

CENTRE FOR MARITIME LAW

T.C. BEIRNE SCHOOL OF LAW



UNIVERSITY OF QUEENSLAND

ANNUAL REPORT 2000-2001

(Period 1 November 2000 to 31 December 2001)

Introduction

The directors of the Centre for Maritime Law (CML) are pleased to present this Annual Report 2001, for the period from 1 November 2000 to 31 December 2001.

During the period since the last report the CML has enjoyed an increase in interest in the courses it offers and the seminars it has held, as is reflected by the growing number of enrolments. The directors would like to acknowledge and to thank the registrants, the guest lecturers and the staff who have supported these endeavours. Without them the CML could not operate successfully.

Below: Dr Sarah Derrington and Dr Michael White QC.



Teaching

The CML is committed ensuring all of its work is of the highest calibre. To this end the CML recruits various guest lecturers to teach in their areas of expertise. This practice has seen students benefit from considerable aggregate legal and practical knowledge of CML lecturers.

Apart from the CML directors, amongst those who lectured CML courses between 1 November 2000 and 31 December 2001 were Commodore Sam Bateman, AM, a former director of the Centre for Maritime Policy, University of Woollongong, Ms Frances Hannah, Lecturer at Queensland University of Technology, Professor Ove Hoegh-Guldberg, Centre for Marine Studies, University of Queensland, Ms Constance Johnson, Queensland Premier's Department, Professor Ivan Shearer, AM, RFD, Sydney University, Dr Ian Tibbetts, Centre for Marine Studies, University of Queensland, Dr Ian McPhail, Director of the Queensland National Parks and Wildlife Centre, Mr Jeff Hardy, Maritime Division, Queensland Transport, Mr Frank Turner and Mr Michael Fisher, Thynne & Macartney, Mr Ernie van Buuren, Blake Dawson Waldron and Mr Peter Murrell, Murrell Stephenson.

The post-graduate courses are all held in intensive mode. They combine those who wish to be assessed for a degree, which is a 10,000 word dissertation, with those who wish to attend for continuing education. The courses gain a great deal from the experience and knowledge of many of those who attend, who are often asked to give a short paper on the areas of their expertise. Many of the registrants travel long distances to attend from within Australia and the overseas registrants have come from New Zealand, Malaysia and Vietnam.

Each of the courses held in the period are dealt with below.

Below: Commodore Sam Bateman AM teaching CML students in the Marine Environment and Marine Pollution Course.



Postgraduate Courses

The CML has substantially increased and diversified the number of postgraduate level course offerings in order to meet demand. Several new courses such as General

Maritime Law and Advanced Marine Insurance Law and they will be offered during 2002. During the current reporting period the CML has conducted courses on Admiralty Jurisdiction & Practice, The Marine Environment and Marine Pollution, International Law of the Sea and Introduction to Maritime Law.

(a) Admiralty Jurisdiction & Practice was offered in an intensive format between Friday 2 and Monday 5 February 2001. The course aim was to assist students to develop an in-depth understanding of the Admiralty jurisdiction and other Commonwealth jurisdictions and a detailed knowledge of Admiralty practice. The core content of the course included study of: the Constitutional background and jurisdiction of courts; maritime liens and mortgages; Arrest Convention; analysis of *Admiralty Act 1988* and Rules including general and proprietary maritime claims; jurisdiction *in rem* and *in personam*; surrogate ship arrest; limitation periods; arrest of ships – practice and procedure in Supreme and Federal courts; enforced sale – Admiralty Marshal's terms of sale; priorities; comparative perspectives, in particular, the UK, USA and South Africa.

There were 9 enrolments in the subject and the course was presented by Dr Michael White QC and Dr Sarah Derrington.

Below: The Admiralty Jurisdiction and Practice Class

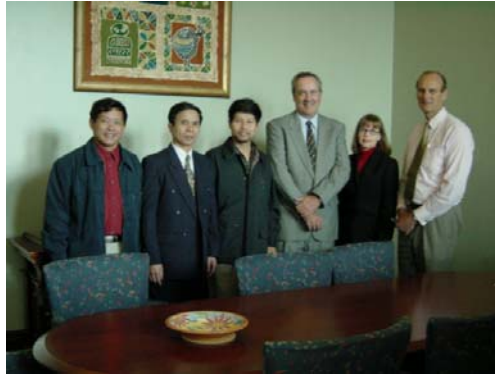


Marine Environment and Marine Pollution was conducted intensively between Monday 23 July and Friday 27 July 2001. Enrolments in the course totalled 26; 16 CEP registrants, 8 masters students and 2 undergraduate students. Among the CEP registrants who undertook the course were government representatives from organizations such as the National Oceans Office, Australian Marine Safety Authority, Queensland Transport, ATSIC, Australian Fisheries Management Authority and 3 representatives from the Vietnamese government.

