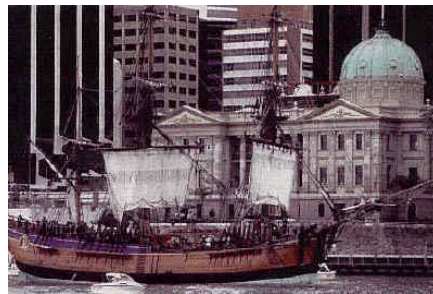




T C BEIRNE SCHOOL OF LAW
THE UNIVERSITY OF QUEENSLAND

CENTRE FOR MARITIME LAW NEWSLETTER



Issue 8, September 2003

Introduction

The CML has been busy with seminars, publications and courses. We would like to acknowledge the major contribution from our supporters, especially the Guest Lecturers to our courses and the others whose time has been given so generously.

We welcome our new Member, Dr Craig Forrest, whose particular interests are underwater cultural heritage and law of the sea. We also welcome back to Brisbane Professor Edgar Gold CM QC who has been away in Canada.

The focus of the CML is now more on research, seminars and publications and less on courses. We look forward to this focus and to contributing in the various maritime areas of law, policy and regulation. Some publications are noted in this next section.

Michael White

Sarah Derrington

Publications

The following are examples of recent publications by staff and scholars at the CML.

Derrington, S & White, M, 'Australian Maritime Law Update 2002' (2003) 34 *Journal of Maritime Law and Commerce* 363

Gold, E *Gard Handbook on P&I Insurance*, 5th ed., Gard, 2002 (principal author and editor)

Forrest, C 'Has the Application of Salvage Law to Underwater Cultural Heritage Become a Thing of the Past?', (2003) 34 *Journal of Maritime Law and Commerce* 309

Maddern, D & Knight, S, 'Refuge for Ships in Distress: International Developments and the Australian Position' (2003) *MLANZ Journal* 101

White, M & Knight, S, 'ITLOS and the 'Volga' Case: The Russian Federation v Australia' (2003) 17 *MLAANZ Journal* 39

White, M, 'The *Sitka II*: Australian High Court defines 'Damage' under MARPOL' (2003) 11(1) *Asia Pacific Forum News of the International Bar Association Section on Business Law* 15

White, M, & Knight, S, 'Marine Safety Issues in the IMO' (2003) 3(11) *Asia Pacific Shipping* 30

Recent Seminars

The seminars presented by the CML aim to provide an opportunity for members of the maritime community, which includes lawyers, seafarers, academics, government and students, to come together to discuss current maritime law related issues.

(Materials are available for each of these past seminars on the CML website at <http://www.law.uq.edu.au/index.html?id=2263&pid=1630>)

March - Marine Discussion Series

The 'Prestige' Oil Spill and its Aftermath

This seminar was presented by Dr Edgar Gold CM QC, Adjunct Professor at the TC Beirne School of Law. It provided an overview of the incident involving the oil tanker 'Prestige' off the Spanish coast, the environmental damage resulting from the incident and the various maritime law and safety related issues that were highlighted as a result.



April - Marine Discussion Series

Legal Issues of Declaration of War; including Shipping

Mr Anthony Cassimatis gave a paper on when it is legal for one country to declare war on another with additional comments on the shipping related aspects being provided by Michael White.



The case study used for discussion was the then-ongoing war in Iraq.

May - Marine Discussion Series

Shipping and Terrorism

This seminar was presented by Dr Sam Bateman AM, Commodore RAN (retd.) and Honorary Fellow, Centre for Maritime Policy, University of Wollongong. He gave an overview of recent terrorist incidents at sea and discussed the international action that is being taken to prevent such incidents recurring.



August - Marine Discussion Series

Recent Legal Developments at the IMO

This paper was presented by Mr Paul Nelson from the Australian Maritime Safety Authority in Canberra. Having attended the recent MEPC meeting of the IMO in London, Mr Nelson was able to provide an Australian context for a number of the resolutions arrived at by various IMO deliberative bodies. Emphasis was placed on the changes made to the international conventions on marine pollution in response to the *Prestige* oil spill.



August - Seminar for Federal Court Judges

On 27 August Sarah Derrington and Edgar Gold delivered the first of a series of seminars on maritime law to the judges of the Federal Court. The seminar was held in Melbourne and was organised in conjunction with His Honour Justice Richard Cooper, a maritime lawyer of considerable experience. The seminar, which dealt with carriage of goods by sea and admiralty jurisdiction and practice, was well received and the second in the series will be held in Sydney in early 2004.

Coming Seminars**25 September 2003**

World Maritime Day Seminar: 'In Search of an Australian Shipping Policy'

This event will provide an opportunity for representatives from government, shipping industry, the legal profession and academia to meet and discuss the formulation of an Australian Shipping Policy. A draft shipping policy will be the eventual outcome.

23 October 2003

Fishing Vessel 'Viarsa' Arrest on High Seas & Gibbs Marine Insurance decision by the High Court

This seminar will be in two parts. The first will be a discussion led by Michael White on the maritime law issues arising out of the arrest of the fishing vessel 'Viarsa' by the Australian authorities after a long 'hot pursuit' in the Southern Ocean. The second will be an examination by Sarah Derrington of the recent High Court decision in *Gibbs v Mercantile*

Mutual Insurance (Australia) Ltd [2003] HCA 39 (5 August 2003), a case focussing on what constitutes a policy of marine insurance.

Recent Events & Courses**Sea Carriage Law (LAWS7876)**

The postgraduate 'Sea Carriage' course covered the finer points of contracts of affreightment for transport of goods by sea including bills of lading, charterparties and an introduction to the arbitral proceedings used to resolve disputes arising under such contracts. It was held from the 25th-28th of February and co-ordinated by Sarah Derrington.



