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## Announcements

### Lord Cooke of Thorndon: Collected Papers Part XI: The Indian Constitution

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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### How Like an Angel

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

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

### "Where Angels Fear to Tread"

*Victoria University of Wellington Legal Research Paper Series, Cooke Paper No. 51/2017*

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

This is the second of three papers in which Lord Cooke comments on the Indian Constitution (the first being "Making Angels Weep" and the third being "How Like an Angel"). Both the first and second papers discuss cases in which the Indian Supreme Court addressed the powers of the Indian Government in relation to the appointment of judges. The first paper considers Supreme Court Advocates-on-Record Association v Union of India (1993) 4 SCC 441 (known as the "Second Judges Case"). "Where Angels Fear to Tread" concerns In re Special Reference 1 of 1988 (1998) 7 SCC 739 (known as the "Third Judges Case"), in which the Supreme Court of India adopted a generally similar

approach as in the Second Judges Case. Lord Cooke describes the Third Judges Case as “one of the most remarkable rulings ever issued by a supreme national appellate court in the common law world” but voices “respectful doubts about the soundness of the constitutional foundations of that opinion”. Abstract by Elizabeth Chan.

### "Making the Angels Weep"

*New Zealand Law Journal*, p. 361, 1994

*Victoria University of Wellington Legal Research Paper Series, Cooke Paper No. 52/2017*

**ROBIN COOKE**, Victoria University of Wellington - Faculty of Law (Deceased), House of Lords (Deceased)

Email: [robincookevuw@gmail.com](mailto:robincookevuw@gmail.com)

In this article Sir Robin Cooke considers Supreme Court Advocates-on-Record Association v Union of India (1993) 4 SCC 441 (known as the “Second Judges case”). This is a decision of the Supreme Court of India on judicial appointments and the meaning to be given to the word “consultation” in the Indian Constitution. He compares the Indian decision with a Wellington International Airport Ltd v Air New Zealand [1993] 1 NZLR 671 (CA), a decision of the New Zealand Court of Appeal, and Attorney-General of Western Samoa v Saipai’ia Olamalu (1984) 14 VUWLR 275, a decision of the Western Samoa Court of Appeal. Sir Robin concludes by suggesting that the judiciary “has a part to play not merely in expounding conventions, but in helping to create them.”

### "How Like an Angel"

Robin Cooke "How Like an Angel" in Mool Chand Sharma and Raju Ramachandran (eds) *Constitutionalism Human Rights and the Rule of Law: Essays in Honour of Soli J Sorabjee* (Universal Law Publishing Co Pvt Ltd, Delhi, 2005) 34

*Victoria University of Wellington Legal Research Paper Series, Cooke Paper No. 53/2017*

**ROBIN COOKE**, Victoria University of Wellington - Faculty of Law (Deceased), House of Lords (Deceased)

Email: [robincookevuw@gmail.com](mailto:robincookevuw@gmail.com)

This chapter is the third paper that Lord Cooke has written on Indian constitutional law (the first and second being the papers titled Making Angels Weep and Where Angels Fear to Tread). This chapter is divided into two parts. The first part comprises Lord Cooke’s general observations on the “myth” of parliamentary sovereignty in the New Zealand context. Lord Cooke argues that neither the Government, nor Parliament, nor the courts has a monopoly on power, and, in particular, he rejects the notion of absolute parliamentary sovereignty, describing it as a “common illusion, tidy but superficial”. In the second part, Lord Cooke tests his ideas of sovereignty in light of the Indian Constitution. He concludes that the Indian Constitution contains a mélange of powers: no single institution is omnipotent or absolutely sovereign.

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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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