

Global Challenges, Shared Solutions

Dr Donald Charrett (editor)

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Reviewed by Matthew Bell

In early May 2012, well over 200 of the world's leading construction lawyers gathered in Melbourne, Australia. They had been brought together by a cavalcade of events over the course of nearly a fortnight, including the Dispute Resolution Board Foundation's conference in Sydney, a half-day forum of the American and Canadian Colleges of Construction Law and our ICP Committee's Working Weekend for 2012.¹

The centrepiece of this banquet was the Fourth International Construction Law Conference, jointly hosted by the Societies of Construction Law Australia and New Zealand and running from 6 to 8 May 2012. The 22 papers presented at that conference, along with the keynote speech by Sir Vivian Ramsey and a critical summary of the proceedings by the Hon David Byrne QC, have now been published and are available in either eBook or printed form.

I should note at the outset that, given my links with the Conference and this publication, I cannot claim to be a disinterested observer in relation to either of them. These links do, however, provide me with an insight into what a mighty achievement the production of this book is and what its value is likely to be. Put simply, it presents a repository of the current state of construction law around the world which is insightful, of high quality and diverse.

Not surprisingly, therefore, I warmly recommend *Global Challenges, Shared Solutions* as an addition to the libraries of construction law practitioners and students. Moreover, if we were to re-run *CLInt's* 'desert island construction law books' survey of a few years ago, I would include the book on my list of must-bring companions to while away the hours while marooned on said desert island (or, for that matter, on a long flight home once rescued). This is especially the case as the eBook format means that its more than 400 pages are readily portable and accessible on a range of electronic devices.

A full summary of the text is beyond the scope of this short review. Having said that, a sample of the fruits on offer is set out below and a note outlining the proceedings of the Conference has recently been published by Marianne Rose.² Moreover, at least three of the papers – those by Tomás Kennedy-Grant QC, Brian Mason and David Trinder – have already been republished in leading journals.³

The Conference's theme, 'Global Challenges, Shared Solutions', invited participants to reflect upon their own experiences and expertise for the benefit of the international construction law community – initially, as gathered in the Melbourne auditorium and now via this book. The theme also offered plenty of scope for diversity in presenters' topics. Living up to this potential, the papers covered a range of issues, broadly falling within – or straddling – categories including the distinctive legal aspects of the law or commerce in various regions, the interplay of technical issues and the law and detailed insights into key doctrinal issues.

The production of the book has followed what might be termed a multi-stage quality assurance process. This commenced with the topics and submitted abstracts being the subject of peer review, and then the accepted papers themselves being edited before delivery. Following the Conference, the papers have been further edited and are now presented in a coherent and easy-to-navigate format.

The papers covered broadly the following topics:

- *Project conception and delivery*: anticipating dispute-prone tensions in the documentation (Derek S Firth), risk management (John Bellhouse and John Walton) and reduction (D G Washington, Dr A E Potts and Dr P Sincock), applying the Big Risk Game to a dredging scenario (Arent van Wassenaer) and practical issues in the management of time, cost and quality post-tender (Phillip Blunden, presented by David Watson);
- *The interplay of civil and common law*: (papers by Virginie Colaiuta (presented by Nicholas A Brown) and by John Bellhouse and Paul Cowan);
- *Regional and country perspectives*: European public procurement (Professor Philip Britton), Brazil (Júlio César Bueno) and the US (Deborah S Ballati);



- *Key doctrinal issues in a comparative context*: good faith, unconscionability and reasonableness (Tómas Kennedy-Grant QC), reduction of disproportionate liquidated damages (Roger ter Haar QC), constructive acceleration (David Trinder) and proprietary trespass (Brian Mason);
- *The impact of bribery and corruption*: (Peter Wood, Ross Freeman and Glen Ward); and
- *Dispute avoidance and resolution*: whether arbitration around the world is alive or dead (Professor Doug Jones AO), dispute adjudication boards in the international context and dispute management in civil law jurisdictions (Dr Götz-Sebastian Hök), cross-border dispute resolution in emerging East Asian societies (Nicholas A Brown), the collaborative settlement process (Duncan W Glaholt and R Bruce Reynolds) and managing the 'Leviathan' of documents during litigation (the Hon Justice Peter Vickery).

Such a list speaks for itself, I think. These topics represent some of the most important issues facing practitioners and scholars at present. Moreover, the fact that they were delivered by a 'who's who' of our community (including many of our colleagues within ICP) offers a ready promise that the papers will be carefully researched, thought-provoking and insightful as to how the current, commercially fraught international market for construction can be expertly navigated.

Thus, as it stands, it is tempting to regard this book as a construction law version of the golden disc which was launched with the Voyager space probes. Just as that disc captured the sounds of Earth for posterity, *Global Challenges, Shared Solutions* provides a marvellously detailed snapshot of the evolution of construction law practice and debates. Thus, practitioners and students looking to gain a better understanding of key issues will find much of interest and value within its pages, facilitating our ability not only to provide more informed advice to clients but also to contribute to the ongoing development of this crucial intersection point between the law and construction practice.

Global Challenges, Shared Solutions went on sale in March 2013 via www.scl.org.au. It is available in eBook for those wishing to read it on their tablet devices, and in the more traditional hard copy format for more traditional reference.

Notes

- 1 The proceedings of the Working Weekend were reported upon by Brennan Ong in CLInt (2012) 7(2), p 47.
- 2 See Australian Construction Law Newsletter (2012) 147, p 42.
- 3 See, respectively, Building and Construction Law (2013) 29, p 4, Journal of Civil Litigation and Practice (2012) 1(3), p 141 and Building and Construction Law (2012) 28, p 319.

Matthew Bell is a Senior Lecturer and Co-Director of Studies for Construction Law at the Melbourne Law School, a co-editor of CLInt and Chair of the Academic Subcommittee of the Society of Construction Law Australia. Email: m.bell@unimelb.edu.au.