

FOREWORD

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This issue of the New Zealand Journal of Public and International Law features a selection of papers from the New Zealand Centre for Public Law's Third Annual Conference on the Primary Functions of Government, which convened in the Legislative Council Chamber, Parliament Buildings on 24 and 25 November 2005. The conference examined "The Executive", following highly successful conferences in 2003 and 2004 which focused on the judiciary and Parliament respectively. After a powhiri and welcoming remarks by the Hon Margaret Wilson, Speaker of the House of Representatives, the conference was opened by the Hon Dr Michael Cullen, Deputy Prime Minister. Academics, practitioners, civil servants, and past and present members of the three branches of government addressed the conference theme of "The Executive" from diverse angles, including: the relationship between the prime minister and Cabinets; coalition management under the mixed member proportional (MMP) electoral system; State services in New Zealand; litigation against the executive; the executive in federal states; the executive and the Treaty of Waitangi; and the role of the executive in the context of national security and counter-terrorism concerns.

The papers featured in this volume each examine the executive from a unique perspective, reflecting presentations delivered across the range of conference sessions. The authors have expanded upon their conference papers such that while the collection is an excellent reflection of the conference, the pieces each also stand on their own as significant contributions to public law scholarship.

In the first paper, the Rt Hon Sir Geoffrey Palmer posits that the introduction of MMP has not diminished the role of the prime minister as the key operative within the executive, as it falls to the prime minister to manage the sharing of power such that his or her government remains in office. The second and third papers both evoke images from Walter Bagehot to describe New Zealand's executive, but approach the workings of the executive from different angles. Elizabeth McLeay applies the various metaphors that have been used to describe Cabinet to demonstrate particular aspects of the New Zealand Cabinet government experience. Jonathan Boston and Andrew Ladley acknowledge the role of Cabinet, but assert that it is coalitions and the management thereof that are now of central importance to the success of the executive. In the fourth paper, Evan Fox-Decent

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examines the executive in terms of the Crown–Native fiduciary relationship, arguing that the Supreme Court of Canada has imposed fiduciary obligations on the Crown in an attempt to legitimise the Crown's assertions of sovereignty over Canada's aboriginal peoples. In the final paper, Dean Knight explores the use of collateral attack to challenge actions of the executive or other public entities, contending that the courts should apply a more principled approach towards this potentially problematic practice.

"The Executive" is a fascinating topic which can be examined in myriad ways. It is thus appropriate that this issue offers such a wide variety of approaches towards this all important branch of government.