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The Law of Admiralty (Book Review)

Lawrence Jarrett

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THE LAW OF ADMIRALTY. By Grant Gilmore and Charles L. Black, Jr. Brooklyn: Foundation Press, 1957. Pp. XLI, 866. \$10.00.

It is a strange fact that, in the almost twenty years since the publication of Professor Robinson's now classic work,¹ there has not been published a comprehensive one-volume text in the field of maritime law.² This becomes even more surprising when one considers that the Supreme Court has been busy rewriting some of the basic rules of admiralty law since the early forties. Since no revision of Professor Robinson's text has been forthcoming, there has been lacking an up-to-date and authoritative reference volume for convenient use by the admiralty bar and the admiralty student. It is good to report that the gap has now been filled by the thorough and scholarly work of Professors Gilmore and Black of the Yale Law School.

The authors have taken an eminently sound approach to their subject matter. Realizing that maritime law developed in response to the practical needs of seamen and shipowners, the writers have constantly tied the principles of admiralty to the economics of shipping. Thus, they have placed a fine chapter on marine insurance almost at the very beginning of their volume since:

. . . all important possibilities of marine loss or liability are normally insured against, insurance is tied in *de facto* with a very high proportion of marine litigation; insurance companies are actively connected in intimate working relation with the admiralty practitioner. To consider the rules and concepts of maritime law without reference to the all-pervading "insurance angle" is a stultifying process indeed.³

Carrying through on this practical treatment of admiralty, the chapter on marine insurance is followed by a comprehensive coverage of the carriage of goods by sea under bills of lading. This chapter contains a valuable analysis of the Carriage of Goods by Sea Act⁴ which, of course, dominates the transportation of cargo by water in overseas commerce. The introductory portion of this section has a useful treatment of the relationship of the bill of lading to the contract of sale and its use in financing commercial transactions.

The chapters dealing with "Charter Parties," "General Average," "Collision" and "Salvage" are clearly and effectively written. The chapters on "Maritime Liens" and "Limitation of Liability" are among the best coverages of these important and complex areas of maritime law that this reviewer has encountered.

¹ ROBINSON, ADMIRALTY (1939).

² Martin J. Norris, Esq., published his first volume of *The Law of Seamen* in 1951, and his second volume in 1952. This work, however, dealt primarily with the rights and duties of seamen, and did not cover such significant areas of admiralty as marine insurance, carriage of goods by sea, collision and maritime liens. See NORRIS, LAW OF SEAMEN (1952).

³ P. 48.

⁴ 49 STAT. 1207 (1936), 46 U.S.C. §§ 1300-15 (1952).

Some criticism may, perhaps, be validly directed at the portion of the book dealing with the rights of seamen and maritime workers. While this chapter contains a detailed analysis of relevant legislation and case law, one could wish that the authors had noted the words of Justice Gray in *The Paquete Habana*⁵ when he wrote, referring to the works of publicists, that "such works are resorted to by judicial tribunals, not for the speculations of their authors concerning what the law ought to be, but for trustworthy evidence of what the law really is." This chapter is so often interlarded with suggestions as to what the courts should have said, and criticisms of what the courts did in fact hold, that one fears that students, in particular, may be confused in determining where the law ends, and the opinions of the authors begin.⁶ Too, the authors seem constantly dismayed that, in an area of factual complexity where the courts must regularly balance the interest of the seamen for protection in a hazardous occupation against the shipowners' quest for minimum liability, the cases have failed to develop the law in an orderly and logical fashion. The doctrine of *stare decisis* seldom works that neatly in any legal field.

The concluding chapter is devoted to an excellent survey of the vital role played by the federal government in shipping. Since it is important that both practitioner and student be aware of the extent and nature of governmental activity in maritime matters early in the game, it might be well to move this chapter to the forward part of the volume in later editions.

It seems clear that this new volume on maritime law is destined for a prominent place on the shelves of admiralty attorneys and law school libraries. Professors Gilmore and Black are to be commended on doing a needed book extremely well.

LAWRENCE JARETT.*



TRIALS AND APPEALS. By Charles W. Joiner. Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1957. Pp. XXIV, 594. \$9.50.

The preface to this one-volume work tells us that a lawyer has at least three fundamental objectives: to be a wise counsellor; to be a sound and effective proponent of improvements in our system of administering justice; and to be a strong advocate. The material

⁵ 175 U.S. 677, 700 (1900).

⁶ While the comments are not infrequently valid and perceptive, yet, in the reviewer's opinion, the style and tone are better suited for a law review article than for a standard reference text.

* Associate Professor of Law, United States Merchant Marine Academy.