

Professor Malcolm Clarke – an Appreciation

Julian Burling*

Malcolm Alistair Clarke, Professor Emeritus of Commercial Contract Law at the University of Cambridge, and a great supporter of BILA, died on 5 April 2024, aged 81.

After reading Law at St John's College, Cambridge, Malcom spent two years as a research fellow at Fitzwilliam College and then a further two years teaching at the University of Singapore. He was made a fellow of St John's when he became a lecturer at the University of Cambridge in 1970. He taught and directed studies in Law for generations of students (three of whom were to become current members of the Court of Appeal and another is a recently retired member). In my day as an undergraduate he supervised our studies in the law of contract, public international law and company law. He was awarded the personal chair in Commercial Contract Law in 1999.

Malcolm was an expert in the law of obligations, initially the law relating to the carriage of goods by land and by air, and comparative law in that area, on which he wrote extensively in books and articles. The involvement of insurers behind the scene in such cases led to what became his major interest, the law of insurance. The first edition of his magnum opus, 'The Law of Insurance Contracts'¹ (LIC), was published in 1989, running to six bound editions followed by the current looseleaf/online publication. 'The Law of Liability Insurance'² was published in 2013. Those were primarily practitioners' books. 'Policies and Perceptions of Insurance'³ was published in 1997 as a critical introduction to English insurance law in its socio-economic context and in the wider setting of contract law at large. Both that and LIC were awarded BILA Book Prizes. A successor volume 'Policies and Perceptions of Insurance Law in the Twenty-First Century'⁴ was published in 2007, amplifying those themes and comparing the corresponding rules of law in other common law countries and in the major jurisdictions of western Europe. There were also contributions to other professional reference works. Malcolm's books and articles have frequently been cited in reported judgments in the UK (from top to bottom) and in Commonwealth jurisdictions over the years.

Cosmopolitan in outlook, Malcolm was in 1999 one of the original members of the Project Group on Principles of European Insurance Contract Law (PEICL). The purpose was to develop a model law on insurance contracts for the EU legislator. It was first published in 2009 with a second, expanded edition in 2016. Malcolm, at first the only UK member, was described by the Chairman of PEICL, Prof. Helmut Heiss,

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¹ Latest edition: Malcolm Clarke with Julian Burling and Robert Purves, *The Law of Insurance Contracts* (6th edn, Routledge, 2009); latest looseleaf issue: Maggie Hemsworth, *The Law of Insurance Contracts - Issue 59* (August 2024, Lloyd's List Intelligence).

² Latest edition: Malcolm Clarke, *The Law of Liability Insurance* (2nd edn, Routledge, 2017).

³ Malcolm Clarke, *Policies and Perceptions of Insurance* (Clarendon, 1997).

⁴ Malcolm Clarke, *Policies and Perceptions of Insurance Law in the Twenty-First Century* (Clarendon, 2007).

as “a master mind of the group”, organising workshops in Cambridge, author of important parts of it and head of the drafting committee.

Malcolm was very generous to BILA in time and effort. He contributed articles and book reviews to the BILA Journal. He organised three seminars in 1997, 1999 and 2001 at St John’s on various aspects of insurance law and regulation for BILA in conjunction with the Cambridge University Centre for Corporate & Commercial Law. He was a member of the BILA Committee for some years from 1994 and was a Trustee of the BILA Charitable Trust from 2011 to 2020.

In his role as a supervisor of undergraduates Malcolm was rigorous (as in his own academic work) but encouraging (forgiving, as one of his students recently put it) and generous in time and effort. His current successor as director of studies in Law at St John’s describes him as “an outstanding scholar in his field – and modest about his achievements – and a supportive and kind colleague”, a description which all who knew him will endorse. He encouraged his students in their subsequent careers and inveigled me into writing Lloyd’s: Law and Practice for the Informa Insurance Law Library, of which he was Editor-in Chief, and to assist in some chapters in LIC.

As befitted an expert on transport law, Malcolm was well known in the Cambridge Law Faculty as a keen cyclist. He had a tandem and later a tricycle. He bought jointly with a Faculty colleague John Spencer, who spoke at his funeral service, a 1930s vintage triplet, on which they took their respective children out for rides. Earlier, Malcolm was an enthusiastic sportsman, playing hockey and squash well.

Malcolm was very fortunate to be married for 56 years to Eva, a loving and close companion and supporter in his vocation and a kind hostess to their many guests.

We shall miss Malcolm and remember him with affection, admiration and thanks for his company.