

## Speaker Series – *Law in War* with Dr Catherine Bond

**Interviewer:** [00:00:00] Welcome to the Inner West Library Speaker series. We'd like to start by acknowledging the Gadigal and Wangal people of the Eora nation on which this podcast is produced. Today we're joined by Dr Catherine Bond to discuss her newly published book, *Law in War*. Catherine is an Associate Professor at UNSW, specializing in intellectual property law, Australian legal history and the relationship between law and more in Australia. In 2016 she published her first book, *Anzac: The Landing, The Legend, The Law*. As she was researching and writing this work, Catherine became interested in the little considered topic of how law affected the Australian community during the First World War. This curiosity led to this, her second book. Welcome Catherine.

**Dr Catherine Bond:** Hello. Thank you for having me today.

**Interviewer:** Thank you for joining us. So I'll just start with my first question. So the outbreak of World War One in 1914 had a profound effect on Australia's newly minted constitution. Can you take us through a summary of events as they unfolded in relation to the changes in the law that were, at least on the surface, implemented to support the war effort?

**Dr Catherine Bond:** [00:01:09] So when war broke out in 1914, Australia was still essentially a teenager in terms of being a country. It had a new constitution, many of its laws had been in force for only eleven or so years, the first time that parliament had sat being in 1903. So when Australia joined Great Britain in war against Germany in early 1914, this was the start of a very busy political, legal and social time for the new country. So at the outbreak of the war, the Liberal Party, led by Joseph Cook, were in power, and they were responsible for a lot of the early measures that were taken, or that needed to be taken in response to this, this new war, this new hostility. And within a week of the outbreak of war, a government order was put in place, and this was the, among the first legal measures to be put in place. And it was directed at German born individuals; those who were still German citizens living in Australia, they hadn't been naturalized. And they became subject to a lot of different restrictions over the course of the war. This was the first one: the fact that they had to visit their local police station,

they had to register their details, and, if they moved, they had to go through that process again.

And when war was declared on Austria, Hungary, very shortly thereafter, these measures also applied to those individuals now considered enemies in Australia. So within a month though of the outbreak of the war, there was actually a federal election, in September 1914 and Labor then took power. So we had that very early in the war we had that change of government. So the Labor Party - the Labor government - led by Andrew Fisher, took over. And William or Billy Hughes, as he's more commonly known, now was appointed Attorney-General. And Billy Hughes as Attorney-General, and then he actually took over as Prime Minister in late 1915. He was responsible for many of the laws that came into effect in the First World War. And one of these was introduced in October 1914, a statute called the War Precautions Act. So this act received bipartisan support when it was introduced. No member of parliament really wanted to be seen as obstructing the war effort, at least at this time. And so it was well supported. But what this law did,

was it actually gave a lot of power to the executive, to the government, to make regulations, in a whole range of areas. Regulations being special legal rules that don't have to go through parliament and so they're not subject to any parliamentary debate or scrutiny. So the War Precautions Act, it allowed the government to create rules in a whole range of areas. And this law was amended, quite a few times throughout the war, and each time this act was amended, it granted more power to the executive. This executive led by Hughes, and it was used to create a whole range of rules that affected daily life, throughout the country. So as the years passed this included restrictions on freedom of speech. So it became an offence to make statements considered prejudicial to recruiting or likely to prejudice recruiting, or statements that might cause disaffection towards His Majesty. It became an offence to tear down recruiting posters. These rules restricted freedom of trade, so the price of bread and a whole range of other commodities was, regulated throughout the course of the war. It also affected freedom of movement. So it became an offence to meet with more than 20 people in a designated area around Parliament House in Melbourne. It also allowed for a whole range of measures to be introduced against individuals who had been born in Germany, or were of German descent, including internments. And throughout the war, a whole range of individuals, German citizens, individuals who had been born in Germany but

then naturalized, some Australian born individuals were also interned as well. So as the years passed though, as people were arrested and prosecuted under these different provisions, the High Court of Australia essentially confirmed that these measures were all legal too. That the Commonwealth Government really had quite broad scope with the defence power that was contained in the Australian Constitution. And, these measures continued to be developed, more were introduced, and remained in force across the duration of the war.

