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Announcements

Sir Kenneth Keith: Collected Papers Part III: Administrative Law

The Keith Papers collect some of the work of Sir Kenneth Keith. He studied law at the University of Auckland, Victoria University of Wellington and Harvard Law School. He was a member of the legal divisions of the Department of External Affairs and the United Nations, a law teacher at VUW, to which he has returned as professor emeritus, a member and president of the New Zealand Law Commission, a judge of appeal in various Pacific courts, an international arbitrator and a judge of the New Zealand Court of Appeal and Supreme Court and the International Court of Justice.

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"A Code of Procedure for Administrative Tribunals?"

Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 12/2018.

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

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This publication is a modified version of a paper prepared in 1971 for the Public and Administrative Law Reform Committee, concerning the desirability of enacting a code of procedure for administrative tribunals. On the one hand, such a code would firmly establish principles of fairness and remove existing uncertainties. On the other, the functions and characteristics of tribunals are so various that a single code would either be a Procrustean bed or would be so flexible as to be useless. In this paper, in an effort to get beyond and to develop these generalities, Kenneth Keith considers first the differences between tribunals and certain other factors which cast doubt on the desirability of having a comprehensive, binding code which is not hopelessly vague. Secondly, a discussion of the procedures required by legislatures and courts perhaps redresses the balance by showing that many rules do in fact frequently recur. To conclude the author sums up the possible outcomes.

"Appeals from Administrative Tribunals – The Existing Judicial Experience"

Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 13/2018.

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

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Should a person aggrieved by a decision of an administrative tribunal have a right of appeal to the courts? The purpose of this paper is, first, to canvass some of the existing experiences of such appeals, secondly, to compare that experience with the existing system of non-statutory judicial review of the decisions of administrative tribunals, and finally, to make suggestions. This discussion is deliberately limited to review of the merits of the tribunal's decision; this article does not consider claims of usurpation of power or of procedural error as they might arise on appeal.

"Delegation and the Rules of Natural Justice"

Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 14/2018.

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

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Kenneth Keith discusses the issues and reasoning of the Privy Council in the case of *Jefferies v New Zealand Dairy Production and Marketing Board*, in which the New Zealand Court of Appeal decision was reversed. The author's discussion does not necessarily lead to the conclusion that the Privy Council reached the wrong decision. It does, however, highlight the lack of clarity and precision in the rules that the Privy Council applied, the lack of analysis of the most salient issues in the case, and the lack of response to the points made by the majority of the Court of Appeal.

Abstract by Juliet Bull

"The Courts and the Administration: A Change in Judicial Method"

Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 15/2018.

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

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This paper considers the role of the courts in restraining illegal action taken by the government. It asks whether the courts should be left to develop the substantive law of judicial review or whether the legislature should provide them with guidance and direction. The author first explains how the courts have often adopted an approach to this task which depends on the classification of the powers of government. The extent of their control varies according to the classifying of the governmental power as "administrative," "legislative" or "judicial." The purposes of this paper are to attempt to discover why the classification approach is not satisfactory, to get some idea of what the courts were and are trying to do in using it, and to investigate, in a preliminary way, whether there is a more satisfactory set of approaches. It also briefly examines the developments in the law of natural justice.

"The Ombudsman and 'Wrong' Decisions"

Victoria University of Wellington Legal Research Paper Series, Keith Paper No. 16/2018.

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

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This article focuses on one element of the Ombudsman's work: his review of the merits of administrative decisions. The author considers this power under five headings. First, under 'Matters of

Administration and Policy', the author asks what limit, if any, is imposed by the reference to a matter of administration, and whether it follows that questions of policy lie outside the Ombudsman's concern. Secondly, and overlapping with the first, is a consideration of the Ombudsman's power to review rules which guide the exercise of a discretion. Thirdly, the author discusses the process of reviewing factual findings, the application of the rule to the facts, and the exercise of discretion. The fourth section considers professional matters, particularly whether it is possible to construct a general proposition that the Ombudsman should not, rather than could not, intervene in the substance of professional matters. Finally, the author examines the power of the Ombudsman to intervene where an alternative remedy is provided for.

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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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