SOCIETY OF LEGAL SCHOLARS CONFERENCE AT BRISTOL UNIVERSITY

I attended this conference for one day on the 11th September. In the morning I went to British Association of Comparative Law meeting and in the afternoon to the Comparative Law subject section papers. The morning consisted of a tribute to the late Tony Weir and his contribution to comparative law. The first paper was given by Professor John Bell. He described how Weir's approach to comparative law was affected by the period he spent in Tulane in the USA the early 1960s. He combined an interest in cases with a desire for principle. He was concerned with what was actually happening in a case – who was suing whom for what – and he sought for principles at a deeper level than generalisations. In relation to the continental doctrines of abuse of rights, for instance, rather than contenting himself with a statement that no such doctrine existed in English law, he demonstrated that similar objectives were achieved by exceptions to common law rights or the imposition of an objective standard of reasonableness (as opposed to subjective requirements as to motives). He showed that common values and morals were often at the heart of decisions taken in disparate ways eg the case law (and, in England, statute law) about liability in tort for adulterous relationships showed a common desire to avoid litigation because of its potential effect on the family.

Dr Matt Dyson then gave a tribute to Weir as a colleague. He was unique a teacher and an academic, and, for a variety of reasons, not likely to be replicated in the current generation. His interest in case books and translations would not win points with the current REF. He was fluent in German, French and Italian and could write essays in Latin. As a teacher his standards were rigorous and as an academic he had a remarkable ability for seeing and describing significant features in cases which conventional studies of them would overlook. This theme was developed further by Professor Paula Giliker in relation to tort cases. Weir was scathing in his criticism of Hedley Byrne: that an organisation seeking profit, none of which would have gone to the bank on whose reference it had relied, should have been thought capable (in the absence of a disclaimer of liability) of recovering its loss from the bank in respect of the provision of a gratuitous service. The burglar in Revill v Newberry injured by a frightened elderly allotment holder holed up his shed at night evoked no sympathy from him. Not did he approve of the attempt of the majority of the House of Lords in White v Jones to justify a remedy in tort for disappointed beneficiaries against a solicitor who failed to amend a will so as to replicate a remedy that a German claimant would have had in contract.

Professor Geoffrey Samuel focused on Weir's critique of English contract law and specifically (1) the simple fact, widely overlooked, that the courts have been much more concerned with collecting debts than extracting damages and (2) the tendency, resulting from the historical development of English contract law and in contrast to Roman law, to treat contract as a unified subject. On this latter issue, Weir said it was “as if medical students had a first year course entitled disease and consequently came to believe that diseases were all much of muchness and that when it was a question of remedies, it did not really matter whether it was a case of nephritis or schizophrenia” (Weir, T, Contracts in Rome and England (1992) 66 Tulane Law Review 1615, 1640).

The afternoon papers consisted of David Marrrani To compare or not to compare: that is the question; Ken Oliphant Teaching the core comparatively: the example of tort law; and Antonios Platsas Comparative law as the ideological core of a cosmopolitan law curriculum. These papers generated an interesting debate on the role of comparative law in law degrees. Should comparative

law be an optional extra subject? Or should it be incorporated in a core module or all core modules? If it should be spread around in this way, would the same argument apply to EU law? If comparative law was incorporated in the core, would something need to be dropped, and if so what? In the late afternoon papers were given by Bilun Mueller Towards a general European administrative law and Ronagh McQuigg Domestic violence in regional conventions on violence against women: a comparative analysis. The former paper drew attention to a number of similarities between the law on planning permission for development of land in Ireland and Germany. Since this is an area of law outside EU competence, it gives rise to speculation as to the reason for this "silent" harmonisation. Is it due to the shaping of the law by the writings of academics? Is there sometimes an argument based on the EU freedoms – that *any* difference in the law can potentially adversely affect them? Or is it because art 6(1) of the ECHR and art 1 of Protocol 1 might have some effect in this area? Or is it just due to the nature of things in Western society that similar problems arise and need to be dealt with in similar ways? The latter paper compared the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women and the European Convention on Preventing and Combating Violence against Women 17 years latter and noted the significance of additional features in the later convention.

- Raymond Youngs 13.9.12