**Interviewer:** [00:06:05] I know cause they were quite detailed and intricate controls weren't they?

**Dr Catherine Bond:** [00:06:10] Yes. Yeah. It became very difficult for, both the police and for members of the public to understand exactly what, restrictions they were subject to at any particular time, and particularly for individuals who, had, who were deemed enemy aliens.

It became very difficult for them to know what they could and couldn't do basically.

**Interviewer:** [00:06:35] Yes. So that leads into my next question.

So in *Law and War* you present a very personal view of, this time, through the eyes and voices of 13 individuals, and you detail the subsequent cost or benefit to the lives as a result of these changes to the law. And some of these individuals include a suffragette with a very recognizable surname - Emeline's youngest - an Australian policeman of German heritage, a British born socialist, a member of the Wobblies, and an indigenous soldier, amongst others. One character that really stood out for me, purely for the cinematic nature of his story, is the German born butcher Karl Lude. Can you share his story?

**Dr Catherine Bond:** [00:07:21] So Karl Lude is a bit of an individual.

He's certainly forged his own path through the war. So he was born in Germany, he, emigrated to Australia around 1908, 1910. And, he ultimately spent the majority of the war and a fair time after Armistice Day in internment camps in Australia. So there

are a lot of reasons why individuals - and these were mostly men - ended up in internment camps in the First World War.

One reason was that they might have been detained by the Minister of Defence who believed that they were disloyal, though this never actually needed to be proved in the court of law. Another reason was voluntary internment. So men born in enemy countries, they would often lose their jobs as a result of discrimination, and they would end up, destitute and would actually voluntarily intern themselves. In Karl Lude's case well, so he did a number of things that meant internment was actually a probably a good idea in his case. But his internment also had a very big impact on his Australian born wife and his young daughter, who he actually didn't meet, until four or five years after her birth. So after emigrating from Germany, Karl settled in Loxton, South Australia, which was a, heavy German area. Not only individuals born in Germany, but those who had German descent or German heritage often ended up in Loxton. So he married a local woman and he worked as a butcher. At the start of the war he sought naturalization which was very common for individuals who were now, deemed enemy aliens. But while his application was being processed he did a number of things, which, I would say jeopardised that application. He was arrested, first off for being a member of the German military which was very common. That was required under law. But there were two, he was arrested, he was released. But then there were two incidents. Two things that he did, that, later were established by a royal commission to have occurred. A number of things happened in Loxton over the course of the war that there was subsequently a South Australian Royal Commission into this town. And, both of these events ultimately resulted in his internment. So the first was a German military parade, which he led throughout the streets of Loxton with men marching the goosestep throughout the town, with law, with Lude in command, which must have been so absurd to local residents.

And actually, we know of one event definitely established by the royal commission, but they may actually have been a few of these. So it kind of became, may have become a pattern of Lude's. But then, the second incident, and arguably the more serious occurred on the night of the 27th of October in 1914. So Karl went to his local police station, and there was a local officer Richard Lenthall in residence at the time. Karl had his hand in his pocket, he threatened and swore at Lenthall, including to - and I quote - "butcher him". Lenthall asked Karl to take his hand out of his pockets, which he

did, and when Lenthall put his hand into Karl's coat pocket he found a gun. And, understandably, Karl was subsequently arrested. From there he was sent to Torrance, Island internment camp in South Australia. And once that camp was closed, many of the local state camps were closed in 1915 with, the interned individuals sent to Liverpool camp in New South Wales, and that's where he was remained for the duration of the war. At the end of the war, and a few months after, it was Wellington 1919. A number of individuals were deported or repatriated from the camps with a view to sending them, these men back to Germany.

So this was delayed as a result of the influenza pandemic that occurred in 1919. But, Karl Lude was ultimately one of the men who was repatriated with a view to sending him back to Germany. He did not make it to Germany. He made it to Java, where he jumped ship. And, he, was eventually joined by his family, his wife and his daughter. They had another child, I believe, while they were overseas. The family wanted to come back to, wanted to come back to Australia as Holder Lude, Karl's wife was pregnant and the climate was not suiting the family. Holder and her daughter, no problems. They were British subjects, they could come back, but Karl was told he couldn't. So in typical Karl fashion, being an adventurer, he stowed away on a ship, and, he just came back anyway. And he was found in bed by, with his wife in South Australia by Richard Lenthall. I think basically Karl Lude wore the Australian government down and he, despite everything that had happened, he was actually allowed to stay in the country, even to the point that he became a naturalized British subject, so essentially a British citizen in the late 1920s. So, he really forged his own path.

