

Book Reviews

Annotated Admiralty Legislation

S.W. Hetherington (Law Book Company Ltd. \$49.50)

The Admiralty Act, 1988 (Cth) came into force on 1 January this year. Before that and since 1911 the admiralty jurisdiction exercised by the New South Wales Supreme Court as a Colonial Court of Admiralty, was that possessed by the High Court of England at the time the Colonial Courts of Admiralty Act was passed in 1890. The High Court and other State and Territory Supreme Courts were also Colonial Courts of Admiralty and exercised the same jurisdiction. There was real doubt whether the Federal Court of Australia was a Court of "original unlimited civil jurisdiction" so as to also qualify as a Colonial Court under the 1890 Act. As has been noted by Brian Davenport QC (the Law Commissioner for England and Wales) the admiralty jurisdiction exercised by Australian courts was, to say the least, "confused and antique".

In 1982 the whole question of civil admiralty jurisdiction was referred to The Law Reform Commission. Its report, No. 33, entitled "Civil Admiralty Jurisdiction" was published in 1986. That report recommended the repeal of the Imperial legislation and the passing of a Commonwealth Act which put in place a uniform and comprehensive framework for the administration of that jurisdiction throughout Australia.

The new Act confers civil admiralty jurisdiction upon the Federal Court as well as on each of the State and Territory courts. It does not give any original jurisdiction to the High Court.

Stuart Hetherington's Annotated Admiralty Legislation (The Law Book Company Limited) provides a very good exposition of the new Act. In addition to reproducing the Act it reproduces the Second Reading Speech, the Explanatory Memorandum, the new Admiralty Rules (which are concerned principally with matters peculiar to admiralty jurisdiction such as preliminary acts, arrest of ships and limitation proceedings) and the admiralty jurisdiction provisions of the Supreme Court Act, 1981 (UK).

The annotations to each section are divided into a number of sub-headings. The most commonly used are described as



(l to r) Mr. Justice Carruthers (present Admiralty Judge) and Justices Yeldham, Sheppard and Samuels, all of whom sat in the Admiralty Division in the past.

follows - "Background", "Comparable Legislation", "Cases", "Cross references" and "Comment". The cross references include references to the relevant parts of The Law Reform Commission Report which itself is a comprehensive and scholarly work.

Hetherington's book is a useful starting point for the practitioner who has to interpret and understand the workings of the new Act and Rules. As the author notes in his preface the ALRC Report is "an essential reference work for any student or practitioner of Admiralty jurisdiction". I endorse that comment and recommend that those who acquire Hetherington's book also acquire a copy of that Report. □ A.J. Meagher

Land Law - Peter Butt

(2nd ed. Law Book Company 668 pp
Hard Cover \$82.00 Soft Cover \$51.00)

As the author explains in the preface, this work began life as a second edition to the author's Introduction to Land Law published in 1980. That earlier work was a concise and clear introduction to a subject often found difficult by students and practitioners alike, perhaps more acutely by the former group. By reason of the earlier work being, and being styled, an introduction, the primary and most often experienced function of that work was the enlightening of those studying property law, rather than those practising it. This work deserves no such limitation. It is an invaluable addition to the legal literature on property law.

In the preface, the author confesses his abject surrender to a temptation to expand the work. Those concerned with property law, in whatever circumstances, can be grateful for this weakness of the author in the face of temptation especially as it is combined with his customary clarity of expression, scholarship and practical insight.

The work is broken into twenty four chapters. The early part of the book is devoted to an exposition of the sources and growth of land law in New South Wales and the origins and development of English land law. Such topics as feudalism and tenure (free and unfree), the legal machinery used in regulation of property rights, ownership, the doctrine of estates, uses, trusts, executory interests, the rules against perpetuities, settlements and trusts for sale are carefully and clearly treated. This treatment is, wherever possible, placed in the context of the development of land law in New South Wales and of its importance or relevance to the present day. It is not easy with a book such as this to identify particular parts which require or suggest the need for special mention. However, bearing this in mind, worthy of particular mention is the chapter in the early part of the work entitled "Land". This is an invaluable spring to replenish the reader's stock of knowledge and understanding of fundamental concepts and principles which recur in practice with some regularity. The section in this chapter on fixtures gives the reader a thorough and thoughtful analysis of a topic, clear discussion of which can be impeded by the number of cases on the topic. The chapter also contains an interesting

discussion of boundaries of land, including tidal boundaries, accretion and erosion, the medium filum rule and the statutory alterations to that rule.

The last ten chapters of the book comprise over two thirds of the volume of the work. These chapters contain expositions upon the important basic topics in the area: co-ownership, leases, easements and other incorporeal hereditaments, covenants affecting freehold, mortgages, old system land (including deeds and priorities of interests), Torrens Title, Strata Title, prescription and limitation, Crown land, rent control and security of tenure.

Each of these chapters provides thorough and extensive discussion which will almost certainly provide any practitioner with either an answer to, or insight into, any particular problem. For example, the eight page section on deeds in the chapter on old system title is a concise treasure trove of principle and authority. Also, the short ten page chapter on Crown land supplies an intelligible framework from which one can, if necessity dictates, descend with relative safety into the bog of Crown land legislation.

The work is marked by the easy and clear enunciation of underlying principle, the impact of relevant legislation upon that enunciation of principle and the provision of references to authorities and commentaries in a luxuriant and helpful fashion truly reflecting the care and scholarship which saturates the whole of this work.

No lawyer in New South Wales whose practice involves real property should allow himself or herself to be without access to this work. □ James Allsop.

Letter to "The Times" Editor

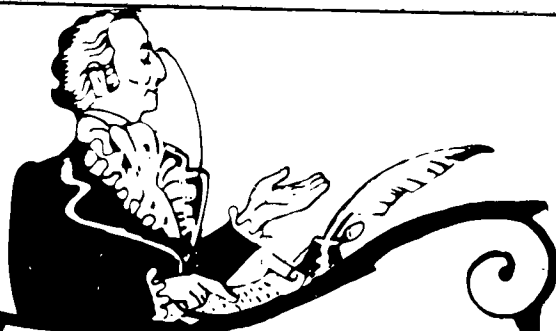
"From Mr. Kynric Lewic, QC

Sir, Not long ago, my opponent in the Court of Appeal was a young fellow member of chambers who capped his argument by assuring the judges that "if my learned friend is right, there will be dug a bottomless pit that will forever hang over the head of my client".

He won.

Yours faithfully,
KYNRIC LEWIS
Penrallt, Llysfaen,
Cardiff, South Glamorgan "

(The Times Wed. 14.6.89)



Professional Clothing and Your Sartorially Learned Friend, Vince Maloney

Several times over the years, legal friends and customers of Vince Maloney have told him they wished he would turn his remarkable talents to the particular clothing needs of the legal profession. He has done this.

In the Suit and Tailoring Annexe to the V.M. shop, in the Gallery at Centrepont, you will now find the best of traditional legal mercery, from bibs to jabots to barristers' shirts and wing collars; all the work of technicians who have specialised in this field long enough to know what's practical, what's comfortable, what's what.

Perhaps even more importantly, a trio of long-time Vince Maloney tailors with credits involving Eminent Judicial Persons and Vice-Royalty (the names, of course, are nobody else's business) are equipped to custom-tailor bar jackets and the appropriate trousers with well-educated, practised skills. Only from the unquestionable fabrics of England's Holland and Sherry, of course. Traditional wool baratheas or lighter, cooler wool-and-mohair for Summer.

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