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In Conversation with Simon Curtis – The Law of Shipbuilding Contracts and beyond

It's 11am on an unseasonably crisp September morning in Holborn, London. It is just over a week since I qualified as a solicitor, marking two years of training across some of the key practice areas in the London office (Dispute Resolution, Energy and Shipping Transactions and Finance). I have qualified into the Energy and Shipping Transactions team where I split my practice broadly between advising funders and sponsors in the financing, development, acquisition and disposal of energy and infrastructure projects and advising clients on contracts and other project documentation for high-value complex projects in the oil and gas, shipbuilding, offshore construction, drilling, floating production (FPSO and FLNG) and renewables sectors. Sitting down to chat with Simon Curtis, Senior Counsel in the firm, I reflect on his impressive career across the field of maritime law spanning several global law firms, authoring *The Law of Shipbuilding Contracts* (the leading text on shipbuilding and marine construction), starting and building his own law firm, which merged with Haynes and Boone eight years ago and created the team that I have now joined.

Kayley Rousell: Thank you Simon for agreeing to answer these questions. Firstly, can you give a short summary of your legal career up to the point of authoring the first edition of the “*Law of Shipbuilding Contracts*” in 1991, including how you came to pursue a career in law and how you came to specialise in the area of shipping?

Simon: I have always liked ships and ports - I was brought up as a child in Swansea which is a maritime city and we lived on Swansea Bay so could always see ships coming and going from my bedroom. I studied at the University of Oxford and in my third year picked up a flyer at the University Appointments Committee for a job at an international law firm which captured my imagination because of the prospect of international travel and fast moving, complex work. I applied but was unfortunately turned down, and instead accepted articles (today's equivalent of a training contract) with a magic circle firm. However, once I obtained a very good degree from Oxford I was determined to re-apply to the firm which had initially turned me down and, much to the magic circle firm's voluble displeasure, subsequently joined the firm I really wanted to work for.

Prior to starting my training, I moved to Spain to learn Spanish which has proved to be a useful asset throughout my legal career. As the only lawyer able to speak Spanish at my first firm, I was regularly sent abroad, both to Spain and elsewhere, to investigate cases involving ships being scuttled or set on fire, particularly interviewing witnesses and taking their statements in Spanish.

I subsequently decided to make the move to a different and very new firm to pursue partnership at what is now a large City of London firm. I made partnership two years later in 1986.

Kayley: At what point in your career did you decide to write a book on the law of shipbuilding contracts and what was your main reason for doing so?

Simon: With my move I had brought with me a very well-known Japanese shipbuilder as a client and both before and after becoming a partner, I was increasingly doing more shipbuilding work. But I found there were no textbooks which provided guidance on the area. I recall there being a book by a Cambridge academic which compared the shipbuilding laws in various obscure jurisdictions around the world, but this did not help me with understanding the principles of English law in relation to shipbuilding. I remember speaking to one of my father's friends who

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said the best thing I could do was to “find a subject and become the leading expert in it” and that’s exactly what I decided to do.

There was a useful text at the time called Time Charters. This book took the leading standard forms of time charter (which at the time were the New York Produce Exchange and the Baltimore forms) and commented on the individual clauses of the forms. This was an unusual approach as most legal books at the time dealt with general principles and hadn’t tried to specifically interpret the language of the standard forms. I decided I could take the Japanese and European standard forms of shipbuilding contracts and produce a specific chapter by chapter commentary on each of the articles of these forms.

My main reason for writing the book was to build my own client base. The firm at which I had made partner was very successful, but many of the clients were institutional meaning that if I wanted to move on, I would need to grow my own client relationships. The publication of the book allowed me to do just this and from about 1992 my client base began to expand significantly.

Kayley: Roughly how long did it take to write the book?

Simon: About 4 and half years, I would say it was 2 years in the thinking and researching and 2 and a half years in the writing.

Kayley: Would you say you enjoyed the writing process on the whole?

Simon: No! I was balancing helping my wife look after our two very small children whilst working incredibly hard in my partnership role and attempting to build a client base at the same time. Writing the book was tough.

Kayley: So how did you balance your time between your role as partner at such a rapidly expanding city law firm and writing the book?

Simon: For more than two years, I would wake up at 4am 6 days a week and would work on the book before heading to work at 8:30am. I always tried to have Sundays off. The task was made all the more difficult by working on what is now long forgotten word processing software. I wrote my first few chapters on a programme called Locoscript which is nothing like the word processing programmes available today. I recall getting up particularly early one day and writing for five hours, then pressing the wrong key and permanently deleting all of the text I had written. I howled like a wolf when I realised what I had done and woke up one of the children! It certainly wasn’t an easy process.

Kayley: What is your writing process like when tackling complex legal topics and how do you approach your research before jumping straight into the writing?

Simon: In 1987 there were no electronic legal search tools available like there are today so for me, it was very much a gradual and manual process. I meticulously went through the Lloyd’s List Shipping Law reports all the way back to 1919 and compiled a list of cases that involved shipbuilding and supplemented this by going through the entire card index of shipbuilding cases and materials at The Bodleian Law Library in Oxford. From there, I eventually produced my own card index system by subject, but the process wasn’t without plenty of false leads, long hours and dead ends.

Kayley: Do you have any tips for someone else looking to delve into the world of legal writing as to how to make complex legal concepts both sufficiently accurate but also accessible to an audience varying in expertise and reasons for reading your book?

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Simon: I have always thought the most important thing to keep in mind when writing is to try to put oneself in the position of an intelligent lay reader i.e. someone who was not necessarily legally qualified but who wants to understand what the key legal issues are. I also tried to avoid unnecessary jargon, legalese and wherever possible any Latin! I think the key takeaway is keep what you write as simple as you can, but don't insult the intelligence of an intelligent reader.

