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## Announcements

**Sir Kenneth Keith: Collected Papers Part III: Constitutional Law - Treaty of Waitangi**

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

### **"The Treaty of Waitangi in the Courts"**

(1990) 14 NZULR 37

*Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 9/2017*

**KENNETH J. KEITH**, Victoria University of Wellington - Faculty of Law, Victoria University of Wellington - Faculty of Law

Email: [ken.keith@vuw.ac.nz](mailto:ken.keith@vuw.ac.nz)

Sir Kenneth Keith addresses the question of what effect the Treaty of Waitangi has in the courts, effectively asking what effect the Treaty has in law. He answers that question under five headings; first the Treaty in international law, under which the author discusses early case law on the Treaty and the wide use of international treaties in the 19th century. In the second and third parts, he considers the content of the Treaty and its constitutional status. The fourth part covers the Treaty as a direct source of rights and obligations, particularly through customary international law and by establishing relevant public policy. The final section – the relevance of the Treaty to the interpretation of legislation – considers the various legislative forms that legislation bearing on the Treaty has taken, and the differing approaches taken by the courts over time to their application and interpretation.

Abstract by Juliet Bull.

## "Handling and Settling Disputes Arising from the Treaty of Waitangi"

*(9th Commonwealth Law Conference, Auckland, 1990) 243*

*Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 10/2017*

**KENNETH J. KEITH**, Victoria University of Wellington - Faculty of Law, Victoria University of Wellington - Faculty of Law

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Sir Kenneth Keith addresses this topic in a broad way. He begins by commenting on relevant treaty practice in 1840, in response to frequent suggestions that the Treaty of Waitangi was unique or at least unusual, and briefly addresses the changing perceptions of the Treaty. In the second part, the author offers some limitations on the desire, regarding both the Treaty specifically and the law generally, for certainty and finality. Reaching a final and inflexible settlement is perhaps neither an achievable, nor desirable, outcome. Finally, in the third part; the author outlines the great range of methods for handling and settling disputes and issues, the interaction between them, and the criteria for choice between them.

Abstract by Juliet Bull.

## "The Role of the Tribunal, the Courts and the Legislature"

*Geoff McLay (ed) Treaty Settlements: The Unfinished Business (NZ Institute of Advanced Legal Studies, Wellington, 1995) 39*

*(1995) 25 VUWLR 129 (Treaty of Waitangi: Special Issue)*

*Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 11/2017*

**KENNETH J. KEITH**, Victoria University of Wellington - Faculty of Law, Victoria University of Wellington - Faculty of Law

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This paper concerns the role of four institutions – the Waitangi Tribunal, the courts, the legislature and the executive – in handling Treaty of Waitangi claims. Sir Kenneth Keith begins by explaining his inclusion of the executive along with the three other bodies, and then illustrates the interrelated roles between these four institutions and Maori claimants. The second part concerns the allocation of functions among those bodies. Here the author considers the constitutional role of the Treaty, legislation giving effect to the Treaty, litigation concerning such legislation, and criteria for allocating the public powers of decision making. The third part raises several broader issues about the constitution and the Treaty, including possible arrangements for the protection of minority interests in a system of majority rule.

Abstract by Juliet Bull.

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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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