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## Announcements

### Victoria University of Wellington Archival Collection Issue 3: Papers on Constitutional Law (I)

The Archival Collection is an addition to the Victoria University of Wellington Legal Research Paper Series that has been under consideration for some time. Covid-19 has caused a slow-down in many areas of human activity. For scholarly publishing, the virus has meant that VUW's Legal Research Paper series has space for older work. We have brought forward the distribution of papers written by Victoria University of Wellington staff from earlier years. To maintain momentum, however, the collection will include recent papers where their topic matches the topic of an issue in the Archival Collection. All papers will remain fully searchable on the VUW pages of SSRN, by both [papers](#) and [authors](#).

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

### "Considering the Historical-Political Constitution and the Imperial Inheritance in Mid-Nineteenth Century New Zealand: Balance, Diversity and Alternative Constitutions"

*New Zealand Journal of Public and International Law*, 12, (2014) 145-185.  
*Victoria University of Wellington Legal Research Paper No. 57/2020*

**MARK HICKFORD**, Victoria University of Wellington - Faculty of Law  
Email: [mark.hickford@vuw.ac.nz](mailto:mark.hickford@vuw.ac.nz)

In considering the intellectual context for the New Zealand Constitution Act 1852, this essay examines a

in considering the intellectual context for the New Zealand Constitution Act 1852, this essay examines a web of Whig-liberal and Tory as well as radical precepts influencing its drafting and the political constitutional culture it both expressed and reflected. In so doing, it contends that it is insufficient to label New Zealand's historical, political constitutional fabric or the 1852 constitution specifically as, say, "pragmatic". Rather, this article argues for a richer, historical engagement with political constitutionalism. This article will also examine the intellectual influences underlying an alternative, previously unidentified, draft constitution referred to as the "MS project".

### "Looking Back in Anxiety: Reflecting on Colonial New Zealand's Historical-Political Constitution and Laws' Histories in the Mid-Nineteenth Century"

*New Zealand Journal of History* 48, 1-29, 2014

*Victoria University of Wellington Legal Research Paper No. 58/2020*

**MARK HICKFORD**, Victoria University of Wellington - Faculty of Law  
Email: [mark.hickford@vuw.ac.nz](mailto:mark.hickford@vuw.ac.nz)

This essay addresses a concept of political as opposed to legal constitutionalism in New Zealand, including how such a concept might assist legal-historical analysis. It does so with reference to what the author has characterized as historical-political constitutionalism, focused upon expanding and diversifying areas of contestability and dissent in and through politics as opposed to relying on case-by-case legalism. In examining constitutionalism in this manner, this article foregrounds the ongoing political contestation that shaped and defined governmental power across various layers and interconnections of activity and thought, not only local or provincial but also trans-oceanic.

### "Tāwhaki and Te Tiriti: A Principled Approach to the Constitutional Future of the Treaty of Waitangi"

(2013) 25 NZULR 703.

*Victoria University of Wellington Legal Research Paper No. 59/2020*

**CARWYN JONES**, Victoria University of Wellington - Faculty of Law  
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Over the last 35 years, public discussion around the Treaty of Waitangi has been dominated by claims and settlements. Generally, there has been a focus on claims to land and natural resources based on historical breaches. But the Treaty has always been more than an instrument for dealing with claims against the Crown. With the deadline for lodging historical claims with the Waitangi Tribunal now passed, and the government ambitiously aiming to have all historical claims settled by 2014, it is timely to consider the constitutional significance of the Treaty beyond the historical claims and settlement processes. Treaty principles have played a vitally important role in the claims process to date, but, this paper argues, they ought not to be the foundation of a discussion about our constitutional arrangements because they do not allow for a truly principled approach to the constitutional future of the Treaty. A discussion about the constitutional place of the Treaty should instead be framed by principles that underlie the Māori legal system and be grounded in the Treaty as understood in its indigenous context.

Kia mau ki te aka matua; kei mau ki te aka taepa - Cling to the main vine, not to the loose one.

### "Patriating Our Head of State: A Simpler Path?"

in *C Morris and others (eds), Reconstituting the Constitution (Springer, 2011) pp 107-120*

*Victoria University of Wellington Legal Research Paper No. 60/2020*

**DEAN R. KNIGHT**, Victoria University of Wellington - Faculty of Law  
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This chapter argues for an minimalist approach to republican reform in New Zealand. This form of soft republication is based on promoting the Governor-General from de facto Head of State to real Head of State, with them retaining the same powers, same functions, same and responsibilities (along with the substitution of a new collective entity to represent the state, government and people of New Zealand for the present Crown).

### "Making Comments on Making Constitutions"

(2002) 33 VUWLR

*Victoria University of Wellington Legal Research Paper No. 61/2020*

**CATHERINE J. IORNS MAGALLANES**, Victoria University of Wellington - Faculty of Law  
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It is clear the topic of constitutional change is highly relevant today. Reflection of such change is necessary where there is discussion of major, revolutionary change for a nation. This paper presents the key ideas addressed by a panel of New Zealand Academics, such as Catherine Iorns and Sir Geoffrey Palmer, regarding changes to the New Zealand constitution in the past and proposed major constitutional change, such as the re-constitution of New Zealand as a republic.

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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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