

Book Review

Antarctica - Private Property or Public Heritage? by Keith Suter [Leichhardt NSW: Pluto Press Australia, 1991, x + 209 pages; ISBN 0 949138 657; AUD19.95, soft cover.]

It is not coincidental that there are a few of books on the Antarctica written by Australians. For example, one of the first studies made of the law appeared in 1982 as Antarctic Law and Politics by Professor Francis Auburn (Hurst, London). W. M. Bush has also produced a superb collection of legal materials on the Antarctica which is an indispensable tool for any researcher on the subject. The book is entitled International Law and Antarctica: a collection of interstate and national documents (London, Oceana 1982- ). More recently, in 1987, Gillian Triggs edited The Antarctic Treaty Regime: Law, Environment and Resources (Cambridge, Cambridge University Press), which is actually a collection of papers from the proceedings of a conference held in London in 1985 and which was organised by the British Institute of International and Comparative Law.

Antarctica: Private Property or Public Heritage? is the latest book on the topic written in Australia from a new perspective. Its release in 1991 coincides with the signing of the Environmental Protocol to the Antarctic Treaty. The book brings up-to-date the Antarctic discussion and claims to "revamp entirely" the author's earlier book, World Law and the Last Wilderness, published in 1981.

Consisting of a preface, twelve short chapters (181 pages) and three appendices (ie (i) the 1959 Antarctic Treaty, (ii) the 1980 Convention on the Conservation of Antarctic Marine Living Resources and (iii) an Extract from the 1980 Final Act of the Conference on the Conservation of Antarctic Marine Living Resources), the book examines the issues concerning the Antarctica and addresses the future of one of the world's last frontiers. The author argues in the concluding chapter that what should exist is a declaration that the Antarctica be "the Public Heritage of Humankind" (as opposed to the "common heritage of humankind", which, viewed to "be exclusively a conservation regime", has limitations). This underlies the main thrust of the book: that the Antarctica, being the last wilderness left for exploitation, should be preserved for future generations in the form of a world wilderness park. To achieve this, the author argues that the job should be accorded to international law.

The concept of "Public Heritage" is not new as it is drawn from "the emergence of the new doctrine of public trust in domestic environmental law" (page 171). However, the difference between the two concepts is this: whilst the public trust doctrine does not mean "no development on public lands .. [since it only] demands a balance between what will be gained and what will be lost", the concept of the Public Heritage means "the total avoidance of any fishing or mineral exploitation of Antarctica" [ibid] and the necessity to create an international administering body to be known as the

"Antarctic Public Heritage Agency" To achieve this, states would be required to withdraw territorial and all other claims to the Antarctica.

Although one of the purposes of the book was "to convey some of the flavour and importance of international law" and to make it "an interesting subject" [Preface], it was not written exclusively for the international lawyer. In its various chapters, it summarises in classical mode, the past and present positions and argues for the future. The author comes across as a committed environmentalist, (he does not pretend to be otherwise) and has attempted to present reasons for his position in a clear and concise manner which should make the book appealing to and easily readable by anyone interested enough to want to know something about the world's last wilderness continent.

For those who have a deeper interest and wish to pursue the subject, they are directed to "Further Reading" at page 182.

It appears that that reading list is merely indicative of some of the other publications on the topic which exist and a serious researcher on the topic may well wish to also refer to W. M. Bush's work referred to earlier; the Proceedings of a Workshop held at Beardmore, South Field Camp, Antarctica, January 7-13, 1985 on The Antarctic Treaty System (National Academy Press, Washington DC, 1986); Lyster, Simon, International Wildlife Law (Cambridge, Grotius Publications Ltd, 1985); Myhre, Jeffrey D, The Antarctic Treaty System:

Politics, Law, and Diplomacy (Westview Press, Boulder and London, 1986); and Vicuna, Francisco Orrego, Antarctic mineral exploitation: the emerging legal framework (Cambridge University Press, Cambridge, 1988). Finally, in The International Law of Antarctica by Emilio Suharie (a Chilean lawyer) (Martinus Nijhoff Publishers, Dordrecht, 1991), which is part of the New Haven Studies in International Law and World Public Order series prepared at the Yale Law School, there is found a contrast in appraisal and approach, including proposals for long and medium term solutions.

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