Kayley: Were there any particular challenges you faced when writing the book?

Simon: Staying awake! There were many instances where I fell asleep at my desk at home before work. The winter mornings were hard and I always found the summers much easier.

Kayley: With that in mind, did you ever experience moments of wanting to give up?

Simon: A few times I did consider abandoning the project, but my wife was very supportive and would often say "*You've started so you have to finish!*". I found it helped in these moments to take a break for 2 to 3 days to reset and often this would help bring back the enthusiasm. Writing a book is a long process so there were obviously many times where it went well and other periods when I really struggled.

Kayley: Publishing a book is typically a challenging process, can you explain what the publishing process involved and whether this was difficult in a market which is well saturated with legal commentary?

Simon: Once I had decided I wanted to write the book, I wrote to Lloyd's of London Press (who were the publishers of Time Charters) explaining the idea and duly received a letter confirming their interest in principle. They asked me to send a summary proposal setting out each of the chapters as well as a specimen chapter. I did this and a few weeks later, I was offered a publishing contract. I think the process was easy because there was no other book of its kind on the market and it fitted well into Lloyd's existing portfolio of maritime law books.

Kayley: Once the book was published, what was the impact on your reputation in the industry and were people instantly able to link the book to your name or was the process gradual?

Simon: I'd say it was a gradual process. The first edition of the book received positive reviews and I was invited to speak at various conferences on the back of it but it was 2 to 3 years before the work really started to flow in. When it did, it was fantastic – I had people contacting me from Japan, Korea and elsewhere saying, "*We've read your book, can you help us?*" and many of these people eventually became clients. I was also doing a lot of marketing in the post publication period for which the book really helped. At this time, many London maritime lawyers were marketing themselves all over the world but often being turned away; many of the legal counsel at the companies I was visiting had heard of the book which made it easy for me to get through the door – this was and is obviously the first and most vital stage of winning new clients.

Kayley: Have you received commentary or disagreement from people in the industry regarding the topics your book covers and if so, how have you dealt with this?

Simon: Yes, I recall there being quite a controversy about what condition a vessel has to be in in order to be deliverable. Ships are complex structures, and it is often difficult to get every single aspect of their construction right, so there was great debate as to how much compliance with the words of the shipbuilding contract was required for the vessel to be "deliverable". A lot of eminent lawyers in the field disagreed with my views on this, but I was also supported by a number of others. I also recall that I expressed a view on section 14 of the Sale of Goods Act 1979 relating to the implication in shipbuilding contracts of a term requiring the vessel's reasonable

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fitness for purpose, in relation to which one High Court judge concluded in a judgment that “*I’d simply got it wrong*”! I corrected this in a later edition of the book - however hard you try, you obviously don’t always get it right!

Kayley: Do you think your decision to start up the specialist law firm Curtis Davis Garrard (“CDG”) was largely due to the success of the book?

Simon: Yes absolutely. The book was “work life changing” and I would not have started CDG if I hadn’t written the book.

Kayley: The book is now in its fifth edition, so in your view what is the most significant development covered in the later editions of The Law of Shipbuilding Contracts?

Simon: I think the Arbitration Act 1996 made a huge contribution to London continuing to be the forum of choice for many international contracts, including those for shipbuilding. I would also say the inception of the NEWBUILDCON form in 2005 changed perceptions and provided shipowners with terms of business which could be undertaken on a more balanced basis instead of being weighted largely in favour of the shipbuilder, which is the case with the Shipbuilders Association of Japan (SAJ) form.

Kayley: What in your opinion is the biggest area to watch in the next decade in terms of growth or change in relation to the law surrounding shipbuilding contracts?

Simon: I suspect this will centre around environmental issues, particularly the allocation of responsibility between shipowners and shipyards regarding the environmental impact of shipbuilding, ship operation and ship disposal (breaking/recycling).

Kayley: Looking back, what tips would you give to yourself or someone in my position as a young, aspiring lawyer?

Simon: Be humble. You are not the most important person in your clients’ world or even in their deal! As I have said previously, try to always put yourself in the shoes of the clients receiving the advice you are giving them.

Kayley: If you could go back in time and write a book on any other topic, what would it be and why?

Simon: If I hadn’t needed the money, then I’d have been a historian rather than a lawyer. But I do enjoy the law and, if I had had the chance, I would probably have tried to write a modern book on the development of English law since Magna Carta. Whether it would have been any good, who knows?

Kayley: I must ask, what book are you currently reading?

Simon: I’m currently reading Hamnet by Maggie O’Farrell. It’s a historical novel about William Shakespeare’s son, Hamnet, who died of the plague aged 11. The book explores the story of Hamnet’s short life and the impact his death had on Shakespeare’s subsequent work, including perhaps his greatest work, Hamlet.

Kayley: And finally, if you were stranded on a desert island and could only take one book with you what would it be and why?

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Simon: It has to be the Diary of Samuel Pepys (all 18 volumes)! They are a fascinating set of personal and political records from an era (the mid-seventeenth century) which saw monumental change in Britain and which has always greatly interested me.

Kayley: Thank you Simon for this fascinating insight into your career and **The Law of Shipbuilding Contracts**.

As I reflect on my conversation with Simon, it was both inspiring and eye-opening to learn more about his career journey. Our discussion has emphasised the importance of both hard work and the value of carving out your own expertise in a given practice area. Simon's journey demonstrates the impact of this both in the short term in respect of client satisfaction but also in the long term in shaping an illustrious legal career.