The Rt Hon Dame Helen Winkelmann, Chief Justice of New Zealand

The Futures of Democracy, Law and Government, by Sir Geoffrey Palmer
Without Fear or Favour – A Life in Law, by Sir Kenneth Keith

Address at Grand Hall, Parliament Buildings, Wellington

31 March 2025

Tēnei te mihi,

Ki te Whare e tū nei, e tū

Ki ngā mate o te wā, haere, haere atu rā

Ki ngā hunga ora, e huihui mai nei i raro i te korowai o ngā mana whenua,

Ki a kōrua, ko, Geoffrey, ko Ken — ngā tōtara o te ture ki Aotearoa

Tēnā koutou, tēnā koutou, tēna tātou katoa

Speaking at this book launch is a daunting task because these two books each mark, in their own way, the career of a remarkable public figure.

The two men who are the inspiration for, or author of, these books, Sir Geoffrey Palmer and Sir Ken Keith, have had careers of great significance. Their achievements reach back more than 60 years, across a broad range of New Zealand's public life and internationally.

These are achievements in the worlds of teaching and research, law reform, political systems and adjudication. One has risen to the absolute pinnacle of the political world, as Attorney-General, Deputy Prime Minister and then Prime Minister. The other, to the top of the legal world as a Judge of the Supreme Court and then as a Judge of the International Court of Justice.

Professor Hickford spoke of the depth of friendship between these two men. He also mentioned Samuel Taylor Coleridge. That made me reflect on other great productive friendships in history. Samuel Taylor Coleridge and Williams Wordsmith. Lord Byron and Percy Shelley of course. Wordsmith and Coleridge fell out and Byron and Shelley's friendship ended in a drowning. I am pleased to say that the friendship between Sir Ken and Sir Geoffrey is still going strong.

Sir Geoffrey came into my legal life during my first year of study at Auckland Law School in 1981. It was through his seminal text, *Unbridled Power?* that I came to know him. This was a learned text, but it was also a rattling good read. For the first time, someone was attempting to make the way public power is exercised accessible to analysis, to study and to criticism — his own criticism of that system being a feature of the text. I loved it — there is nothing a law student loves more than a bit of spicy criticism of the powerful — let's face it, not much legal writing is as direct, colourful or effective as Sir Geoffrey's. But his work also connected what was going on in remote and sleepy New Zealand to the big constitutional and political thinking elsewhere.

Sir Geoffrey was not, even then, just a theorist and critic. He was a politician. And in government from 1984 to 1990 he was able to guide many pieces of legislation from implementation through to enactment. This is legislation which in the years since has built a more just society. However history may judge that it is the New Zealand Bill of Rights Act, legislation he was able to secure in the last year of his government, that is his greatest legislative accomplishment.

Throughout his career Sir Geoffrey has also had a bit to say about judges. To be fair he has always found judges to be, on the whole, acceptable as a group — acceptably dull that is. In a 1968 collection of papers edited by Sir Ken discussing a possible future Bill of Rights, Sir

Geoffrey wrote "Our judges are not political activists, they are political eunuchs."[1] Sixty years later, writing about the rather slow judicial progress in interpreting the Bill of Rights, he expostulated "the courts have got to get on with it".[2]

What has always characterised Sir Geoffrey's career has been an optimistic vision for a more just and fair New Zealand, a vision he is prepared to work for. Most recently he joined with Andrew Butler KC in an initiative to promote constitutional understanding and reform. Never lacking in energy this has involved Sir Geoffrey in the publication of several books including one with his granddaughter, Gwen Palmer-Steeds. He always has a book on the go — as I understand it, he does now.

It was this constructive optimism, and the breadth of this polymath's interests, that led Victoria University of Wellington, Te Herenga Waka, to frame the conference celebrating Sir Geoffrey's 80th birthday as being about "The Futures of Democracy, Law and Government". The resulting book is an important contribution to the discussions we need to have, the discussions Sir Geoffrey wants us to have, about the future of our nation. Discussions informed by fact, and underpinned with knowledge of our society, and our history — and not shaped by dogma imported from other countries in service of a passing political moment.

In his chapter, Sir Geoffrey says of the conception for the conference:

> The future is not ours to see. Nevertheless, it is reasonably foreseeable that governance will be much more challenging in the future than it has been in the past. With challenge come opportunities and New Zealand can meet the issues and deal with them. We need to be relentlessly positive, but realistic.