I think it was good, for public safety, that he was interned. And, certainly, I don't, I don't think that he.... I don't, I definitely don't view his behaviour in a positive light. But he was absolutely a character. And, the fact that he was eventually allowed to just stay in Australia, really illustrates how, these stories that come out in the book. They, there are so many twists and turns to them, individuals who were just seen as an absolute threat to the country. I mean, he's just allowed to come back and he's naturalized and he gets on with his life.

**Interviewer:** [00:13:32] I know. And it's an example of how these changes to the law, were, essentially in the end used against the Australian government, for an end result,

that I'm sure that they, was not advantageous to them at all. But just such a brilliant ending to that story.

**Dr Catherine Bond:** [00:13:53] It really, you know, the Australian government should have made some different decisions in how they treated Lude when he was ultimately leaving the country. They didn't deport him, so legally, even though there were some restrictions, he, was allowed to stay in the country. And, and in the end, I think they just decided that he wasn't, that there, they had other problems now, he was under surveillance. He and his family were under surveillance for quite a while. But eventually he was just allowed to get on with his life.

**Interviewer:** [00:14:26] And this, there's that final detail, and isn't it the policeman that originally reported him and monitored him, and the one that pulled the gun on him. Wasn't he the one that actually had to deliver the news?

**Dr Catherine Bond:** [00:14:38] So he, Richard Lenthall. He, eventually, he went on to a very prestigious career but in the early 1920s, he was still a police officer in the area. During the war he'd had a number of dealings with Lude's wife. And then, after finding him in bed, in South Australia, illegally returned, eventually the government put up its hands and said, look, he can stay. And Richard Lenthall was the one who had to tell him, all those years after he was threatened by a gun, was the one who got to tell him that he'd got to stay in the country.

It was a very small world, Australia during the war.

**Interviewer:** [00:15:17] So, on to my next question. So, in the book you outline the long term and far reaching implications on various aspects of Australian life as a result of these changes to the law.

Are there any examples of this impact in recent history?

**Dr Catherine Bond:** [00:15:35] So a number of the laws that we have on the books today had their origin in war, in laws that were created for dealing with issues that arose around the First World War. And, although a number of the laws were repealed at the end of the First World War, in a few cases the government thought, those worked

pretty well we might just hang onto them and see what happens. So for example over the course of the 20th and 21st centuries, various federal and state laws have been created that sought to prohibit membership of certain organisations, for example, one example of this is anti bikie laws in Queensland. These laws actually had their origin in the First World War and a statute called the Unlawful Associations Act, which eventually banned membership of an organisation called the Industrial Workers of the World, or the Wobblies, who you mentioned earlier. They were opposed to the First World War and they sought to bring about a revolution. They had planned an anti-capitalist revolution in Australia, which never quite happened.

The law was used to dismantle this group over the period of a year. It destroyed its newspaper, dismantled its membership and its ability to disseminate its message throughout the community, and even went so far as to deport members who were not born in Australia to overseas destinations. And we still see that now. Individuals who had been, who have been living in Australia for a long period of time but never become Australian citizens, are committing a criminal offence and after they have been released from jail, often deported overseas. Jacinda Ardern and Scott Morrison have had a number of discussions about, about this, and, and New Zealand not being thrilled that this is occurring. I mean, another example is around the use of the word ANZAC. And today it's still an offence to use the word ANZAC in certain circumstances where you haven't got permission from the Minister for Defence. Sorry, the Minister for Veterans Affairs today. So these restrictions were introduced in 1916, when ANZAC was being used across a whole range of areas, mostly in business, or on goods, or people were even naming their homes ANZAC. And today, it's still an offence to use ANZAC in business or, as the name of a home, more than a century after the end of the First World War.

**Interviewer:** [00:18:07] So it's impossible sort of to discuss these changes to the law and the social impact of that, without comparing it to obviously what's going on now. There's a quote in the introduction of this book that "Australians have always believed that in times of crisis, whether individual, national, global, the Federal Government will be there to support us when we need it, but that it will not interfere with how we live." So obviously the crisis that you're referring to in that quote is World War One. But what are your thoughts on the current environment and its impact on federal and state law and our general way of life?

