

# PLDG-EWBCLB PUBLIC SEMINAR

## Occupiers' Liability and the End of Imperial Deference

Professor Mark Lunney

Dickson Poon School of Law, King's College London

Monday 15 January 2024, 5.00pm to 6.30pm (SGT)

Lee Sheridan Conference Room, NUS Law (Bukit Timah Campus)

For much of its history, a common view of the legal relationship between English and Australian private law was one of deference at best and subservience at worst. In previous work, I have argued that, at least as far as tort law is concerned, this view is simplistic and that, in the first half of the 20th century, Australian courts and legislatures were much more creative and innovative than the traditional account would have us believe. However, by the end of the Second World War, the changed geopolitics of imperial relations led to changes in the Anglo/Australian legal relationship, culminating in the passage of the Australia Acts of 1986 where (outside the formal constitutions of the Commonwealth and the states) all formal legal links with the United Kingdom were dissolved.

As for the first half of the twentieth century, however, the traditional account of this process has been linear and deterministic. Rather, in law as in life, the demise of the imperial embrace, founded on British race patriotism was slow, episodic and uncertain. One area that illustrates this is the law relating to occupiers' liability, in particular the duty (or not) that an occupier owed to trespassers on her land. From the early 1950s, the High Court of Australia developed its own jurisprudence, creating a new paradigm for considering the question which was different from that which had been adopted in England. When these decisions were (effectively) disapproved by the Privy Council in 1964, it was received in a different legal landscape from the one that had been present in the earlier cases where the Privy Council disagreed with the High Court and reversed it. Over the next ten years, this aspect of occupiers' liability exemplified the changing landscape for the reception of English private law in Australia.



### ABOUT THE SPEAKER

Mark Lunney is Professor of Tort Law at the Dickson Poon School of Law, King's College London. His research interests are the law of tort, legal history, and comparative law. His current research considers how the depiction of local deviance from English private law in constituent parts of the twentieth-century British empire was influenced by the construction of national identity within those constituent parts.

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