

AUSTRALIAN MINING HISTORY ASSOCIATION BOOK REVIEW

Mine Safety Law Regulation Policy

Gunningham, N., 2008. The Federation Press, Annandale, New South Wales, pp. i-1x, 291.

This treatise of almost 300 pages is a must for any person with an interest in 'mining law' in Australia whether it is the actual laws, the regulations overseeing the laws or the policies that are formulated as a result of the regulations. The contents of the book have benefited from extensive research, including face-to-face interviews with relevant persons, by the author and colleagues. It is a book based on substance rather than intuition. Given the significant changes in the laws themselves and the intent of the laws over the last 10 years, this is a timely volume. As stated in the Preface the book should have a wide audience including not only those directly involved in the mining industry but persons in industries and professions that are somewhat peripheral to the mining industry that are required to interact with the mining industry from time to time.

The book focuses on the mining laws in three Australian states – New South Wales, Queensland and Western Australia. At first glance, it might appear that the book is not relevant to other states. This is certainly not the case, for the author explains that the focus on the country's three major producers is justified, as the general principles of mine safety legislation in all states can be gleaned from their legislation.

It is an extremely well structured book that is divided into four logical parts, each further divided into sections – *Introduction; The Legal Framework; Towards Reform: Best Practice Regulation; Inspection, Enforcement; and Prosecution; Regulation in Many Rooms*. Apart from being well set out, the inclusion of an extensive bibliography, a list of cases and a compilation of relevant legislation in all Australian states all add to the impact of the book. The index is informative and easy to use which allows the book to be used as a quick reference when needed. Despite these attributes the book is one that cannot be opened for light reading on a Sunday morning as one might expect given the theme and scope of the contents. It requires concentration and an interest in the topics for one to fully benefit from its contents.

To fully appreciate the intent and themes of the book, the 'Introduction' is a must. It provides a synopsis of the reasons for the recent changes in mining Occupational Health and Safety [OHS] laws and the rationale of 'zero harm' or 'harm minimisation' behind these changes. For any person who doubts that mining OHS laws needed changing, or is not convinced that the changes are necessary, a reading of this section, 'The OHS Challenge', is essential.

Part One, 'The Legal Framework', commences with a preamble of the traditional approach to mine safety regulation and details its shortcomings. Most of Part One details the present legislative structure in the three states with useful comparisons of the respective laws. The roles of the various participants in mine safety are discussed and the final section outlines the weaknesses of the current laws and their implementation. On the one hand, Part One provides an adequate summary of

current legislature for those who require such a summary; on the other the chapter is well referenced for those wishing to read further.

Part Two, 'Towards Reform: Best Practice Regulation; Inspection, Enforcement; and Prosecution', logically examines regulatory and policy reform and questions how 'standard setting and regulation can be designed to achieve best practice'. This is achieved through lengthy discussions of standard setting, the role, strategies and effectiveness of inspections, and the role and influence of prosecution on compliance with regulations. Part Two ends with a lengthy discourse providing 'a series of design principles intended to achieve a more balanced and effective prosecution strategy'. Clearly, this section was prompted by what the author sees as limitations of the current system. For those wanting a well-balanced discussion of the implementation of the mining OHS laws, Part Two is well worth reading.

Part Three, 'Regulation in Many Rooms', discusses the role of industry associates, trade unions and workers in implementing OHS laws and improving OHS standards despite the often lack of common interest among the parties. The intent of the discussion in Part Three, and perhaps the intent of the book is summarised by one sentence, 'Regulatory outcomes, in particular, usually emerge out of discussion, dialogue and negotiation, rather than from the unilateral imposition of rules by one party on another'. Whether governments have this in mind when formulating laws and regulations, only time will tell.

The book is required reading for any person who desires an insight into the mining OHS laws in Australia, the regulations and the policies resulting from these laws. It is a semi-technical publication that requires some effort to read - nonetheless it is a commendable book that should stimulate discussion.

Adrian Hutton
University of Wollongong

Journal of Australasian Mining History, Vol. 6, September 2008