The course was delivered primarily by Dr Michael White QC and Commodore Sam Bateman, AM. Additionally, Mr Jeff Hardy (Queensland Transport), Dr Ian Tibbets (Centre for Maritime Studies, UQ), Professor Ove Hoegh-Guldberg (Centre for Maritime Studies, UQ) and Dr Ian McPhail (Queensland Parks and Wildlife) delivered guest lectures.

The subject matter covered by the course included the delimitation of maritime zones, navigational regimes, indigenous sea rights, international conventions, as well as federal and state legislation protecting the marine environment.

Below: Professor Anthony Tarr, Dr Sarah Derrington and Dr Michael White QC with Vietnamese government representatives on the Marine Environment course.



Below: Marine Environment and Marine Pollution Students



International Law of the Sea was conducted intensively between Friday 21 September and Monday 24 September 2001. Enrolments in the course totalled 15. Once again, the diverse range of students who undertook the course attested to the broad appeal of CML courses. The course was taught by Dr Michael White QC, Ms Frances Hannah (QUT) and Ms Constance Johnson (Queensland Premier's Department).

This course aimed to provide students with a broad overview of the economic, environmental and political importance of the various issues in the international law arena. The course began with an overview of international law and the historical background to the law of the sea and detailed lectures were delivered on the law of the sea treaties, zonal delimitation, piracy, the legal implications of the MV Tampa incident and the subsequent asylum seeker crisis, amongst other issues.

The inter-relationship between law of the sea and shipping law was an important part of the course as the two aspects are so closely connected.

Below: International Law of the Sea Class



Introduction to Maritime Law was offered in Semester One 2001. The course was open to students undertaking a Graduate Diploma in Marine Studies. In total, 9 students enrolled in this course, a number of whom were international students. The course is principally offered for the postgraduate students in the degree by the Centre for Marine Studies.

Introduction to Maritime Law was coordinated by Dr Sarah Derrington. Seminars were presented by Dr Julie-Anne Tarr, Mrs Margaret Brown, Minter Ellison, Ms Noeleen MacNamara and Dr Michael White.

Undergraduate Courses

The focus of CML teaching is mainly on postgraduate courses but it also presents undergraduate courses in the form of the undergraduate Maritime Law course (LLB and JD) and the International Maritime Law Arbitration Moot.

The undergraduate Maritime Law course was not offered during the reporting period; however, it is offered in Semester 1 2002.

The International Maritime Law Arbitration Moot

The annual International Maritime Law Arbitration Moot 2001 was hosted by the Hong Kong and held at the University of Hong Kong in July. The Moot is an international competition organised by the CML in joint venture with the Australian Institute of Foreign and Comparative Law, held in June/July every year. Dr Sarah Derrington is the Moot Director and oversaw both the development of the Moot Problem and the administration of the competition. There are a maximum number of six members per team under the competition rules and it is held amongst University Law School teams. In 2001, 6 teams participated in the Moot: University of Hong Kong, National University of Singapore, National Law School India, University of Technology Sydney, Queensland University of Technology and University of Queensland. Mr Russell Hinchy coached the UQ team which showed initial promise and was knocked out in the semi-finals. The University of Singapore was victorious for the second year in a row. The success of the event in 2001 augurs well for the 2002 competition, which is to be held in Brisbane, with an enrolment of eleven teams.

Seminars

World Maritime Day

On 27 September 2001 the CML celebrated World Maritime Day by hosting seminars on the protection of underwater cultural heritage and Australian shipping issues. Various speakers delivered papers in their area of expertise. In particular papers were given by Ms Lynden Ayliffe (Environment Australia), Dr Craig Forrest (T.C. Beirne School of Law), Mr Graeme Henderson (W.A. Maritime Museum), who also read the paper by Dr William Jeffrey (James Cook University), Ms Constance Johnson (Queensland Premier's Department) and Dr Michael White (University of Queensland). Additionally, Mr Lachlan Payne, Chief Executive of the Australian Shipowners Association, delivered a paper entitled 'Government Impositions Inhibiting Australian Shipping.' Mr Barry Vellnagel, Chairman of the National Bulk Commodities Group, was unable to attend from Canberra due to the air transport crisis and his paper; 'Australia- A Shipping Nation?' was read for him.

The CML was prompted by the interest in its first World Maritime Day celebration to continue holding such seminars annually.

Research and Publications

Between 1 November 2000 and 31 December 2001, the academics from the CML were engaged in a wide range of scholarly activities, including publications. A list of these may be found in Annex 1.