The book contains thoughtful contributions by his former political colleagues on both sides of the political fence, by leading economists, historians, legal academics, foreign policy experts and judges and lawyers. It is broad in its scope but its themes reflect the matters on which Sir Geoffrey has focused during his own career — divided into chapters, "Politics and Policy", "Te Tiriti o Waitangi and Legitimacy", "Constitution and Law", "Human Rights" and "International Governance". It is a worthy contribution to the debates of our time.

The other book we are here to launch tonight is the memoir of Sir Ken Keith: *Without Fear or Favour: A Life in Law*. This beautifully presented volume has a portrait of Sir Ken on its front that I believe captures the essence of the man — the essence that has made him so beloved of generations of lawyers. Wise, humane, kind and endlessly interested and interesting.

Again, because I did not attend Victoria Law School, I missed out on the experience of being taught by Sir Ken. But my legal life, like the life of every lawyer practising in New Zealand, has been shaped by his work as an academic, as a law reformer, and as a judge.

In many ways his career has tracked through the same signal events in New Zealand's constitutional and social history as Sir Geoffrey's. For example, while Sir Geoffrey masterminded the political side of events, Sir Ken was one of the authors of the White Paper that formulated, in broad terms, the draft Bill and set the conceptual framework for it.

Through his work as an academic and as a judge, Sir Ken has consistently reminded New Zealand of the international frameworks to which our country is signatory — playing a leading role in establishing the principles as to how those international commitments interact with New Zealand domestic law.

Through the depth of his reading and erudition Ken emerged as a systems thinker — seeing linkages of ideas, and linkages of power, that others fail to observe.

It is to our good fortune that Sir Ken embraced the life of an academic, law reformer and jurist. It was as a respected constitutional scholar that he was called upon to write the introductory essay to New Zealand's Cabinet Manual, which is possibly the closest thing New Zealand has

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1 Geoffrey Palmer "A Bill of Rights for New Zealand?" in KJ Keith (ed) *Essays on Human Rights* (Sweet and Maxwell, 1968) at 126.

2 New Zealand Law Society "Our most significant legislator" (20 September 2022) <www.lawsociety.org.nz>.

to a summary of our constitutional arrangements in one document — a document of enormous importance in New Zealand.

It was as a respected constitutional scholar that he served on the Royal Commission on the Electoral System, the report of which ultimately led to the adoption of the MMP electoral system.

It was because of his standing as an international law expert that he was asked to join New Zealand's legal team in the Nuclear Test case before the International Court of Justice in 1973 to 1975.

And it was his expertise as a constitutional and international law scholar and a law reformer that led to his being appointed first to the Court of Appeal, and then the Supreme Court before finally being elected to the International Court of Justice.

This is a memoir, not an autobiography. It is conceptually shaped by these three key facets to Sir Ken's career, as he puts it: "From Professing to Reforming to Judging". It takes us through the lessons he has learned from each of these three stages in his career. Through it all he reflects on things that have ignited his imagination. His underlying intention is to convey to us, in his words "my sense of what it is that law and its processes bring to the broader societies which they serve and continue to serve in a challenging future".

I loved the book. I guiltily admitted to Ken's wife Jocelyn that it was so full of footnotes and ideas that I wanted to follow up that I had taken to marking it with a pen. She said, "Oh don't worry about that — Ken does that to all of his books."

I could go on, but it has been impressed upon me that I must not.

However before I finish I wish to step back from the motivating reason for tonight's gathering, the publication of these two books. I do so in order to acknowledge the depth of the contribution these two have made to New Zealand.

And alongside them, enabling and contributing to their achievements, I acknowledge two remarkable women in their own right – Margaret Palmer and Jocelyn Keith.

In thinking about my remarks tonight I have reflected that the lives and careers of Sir Geoffrey and Sir Ken can be seen to have been shaped by the optimism and ideals embodied in the great international post-war settlement. These ideals are most powerfully expressed in the preamble to the United Nations Declaration of International Human Rights and in particular in the following phrase:

> Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.

I acknowledge the profound contribution Sir Ken and Sir Geoffrey have made to New Zealand's law, constitution and society through the roles they have played, and through the exercise of their power, and influence.

I acknowledge the contribution they have made internationally as they have worked to secure a peaceful world order.

They have done this at critical moments in our history and on occasion, at times of great societal stress. They have done so guided by principle and by a commitment to that best ideal of the rule of law captured by the Universal Declaration of Human Rights.

As much as any can be said to have shaped New Zealand into a free and democratic society, these two men have done so.

I acknowledge them as great New Zealanders.

No reira,

Tēna koutou, tēna koutou, tēna koutou katoa.