

Book Review

ANNOTATED ADMIRALTY LEGISLATION by Stuart Hetherington. The Law Book Company Limited, Sydney, 1989. Reviewed by C. R. Carruthers.*

After a long and chequered history, Australia now has for the first time, a comprehensive, up-to-date, uniform law governing admiralty jurisdiction. Its evolution has a fascinating history. The legislation has the advantage of drawing not only on Australia's own experience of its admiralty laws but also on admiralty legislation in other jurisdictions, particularly the United Kingdom and New Zealand, and also Canada and South Africa.

The difficult task for the author of any text book on a new subject like this one is to decide on not only the objective of the book but also its scope. The temptation for a reviewer is to discuss what the book is not, rather than what it is. Often the temptation arises because the author has not made the purpose clear. In this case, the book's unpretentious title identifies the purpose clearly and concisely.

The unenviable task facing the author was that this would be the first book in the market place. What was needed and what the author has provided, is a handbook which collects and explains the new statutory provisions. As a handbook, it is compiled in a very helpful way.

The Admiralty Act and Rules are set out and annotated. The annotations perform a number of functions. They draw together those existing Australian materials which remain relevant to the new legislation; they set out materials from other jurisdictions which are relevant to the new provisions, particularly those provisions which have been drawn from the other jurisdictions; and they give a commentary pointing the likely direction of the courts in interpreting the new legislation. The book also collects other useful materials.

The Second Reading Speech on the Bill is included together with the explanatory memorandum prepared on the Bill. In his Foreword to the book, Sir Laurence Street welcomes their inclusion as "material to which reference can legitimately be made as an aid to the construction of a statute" and commends this course to other authors of texts on Australian statutes.

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The author acknowledges in the Preface the "enormous assistance" which he obtained from the Crawford Report¹. He emphasises that his work is not a substitute for the Report. The Report is certainly an essential companion. Its assistance though is not limited to Australian admiralty jurisdiction; it comments helpfully on admiralty jurisdiction in other places.

As a first in its field, the book is a necessary acquisition for all practitioners in maritime law. The real value of the book is as a first point of reference.

Sir Laurence draws attention to the author's extensive practical experience. Those associated in any way with maritime law know that there are many areas where the implementation of legislative provisions depends more on practical experience than on an examination of the words of statutory provisions or of the cases and other available materials.

While the book contains useful practical comments, one criticism which can be made is that it could have been improved by focusing more extensively on some of the practical aspects. Subjects which come to mind are security or bail, valuation of ships, the scope of jurisdiction against sister ships (or, as the new legislation calls them, surrogate ships), liens and priorities and unjustified arrest. Perhaps this criticism is made only to provoke a broader approach when it comes time for a second edition.

The comment about a second edition is not made lightly. Necessarily, the text will call for revision once the legislation has been in force for a period and practitioners and the courts have had some experience of it. Another factor which will persuade the author to keep the book under review is the disclosure by Zelling AJ — a name synonymous with admiralty jurisdiction and maritime law generally in Australia — when he opened the recent MLAANZ Conference, that he was in the course of writing a book on admiralty jurisdiction in Australia.

The last comment by Sir Laurence in his Foreword refers to the "justifiable pride" that the author "can take in this product of his labours". There is little that need be added.

¹ Australian Law Reform Commission *Civil Admiralty Jurisdiction* Report No 33. (Australian Government Publishing Service, Canberra, 1986).