Divergence and Convergence:
The Privy Council, the Common Law of England
and the Common Laws of Canada, Australia and New Zealand

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The subjects of this paper are, first, the effects on the courts in Canada, Australia and New Zealand of their ties to the common law of England through the appeal to the Privy Council; secondly, the aspirations of the judges who openly espoused the development for their own country of its own common law and "the end of the hegemony of the English version of the common law"; thirdly, how and why those aspirations were implemented in private law and the divergences which naturally and inevitably resulted - not only from England but also from each other. There were in this changed order new, but different, convergences.

The causes of divergence are many. They include the law-making role accepted as appropriate for judges in their own country; each country's intellectual traditions in legal thought and methodology; the statutory settings in which particular common law doctrines do their work; and 'local conditions'. These are obvious examples. But whatever the cause, what needs to be understood and respected is that it is for the courts of each country to make the choices suited to that country's circumstances, needs and values - divergence or convergence notwithstanding. This, after all, was what was sought in obtaining freedom from the common law of England.