**Dr Catherine Bond:** [00:18:47] With the corona virus pandemic we've seen law being used in a number of ways at both federal and state territory levels. And we're seeing it being used in ways that certainly in modern history we haven't seen beforehand. So widespread quarantine of individuals with fines imposed where, people left their homes without a reasonable excuse is, is simply unprecedented.

And we've also seen mandatory quarantine in hotels from individuals returning from overseas and then quarantining at home in certain states where individuals have returned from other states or territories. Now in these circumstances because the public have been able to see the benefits from these legal changes, that this is a serious situation, and that there are direct benefits from this legal interference of us obeying these laws. As a whole I think communities have been amenable to these restrictions, and these changes as they've emerged, and emerged very quickly as well. And I think that's what the case was with the First World War too. People did understand that this was a crisis and that certain things needed to be sacrificed in order to win the war. But what happened in the First World War is that the community, the people who made up the community, were asked to sacrifice more and more as the years continued. The law became more and more reactive, and restrictive, as the years progressed, without the community understanding or being educated as to why certain things were needed. So at the moment here in Australia, in many of the states and territories we're seeing a relaxation of the most restrictive elements that have governed our lives for the last few months, although different states are taking different approaches.

But you can see that balance. We were living too, we were willing to live a certain way to have our liberty restricted, with a view to a certain benefit. Now that immediate threat is gone, these are big, these changes, these laws are being relaxed. There are still elements of that quote that I think we are still seeing, in our daily lives, so the idea that the government will be there to support us. There are still calls from individuals, Australian citizens in other countries who aren't able to get home. And, the view that the government should, help them, that this is one area where the government should step in. Similarly, with, higher education, the arts, other areas that haven't been supported by the government's measures, there is still the government's financial measures. There are still calls, or still an expectation perhaps, we thought that the government would



support these areas. And, that's an ongoing, that's an ongoing conversation. It's an ongoing area.

**Interviewer:** [00:21:38] Yes. Yeah, we'll have to sort of see how it goes as events unfold, I suppose. So now for my final question. I have noticed that you're a big *Game of Thrones* fan. I did find your journal article on the introduction of a patent system in Westeros.

**Dr Catherine Bond:** I mean it needs to happen. It still needs to happen, honestly.

**Interviewer:** Very impressive. So, as this is a library podcast, I am contractually obligated to ask you for your reading or viewing recommendations. Do you have any suggestions?

**Dr Catherine Bond:** [00:22:10] This is a very dangerous question for me, honestly. So, since I've finished writing *Law in War*, I've just been devouring books. It's like I need to replenish my knowledge stores. One book that I would really recommend is a book by Casey Cep, *Furious Hours: Murder, Fraud and The Last Trial of Harper Lee*.

So this story is wrapped around the trial of an African-American man who killed or who murdered an African-American preacher, who himself had likely committed a number of murders. That in itself is fascinating and so well told. But it's also the story of how Harper Lee the author of *To Kill a Mockingbird* became interested in this trial and wanted to write a book about it. Now we know though, that, Lee only published one additional book after *To Kill a Mockingbird*, its sequel, *Go Set a Watchman*.

So, the book of this trial didn't eventuate but, *Furious Hours* is such an interesting, is such an interesting book in that it combines true crime, historical research, reflections on writing. It looks at Harper Lee's relationships, her relationship with Truman Capote. It's, it's really fascinating reading.

And, it's, it's not at all a law book either.

It is just an interesting book about, these people who found themselves connected by this trial. And it's, it's a really wonderful story about Harper Lee, too. It actually led to me going back and reading *To Kill a Mockingbird* and then reading *Go Set a Watchman* as well. So, it's, I highly recommend *Furious Hours*.

**Interviewer:** [00:23:52] It sounds amazing. I might, I might, actually take, chase that up myself.

**Dr Catherine Bond:** [00:24:00] And that is, that is such a magnificent book too.

**Interviewer:** It is brilliant.

Thank you so much for your time today Catherine. If you'd like to hear more from Catherine, *Law in War* has recently been published by New South Press and is available at all good local bookstores. If you'd like to take advantage of Catherine's amazing reading suggestion you may be up to find this title available for reservation in our online library catalogue. Thank you for listening and look out for more upcoming digital content through the Inner West Library What 's On and social media channels.