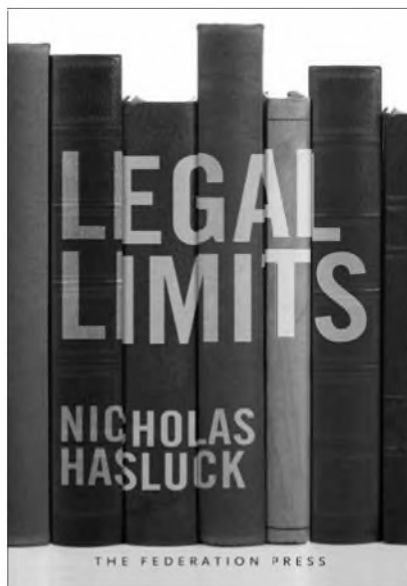


Legal Limits

By Nicholas Hasluck | Federation Pres | 2013



In the opening chapter of his latest book, Nicholas Hasluck, a former judge of the Supreme Court of Western Australia, remarks that our legal system depends upon stories being well told. For this reason, among others that Hasluck goes on to explore in the chapters that follow, literature has much to teach lawyers, and especially advocates.

Hasluck reflects on the lessons a lawyer can draw from literature.

Hasluck has been exploring the relationship between law and literature for some time, both in his works of non-fiction and in his novels. Throughout this book, which might most accurately be described as a collection of essays, Hasluck reflects on the lessons a lawyer can draw from

literature. However, the book also has the air of a memoir about it. While Hasluck touches on the nexus between law and literature in each chapter, he also covers an eclectic array of other subjects, including the question of mediation and its place within our legal system, the preventive detention of sex offenders, the dismissal of Gough Whitlam, his own writing, and the writing of others.

In Chapter 1 ('Legal Limits'), Hasluck demonstrates that the insights offered by fiction to those working within the legal system are many. It is a rich area for exploration and Hasluck paints with a broad brush, briefly examining the works of a number of authors, including Borges, Kafka, Orwell and Dickens. Perhaps the most important insight which Hasluck identifies in this chapter is that literature, in casting light on the complexities of any given contentious situation, reminds us of the importance of paying attention to the individuality of litigants' stories. It is our task as advocates, says Hasluck, to ensure that the 'small, personal voice of the litigant' is heard and understood.

Chapter 2 ('Thought Crimes in Post-colonial Literature') is a discussion of how fiction illuminates our understanding of human rights, via an examination of a selection of post-colonial novels. Again, Hasluck casts his net wide. Adopting a freewheeling, discursive style, Hasluck commences his survey

with Alan Paton's *Cry, The Beloved Country*, a novel written about the injustices of South African society in the 1940s, which was published immediately prior to the passage of laws that institutionalised Apartheid in 1948. Hasluck comments that Paton's novel not only provides a graphic illustration of the workings (and shortcomings) of the legal system but also brings a 'sense of reality to the abstractions known as human rights'. More recent works by South African novelists are discussed, such as JM Coetzee's *Waiting for the Barbarians*, an allegorical novel about imperial power and Apartheid (published in 1980), and Shaun Johnson's *The Native Commissioner* (published in 2006). Hasluck then goes on to examine the works of post-colonial writers from other areas, including Australia's Peter Carey and Kate Grenville.

The chapters that follow are more memoir and political commentary than literary analysis. In Chapter 4 ('Other Customs'), Hasluck reminisces about a trip he and his wife took to Peru. In Chapter 6 ('Seeing What Happened'), Hasluck shares some of his experiences and observations from his time spent as president of the Equal Opportunity Tribunal of Western Australia. Chapter 8 ('Should Judges be Mediators?') is a confined inquiry into the increasing popularity of mediation and its place within our legal system, in which Hasluck canvasses other extra-judicial writing on this topic. Chapter 9

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(‘Beyond the High Court’) is, in essence, a review of Ian Callinan’s first novel *The Lawyer and the Libertine*, published in 1997.

It is in Chapter 10 (‘The Whitlam Dismissal Revisited’) where Hasluck is at his best. In this chapter, Hasluck explains why he wrote his most recent novel, *Dismissal*, a fictionalised account of the constitutional crisis preceding Gough Whitlam’s

dismissal as prime minister. Even more interestingly, Hasluck uses this chapter to explain the choices he made as a novelist in recounting a story already so familiar to Australians. With a light and endearingly modest touch Hasluck reveals aspects about his personal history that led him to write *Dismissal*. The story behind Hasluck’s decision to tell this particular tale makes for fascinating reading in and of itself.

In Chapter 9, Hasluck admits that Callinan’s *The Lawyer and the Libertine* ‘passes the essential test...of being readable.’ Happily, *Legal Limits* also passes that essential test. But the book is not what it purports to be. Regarded as a whole, rather than being a discussion about the relationship between law and literature, the book is a collection of reflections and reminiscences from a life cunningly – and successfully – spent in both disciplines.

Reviewed by Juliet Curtin

Crossword solution