In addition to the work of the CML academics, students who have undertaken study with the CML at a postgraduate level have contributed greatly to research into maritime law. Amongst the diverse topics on which dissertations were delivered were the development of the concept of the archipelagic state and the regulation of navigation through archipelagic waters, foreign warship's in China's territorial waters, the international compensation regime on vessel-source oil pollution, the legal regime of deep seabed mining, the nature, scope and extent of the undertakings required by the Admiralty Rules under the Admiralty Act 1988 (Cth) and whether Australia should become a party to the Arrest Convention 1999.

A full list of student dissertations is included in Annex 2.

Editorial Positions

Dr Michael White is on the editorial board of the *Journal of Maritime Law and Commerce* published quarterly by Jefferson Law Book Company, USA.

Acknowledgment

With the steady growth of enrolments and general interest in the marine law activities of the CML the courses and other activities are steadily expanding. This is the path that the Directors had always planned should be taken and they are optimistic that this growth will continue. It would not be possible, however, without the support of the many organizations and persons that have stood behind these activities. The Directors would like to acknowledge this support and express their appreciation of it including the guest lecturers and the members of the Advisory Council. The CML would

particularly like to acknowledge the financial support from McCullough Robertson as the principal sponsors. The Program for 2002 is on the CML web site (www.law.uq.edu.au/cml) and a report on those activities will be made in the 2002 Annual Report.

Dr Michael White QC

Dr Sarah Derrington

APPENDICES

1. **Research and publications by CML directors**
2. **Research and publications by CML scholars**
3. **Financial report**

Annex 1 **Research and Publications by CML Directors**

Book Chapter

Derrington S, "Marine Insurance Law in Australia" in Thomas, D. Rhidian, *The Modern Law of Marine Insurance*, Volume Two, LLP, 2002

White M, "Case Study of Australia" in Franckx, E (ed.) *Vessel-source Pollution and Coastal State Jurisdiction: The Work of the ILA Committee on Coastal State Jurisdiction Relating to Marine Pollution (1991-2000)*, Kluwer Law International, The Hague, 2001, pp.147-168

Conference Chair

White M, "*Risk Management in Marine Tourism Seminar*", Joint Seminar, UQ CRC Centre for Tourism and Risk Management and Centre for Maritime Law, Cairns, Queensland, 19 June 2001

White M, "*Risk Management in Marine Tourism Seminar*", Joint Seminar, UQ CRC Centre for Tourism and Risk Management and Centre for Maritime Law, Raddison Palm Meadows Resort, Gold Coast, Queensland, 13 November 2001

Conference Delegate

Derrington S, *Comite Maritime International: International Working Group on the Instrument for the Carriage of Goods by Sea*, Australian & New Zealand Delegate, Madrid, 12-13 November

Conference Papers

White M, 2001 "Shipping", *Integrated Oceans Management: Issues in Implementing Australia's Oceans Policy*, Research Report 26, *Australia-Canada Ocean Research Network Workshop* Vancouver, B.C. Canada 10-11 December 2000

White M, 2001 "Australian Offshore Oil and Gas: Seabed and Water Column Issues", *Integrated Oceans Management: Issues in Implementing Australia's Oceans Policy*,

Research Report 26, *Australia-Canada Ocean Research Network Workshop* Vancouver, B.C. Canada 10-11 December 2000

White M, "Q.G.S.Y. *Lucinda* and its Significance to the Australian Federation", Supreme Court of Queensland Conference on 'Sir Samuel Griffith: The Law and the Constitution', Brisbane, 31 March 2001

White M, 2001 "The *Bunga Teratai Satu* Grounding on the Great Barrier Reef and Its Aftermath" *The Maritime Law Association of Australia and New Zealand (Queensland)*, Brisbane, Queensland, 22 June 2001. (Joint paper with Captain John Watkinson)

White M, "The Loss of the Australian Submarine AE2 on Anzac Day 1915". UQ Alumni Association, UQ, Brisbane, 30 June 2001

White M, "The M.V. Tampa and the Christmas Island Incident" *The Maritime Law Association of Australia and New Zealand (Queensland)*, Brisbane, Queensland, 26 October 2001. (Joint paper with Mr Robert Ritchie, Wallenius Wilhelmsen Pty Ltd)

White M, "Marine Insurance: Its Importance in Risk Management", *Risk Management in Marine Tourism*, Seminar at Raddison Palm Meadows Resort, Gold Coast, 13 November, 2001. (Joint Seminar Centre for Tourism and Risk Management and Centre for Maritime Law, UQ)

Journal Articles and other Entries

Derrington S, "A comparative overview of the law relating to non-disclosure and misrepresentation in contracts of marine insurance and some proposals for unification", [2001] *Lloyd's Maritime and Commercial law Quarterly* 66

Derrington S, update of the "Admiralty" section in Butterworths Supreme Court Forms and Precedents

White M, "Centenary of Federation: Queensland lawyers and Griffith and the Constitution", (2001) 75 *Australian Law Journal* pp 280 – 282

