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Announcements

Lord Cooke of Thorndon: Collected Papers Part IV: Constitutional Law

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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ROBIN COOKE, Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords
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This is a revised version of a paper delivered by Lord Cooke at a seminar in All Souls College, Oxford on 22 May 1998 on the topic of New Zealand's experience of unicameralism. He begins by outlining the historical development of New Zealand's Parliament, focussing on the establishment of the Legislative Council (as a second chamber) in 1852, its operation, and ultimate abolition in 1951. Lord Cooke then critiques various proposals for an alternative second chamber. Lord Cooke emphasises the difficulty of finding a practical solution that achieves all relevant political goals. From New Zealand's experience, Lord Cooke offers five lessons for the proposals to reform the United Kingdom House of Lords and sketches his view of an ideal House of Lords. Abstract by Elizabeth Chan.

"The Myth of Sovereignty"

(2005) 3 NZJPIL 39

Victoria University of Wellington Legal Research Paper Series Cooke Paper No. 16/2016

ROBIN COOKE, Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords
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Sovereignty is often characterised by British constitutional orthodoxy as the attribute of an "independent and supreme authority", usually located in Parliament by virtue of the supremacy of legislation. In this article, Lord Cooke dispels the myth that any single organ of government exercises sovereignty as a matter of constitutional law, and instead presents a vision of interaction and collaboration in the exercise of governmental power under modern Westminster constitutions.

"The Suggested Revolution Against the Crown"

Philip A Joseph (ed.), *Essays on the Constitution* (Brookers Ltd, Wellington, 1995) 28

Victoria University of Wellington Legal Research Cooke Paper No. 17/2016

ROBIN COOKE, Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords
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In this article, Sir Robin examines the legal implications of a potential abolition of the monarchy in New Zealand. He begins by describing the legal history of New Zealand, as a member of the Commonwealth with the Queen as its head of state. Sir Robin then discusses what conditions might be required for the judiciary to uphold a New Zealand statute abolishing the monarchy. These conditions include evidence of significant public support for a republic as well as evidence of substantial Māori concurrence. He concludes that the legal and constitutional implications would be complex and that, beyond legal concerns, there would also be significant political and national issues at play.

"The Basic Themes"

(2004) 2 NZJPIL 113

Victoria University of Wellington Legal Research Paper Series Cooke Paper No. 18/2016

ROBIN COOKE, Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords
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This short article is a revised version of comments given by Lord Cooke at the final session of the New Zealand Centre for Public Law's First Annual Conference on the Primary Organs of Government, held at the Victoria University of Wellington Law School on 28 and 29 November 2003. In these comments, given as part of a panel discussion on Supreme Court reform and other topical issues, Lord Cooke returns to some themes of the first session, focussing on remarks given by Professor Mark Tushnet and Professor George Williams. In doing so, Lord Cooke comments on the controversial terms "sovereignty" and "judicial supremacy", related remarks given by Professor Philip Joseph, and the possibility of collusion between branches of government as a result of s 3(2) of the Supreme Court Act 2003.

"Opening Remarks: Primary Functions of Government"

Victoria University of Wellington Legal Research Paper Series Cooke Paper No. 19/2016

ROBIN COOKE, Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords
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These are Lord Cooke's opening remarks to a panel discussion at the First Annual conference on the Primary Functions of Governments: Courts, hosted by the Centre for Public Law at Victoria University

of Wellington on 29 November 2003. Lord Cooke briefly addresses two concepts: sovereignty and judicial supremacy. He favours a theory of the separation of powers advanced by Professor Philip Joseph, which views Parliament and the courts as being part of a collaborative enterprise. Parliament's role is to legislate in broad terms while the courts' function is to give positive effect to legislation. Abstract by Elizabeth Chan.

"A Constitutional Retreat"

Law Quarterly Review, Vol. 122, p. 224, 2006

Victoria University of Wellington Legal Research Paper Series Cooke Paper No. 20/2016

ROBIN COOKE, Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords
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In this paper Lord Cooke considers *R (on the application of Jackson) v Attorney General* [2005] UKHL 56, [2006] 1 AC 262, which was a challenge to the validity of the Hunting Act 2004. He describes the central issue in Jackson as being "whether the power to legislate without the consent of the House of Lords, which power was conferred by the Parliament Act 1911, could be exercised, as it was in the 1949 Act, to shorten certain time stipulations contained in the 1911 Act itself". Lord Cooke first outlines the key legislative provisions and then turns to the reasoning of the House of Lords. He focusses on three key points. He first critiques the House of Lords' statutory interpretation of the key legislation section, section 2(1) (as outlined by Lord Rodger). He then assesses the "political fact" argument (as discussed by Lord Hope). Thirdly, Lord Cooke stresses that case authorities could have led the House of Lords to recognise that there were "express limitations" to section 2(1) in the 1911 Act that should prevail. Lord Cooke concludes, however, by noting that the outcome was unsurprising, but that the "retreat" of the House of Lords "may represent wisdom rather than timidity" and that history would be the ultimate judge. Abstract by Tim Cochrane

"Jurisdiction: An Essay in Constitutional, Administrative, and Procedural Law"

Victoria University of Wellington Legal Research Paper Series Cooke Paper No. 21/2016

ROBIN COOKE, Victoria University of Wellington - Faculty of Law (Deceased 1926-2006), House of Lords
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This is Robin Cooke's Doctoral Thesis, written at the University of Cambridge. The thesis examines the concept of "jurisdiction", which Mr. Cooke describes as the subject in which we probably have more reported decisions in the whole field of case law. The concept of jurisdiction, he maintains, has played a "greater part in the evolution of our constitutional and administrative law than has the classification of powers". The purpose of the thesis is "try to analyse the concept of jurisdiction and to ascertain the extent to which it is helpful in solving problems arising in the practice and exposition" of constitutional and administrative law.

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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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