Participants in the Sea Carriage Law course in February 2003

Teaching in Fiji

The CML was pleased to receive an invitation early in 2003 from Dr Peter Heathcote to conduct courses, in conjunction with the Secretariat for the Pacific Community, on maritime law related topics in Fiji for representatives from a number of South Pacific governments.

Sarah Derrington conducted a five-day course entitled 'Maritime Law' in May while Michael White held a course on 'Marine Environment and Pollution Law' in June.



Participants in the Marine Environment & Pollution Law Course held in Fiji in June 2003

Marine Environment & Pollution Law (LAWS7867)

The postgraduate 'Marine Environment & Pollution Law' course offers an overview of the international conventions, Australian laws, regulations and policy in relation to protection and preservation of the marine environment. This year the course was held from 14th-17th of July. It was jointly co-ordinated by Michael White and Dr Sam Bateman AM.



Participants in the Marine Environment and Pollution Law Course in July 2003

International Maritime Arbitration Moot Competition

The Fourth International Maritime Arbitration Moot Competition was held in Brisbane this year from 27 June to 1 July. The competition is a joint initiative of the Centre for Maritime Law and the Australian Institute of Foreign and Comparative Law and is coordinated by Sarah Derrington.

Six universities participated in the 2003 competition with representatives from universities in Hong Kong, India, Singapore and Indonesia travelling to Brisbane to join teams from the University of Queensland and the University of Technology, Sydney.

The moot problem was based around a time charterparty and raised issues relating to stowage, charterer's orders and a claim for additional hire.

The Grand Final of the competition was held at Customs House. The arbitral tribunal for the Final was chaired by Mr David Martin-Clarke, an experienced LMAA arbitrator, who was joined by Mr Ron Salter, a partner with Phillips Fox, and Mr Paul Willee QC.

In a very close result the University of Queensland was successful in winning the Norton White Prize for Best Team Mooters for the second year running. The National Law School of India was the runner-up. Abhayraj Naik (National Law School of India) won the prize for Best Speaker in the Grand Final.



The winning University of Queensland team, from left to right, Mr Russell Hinchy (Coach), Kate Deere, Stephen Knight, Jessica Arscott and Catherine Arscott

The University of Queensland also received the award for being the highest ranked team after the General Rounds of the Competition and won the prize for the Best Memorandum for

the Claimant. The University of Technology, Sydney won the prize for the Best Memorandum for the Respondent. Alexander Au (Hong Kong University) won the prize for Best Speaker in the General Rounds.

Thanks must be given to all those who gave up their time to sit as arbitrators during the competition. The 2004 competition will be hosted by the National University of Singapore.

Coming Courses

29 September - 2 October 2003

Shipping Law (LAWS7865)

This course provides an introduction to the legal regimes in place at both global and domestic levels to protect the marine environment, deals with the concept of Port State Control and the law and practice of pilotage while also focusing on the traditional "wet" areas of Maritime Law - collisions and groundings; salvage; towage and wreck.

24-27 November 2003

Offshore Energy Law (Special Topic A - LAWS7849)

This course is an overview of the international conventions, Australian laws and regulations and policy in relation to offshore energy in the Australian region. It touches on the international regulation, general oil and gas policy and industry practice. It includes marine boundary aspects of the north-west shelf and the Timor Sea.

9-12 February 2004

Law of the Sea (LAWS7866)

This course provides a detailed examination of the United Nations

Convention on the Law of the Sea 1982 and assessment of the impact of that convention on Australian sea boundaries, regional relationships and arrangements and on the global legal structure as it pertains to the law of the sea.

People of the CML

The CML attracts many of the scholars who elect to pursue postgraduate education at the TC Beirne School of Law. In July the staff of the CML was pleased to congratulate Mr Kurnia Jaya, from Indonesia, on graduating with an LLM that focussed heavily on maritime law related issues.



Michael White congratulates Kurnia on graduating LLM

The CML also bade farewell, albeit only for a year, to Indonesian PhD candidate Mrs Dhiana Pusipitawati who has returned to Indonesia to conduct research in the field for her thesis on 'Indonesian Archipelagic Sea Lane Passage and its Implementation'.



CML Director Sara Derrington and CML Member Craig Forrest bid farewell to Kurnia and Dhiana

CML STAFF & SCHOLARS**Executive Director****Michael White**

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Member**Craig Forrest**

BCom (Rhodes), LLB LLM (with distinction)

NISA PGCE (Teesside), PhD (Wolverhampton)

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Adjunct Professor**Edgar Gold**

CM, QC, BA LLB (Dalhousie), PhD (Wales)

PhD Research Students**Mr Husnu Al-Suood***Topic: "Investigation of the Adequacy of the Legal Environment for the Protection and Preservation of the Marine Environment in Maldives in the light of International Law and Domestic Law"***Mr Pierre-Jean Bordahandy***Topic: "The Legal Implications of Containerisation"***Mrs Dhiana Puspitawati***Topic: "Indonesian Archipelagic Sea Lane Passage and its Implementation"***Mr Paul Willee QC***Topic: "International Responses to Piracy"***Research Assistant****Stephen Knight**

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Additional information regarding any of the courses or events set out above can be obtained directly from Stephen Knight, CML Research Assistant, using the contact details listed on this page.

A complete schedule of all courses and activities scheduled to be held by the CML over 2003-2005 may be found at: <http://www.law.uq.edu.au/index.html?id=1769&pid=1630>.



The Centre for Maritime Law is a Centre for Research and Teaching established within the TC Beirne School of Law, University of Queensland.