White M, "Queensland: Hon Justice A I Philippides; Hon Justice C W Pincus; Hon Justice G N Williams", *Australian Law Journal*, 75 (May 2001), pp.296 – 298

White M, "Griffith and the Centenary of Federation in 2001", (2001) 21 *Proctor* p.4

White M, "Australian Maritime Law Update: 2000", (2001) 32 *Journal of Maritime Law and Commerce*, pp.371-391 (with Mr Jeffrey Weeks, CML Research Assistant)

White M, "Tampa and the Christmas Island Incident", (2001) 2 *Asia Pacific Shipping* 15-16 (October Issue)

White M, "The MV *Tampa* and the Christmas Island Incident", (2001) *Proctor*, November 2001, pp.14-15

Case Notes

White M, *The Sea Hunt*, American Journal of International Law, 2001

White M, "A Comment on Commonwealth Legislation on Shipping and Implementation of International Treaties", (2001) *Maritime Studies* 28-29 (September/October 2001)

Book Reviews

White M, "The Unsung Story of an Anzac submarine and Crew", *Pittwater Life*, May 2001, p 46

Reports and Submissions

White M, 2001 *Submission to the Joint Standing Committee on Treaties*, Joint Standing Committee on Treaties, Parliament of Australia, Canberra, ACT

Annex 2

Research and Publications by CML Scholars

(Dissertations by Master and other Degree Scholars in the T.C. Beirne School of Law
in marine courses)

Aanestad H, *The Potential of the Northern Sea Route.*

Aanestad H, *Fisheries management under the EEZ scheme.*

Ansley J, *The Inter-Relationship between International, Federal and State Law in
Regard to Maritime Boundaries, in particular to the Great Barrier Reef.*

Cochran DR, *Examining aspects of the 1999 Arrest Convention.*

Collins MR, *Port Authorities and Marine Pollution: When are Western Australian
Port Authorities Liable for Marine Pollution?*

Collins MR, *The Arrest Convention 1999: Should Australia be a Signatory?*

Dickson MK, *Is it lawful to seize a foreign fishing Vessel on the High Seas, in order
to protect fishing resources not within Australia's EEZ?*

Grenacs B, *The Concept of Ownership in the Arrest of Ships: an Australian and South
African Comparison.*

Heiser A, *Protecting the Torres Strait Fisheries from Marine Pollution.*

Hoftvedt J, *The International Compensation Regime on Vessel-source Oil Pollution*

Hoftvedt J, *The Legal Regime of Deep Seabed Mining*

Kavanagh JR, *The Nature, Scope and Extent of the Undertakings Required by the
Admiralty Rules under the Admiralty Act 1988 (Cth).*

Loban H, *The Torres Strait Treaty*

Lockhart M, *International Law of the Sea's Jurisdictional Relationship with the
Preservation and Conservation of Whales*

Lowe L, *Legal Aspects of Naval Operations*

Ketcheson J, *Foreign Warship's in China's Territorial Waters: Can Innocent Passage
be Subjected to the Requirement of prior Notification and Approval Under UNCLOS?*

Marissen J, *A Comparison of the Law and Practice of the arrest of Ships in Australia
and England.*

Marissen J, *Liability for Marine Pollution – Can it Extend to Directors of Ship Owning Companies?*

Marissen J, *Hot Pursuit or No Pursuit? Arrest of the F.V. South Tomi 2001*

Mongko T, *Whether the threatening, forcing and/or direction of the Captain of the Tampa by the boat people to divert his route towards Christmas Island rather than sailing to the nearest Indonesian port amounts to piracy or terrorism, and if yes, whether Australia was to treat them as asylum seekers (refugees) or criminals?*

Nohr V, *International Regulation of Oil Pollution and the Effect Oil Pollution has on the Marine Environment*

Nohr V, *The Continental Shelf*

Prydz F, *The Right of Intervention on the High Seas – the Intervention Convention*

Radcliffe AJ, *A Review of the TBT Debate: Consideration and Comments on the Adoption of the International Convention on the Control of Harmful Anti-Fouling Systems on Ships Through a Review of the International and Domestic Legislation and Policy*

Radcliffe AJ, *Australia and Tampa: Did Australia violate its obligations under international and domestic law?*

Simmonds ME, *An obligation to protect and preserve: Marine Pollution from Land-based Sources and the Great Barrier Reef.*

Suttie AJ, *Can jurisdiction be conferred on a state for an oil spill incident outside the 3 nautical mile limit?*

White S, *The Development of the Concept of the Archipelagic State and the Regulation of Navigation through Archipelagic Waters*

Wilhelm G, *Marine Environment Pollution in the Great Barrier Reef and land based pollution.*

(Annex 3 has a limited circulation and is attached only to certain copies of this Report)

Last update 21.3.02