



Divergences in Private Law

Andrew Robertson

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This book is a study of doctrinal and methodological divergence in the common law of obligations. It explores particular departures from the common law mainstream and the causes and effects of those departures. Some divergences can be justified on the basis of a need to adapt the common law of contract, torts, equity and restitution to local circumstances, or to bring them into conformity with local values. More commonly, however, doctrinal or methodological divergence simply reflects different approaches to common problems, or different views as to what justice or policy requires in particular circumstances. In some instances divergent methodologies lead to substantially the same results, while in others particular causes of action, defences, immunities or remedies recognised in one jurisdiction but not another undoubtedly produce different outcomes. Such cases raise interesting questions as to whether ultimate appellate courts should be slow to abandon principles that remain well accepted throughout the common law world, or cautious about taking a uniquely divergent path.

The chapters in this book were originally presented at the Seventh Biennial Conference on the Law of Obligations held in Hong Kong in July 2014. Another collection, entitled *The Common Law of Obligations: Divergence and Unity* (ISBN: 9781782256564), is also being published.

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