+585+4428170.

Site Subscription Membership

Many university departments and other institutions have purchased site subscriptions covering all of the

eJournals in a particular network. If you want to subscribe to any of the SSRN eJournals, you may be able to do so without charge by first checking to see if your institution currently has a site subscription.

To do this please click on any of the following URLs. Instructions for joining the site are included on these pages.

Accounting Research Network

Cognitive Science Network

Corporate Governance Network

Economics Research Network

Entrepreneurship Research & Policy Network

Financial Economics Network

Health Economics Network

Information Systems & eBusiness Network

Legal Scholarship Network

Management Research Network

Political Science Network

Social Insurance Research Network

Classics Research Network

English & American Literature Research Network

Philosophy Research Network

If your institution or department is not listed as a site, we would be happy to work with you to set one up. Please contact site@ssrn.com for more information.

Individual Membership (for those not covered by a site subscription)

Join a site subscription, request a trial subscription, or purchase a subscription within the SSRN User Headquarters: <http://www.ssrn.com/subscribe>

Financial Hardship

If you are undergoing financial hardship and believe you cannot pay for an eJournal, please send a detailed explanation to Subscribe@SSRN.com

[^top](#)

To ensure delivery of this eJournal, please add **LSN@publish.ssrn.com (Colón-Ríos/Prebble/van Oeveren)** to your email contact list. If you are missing an issue or are having any problems with your subscription, please Email Support@ssrn.com or call 877-SSRNHELP (877.777.6435 or 585.442.8170).

FORWARDING & REDISTRIBUTION

Subscriptions to the journal are for single users. You may forward a particular eJournal issue, or an excerpt from an issue, to an individual or individuals who might be interested in it. It is a violation of copyright to redistribute this eJournal on a recurring basis to another person or persons, without the permission of Social Science Electronic Publishing, Inc. For information about individual subscriptions and site subscriptions, please contact us at Site@SSRN.com

[^top](#)