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Announcements

Victoria University of Wellington Student and Alumni Sub-Series Issue 5: Banking and Finance Law

Banking and Finance Law is the fifth in 2020 of several issues of the Student/Alumni Sub-Series of the Victoria University of Wellington Legal Research Paper Series.

The Student/Alumni Sub-Series was launched in 2015. It distributes a selection of Honours and Postgraduate papers from Victoria University of Wellington Law School. The sub-series includes both general and thematic issues.

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"Purchase Money Security Interest Refinancing in New Zealand: A Case for Retention of Super-Priority"

Victoria University of Wellington Legal Research Paper No. 15/2020

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This paper concerns the issue of purchase money security interest (PMSI) refinancing. Under current law, PMSI super-priority is lost on refinance regardless of whether the refinancier is the original PMSI holder or a third-party financier. This paper contends that such a position is uncommercial, and frustrates the undergirding objective of the law of debt security to facilitate the provision of credit to business. This position is supported by theory, international treatment of the issue, and policy. Part I introduces the law in New Zealand. Part II explains the legislative purpose behind PMSI super-priority. Part III surveys the relevant comparative law in Australia, Canada and the United States. Part IV contends that a legislative amendment of ss 16 and 73-75 of the PPSA is the best method of recognising

a refinancier's legitimate right to super-priority.

"Implied Representations in Derivative Transactions after Property Alliance Group Ltd v The Royal Bank of Scotland Plc"

Victoria University of Wellington Legal Research Paper No. 16/2020

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The London Interbank Offered Rate (LIBOR), the most important figure in finance underpinning USD350 trillion-worth of financial products, and other benchmark rates were manipulated between January 2006 and March 2012 by leading international banks. Recent litigation concerning LIBOR-referenced transactions, which were concluded during this period of benchmark rate manipulation, has opened the door to implied misrepresentation claims against banks involved in the manipulation. This essay outlines and critically analyses the decisions of the English Court of Appeal in *Property Alliance Group Ltd v The Royal Bank of Scotland Plc* and the English High Court in *Marme Inversiones 2007 SL v Natwest Markets Plc* in order to construct a framework for bringing an implied misrepresentation claim in the context of benchmark rate manipulation under English law. While these decisions demonstrated that the courts are willing to imply a representation from a bank that it had not manipulated a benchmark rate, both decisions considerably limited the scope of such a representation with the effect that the falsity of the representation is difficult to prove. This essay also examines the impact of the developments in the English law on New Zealand, arguing that, although the law of misrepresentation has been largely reformed, the New Zealand courts are likely to look to the English law if a similar case arises before them.

"Mediation as an Improvement to the World Bank Inspection Panel"

Victoria University of Wellington Legal Research Paper No. 17/2020

KRIS SINGH, Victoria University of Wellington, Faculty of Law, Student/Alumni

An analysis of how the introduction of mediation to the World Bank Inspection Panel process may improve accountability. The analysis of the Panel process sheds light on the formality of procedure which inhibits accessibility and the lack of involvement of the Panel at the Post- Investigation stage. The Panel faces various criticisms relating to independence, accessibility and remedy. Mediation at the Post- Investigation stage will provide a solution to the lack of involvement of the Panel at the remedy stage and avoids undermining the Grievance Redress System of the World Bank. The mediation process is best facilitated by the Panel who can appoint mediators subject to approval of all parties. However, the Panel's lack of independence may inhibit it from providing binding accountability to end-users as the Bank has control over the establishment of any dispute resolution body.

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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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