

# Table of Contents

## Volume 1

### **CHAPTER 1. ADMIRALTY AND MARITIME LAW: BACKGROUND AND DEVELOPMENT**

- § 1:1 The subject matter and distinctive nature of admiralty and maritime law
- § 1:2 Beginnings: early maritime law
- § 1:3 Maritime law in classical times: the mystery of the Rhodian Sea Code
- § 1:4 The sea codes and maritime courts of the middle ages
- § 1:5 The development of the Admiralty of England
- § 1:6 The reception of admiralty and maritime law in the United States
- § 1:7 Admiralty jurisdiction and federalism

### **CHAPTER 2. INTERNATIONAL SHIPPING AND THE LAW OF THE SEA**

#### **A. INTRODUCTION**

- § 2:1 The origins of the international law of the sea
- § 2:2 UNCLOS and the United States
- § 2:3 Settlement of disputes
- § 2:4 Protection of the marine environment

#### **B. BASELINE DELIMITATION**

- § 2:5 Normal baselines
- § 2:6 Straight baselines
- § 2:7 Mouths of rivers
- § 2:8 Bays
- § 2:9 Low-tide elevations
- § 2:10 Harbors and roadsteads
- § 2:11 Islands
- § 2:12 Archipelagos
- § 2:13 Historic waters and bays

#### **C. ZONES OF MARITIME JURISDICTION**

- § 2:14 Internal waters and ports

- § 2:15 The territorial sea
- § 2:16 The contiguous zone
- § 2:17 The exclusive economic zone
- § 2:18 The continental shelf
- § 2:19 High seas and the “Area”
- § 2:20 Maritime boundary delimitations

#### **D. SHIPPING AND NAVIGATION UNDER THE LAW OF THE SEA**

- § 2:21 Freedom of navigation: general considerations
- § 2:22 United States shipping regulatory laws
- § 2:23 Ship registration and nationality
- § 2:24 Innocent passage
- § 2:25 Transit passage
- § 2:26 Archipelagic sea lanes passage
- § 2:27 Marine scientific research
- § 2:28 Coastal State jurisdiction over foreign-flag ships
- § 2:29 Coastal State arrest of foreign-flag vessels
- § 2:30 Marine safety
- § 2:31 Maritime security
- § 2:32 Piracy and other international maritime crimes

### **CHAPTER 3. ADMIRALTY JURISDICTION**

- § 3:1 The Constitution and the statutory basis of admiralty jurisdiction
- § 3:2 Admiralty jurisdiction: general considerations
- § 3:3 Navigable waters: the locality aspect of the jurisdiction
- § 3:4 The Admiralty Extension Act
- § 3:5 Admiralty tort jurisdiction
- § 3:6 What is a vessel?
- § 3:7 Seamen
- § 3:8 Longshore and harbor workers
- § 3:9 Continental shelf operations
- § 3:10 Admiralty contract jurisdiction
- § 3:11 Products liability
- § 3:12 Admiralty criminal jurisdiction

### **CHAPTER 4. ADMIRALTY AND FEDERALISM**

- § 4:1 The sources of substantive admiralty law
- § 4:2 The Saving to Suitors Clause: state concurrent jurisdiction over admiralty claims
- § 4:3 Removal jurisdiction

## TABLE OF CONTENTS

- § 4:4 Uniformity and the application of state law in admiralty
- § 4:5 Preemption in admiralty

## **CHAPTER 5. ADMIRALTY AND THE GENERAL MARITIME LAW**

- § 5:1 Introduction
- § 5:2 Unseaworthiness
- § 5:3 Intentional wrongs
- § 5:4 Negligence
- § 5:5 Causation
- § 5:6 Common law defenses
- § 5:7 Comparative fault
- § 5:8 General Damages
- § 5:9 Loss of society/consortium
- § 5:10 Punitive damages
- § 5:11 Passengers and visitors on vessels
- § 5:12 Classification societies
- § 5:13 Products liability
- § 5:14 Marine service contracts
- § 5:15 Warranty of workmanlike performance
- § 5:16 Liability, contribution and indemnity
- § 5:17 Contribution and settlement
- § 5:18 Time for filing suit
- § 5:19 Choice of law and conflicts of laws

## **CHAPTER 6. SEAMEN**

### **A. INTRODUCTION**

- § 6:1 Seamen's rights—In general

### **B. PROTECTION AND WELFARE**

- § 6:2 Seamen's documents
- § 6:3 Contract of service
- § 6:4 Wages
- § 6:5 Loss of the vessel
- § 6:6 Discharge
- § 6:7 Accommodation and welfare

### **C. EMPLOYMENT RELATED INJURIES**

- § 6:8 Seamen's remedies—In general
- § 6:9 Seaman status
- § 6:10 Scientific personnel

- § 6:11 Claims against the United States
- § 6:12 Claims against state and local governments
- § 6:13 The foreign seaman, choice of law, arbitration, and  
*forum non conveniens*
- § 6:14 Wrongful death
- § 6:15 Seamen's suits against non-employer third parties
- § 6:16 The time for filing suit
- § 6:17 Release and settlement
- § 6:18 Damages
- § 6:19 Contribution and indemnity

#### **D. THE JONES ACT**

- § 6:20 The Jones Act: procedural issues
- § 6:21 The Jones Act: duty and liability issues
- § 6:22 The Jones Act: standard of care, causation, and  
contributory negligence
- § 6:23 The Jones Act defendant
- § 6:24 The primary duty doctrine

#### **E. UNSEAWORTHINESS**

- § 6:25 Unseaworthiness: elements and defenses
- § 6:26 What is an unseaworthy vessel?
- § 6:27 Persons to whom the duty of seaworthiness is owed

#### **F. MAINTENANCE, CURE AND UNEARNED WAGES**

- § 6:28 Maintenance and cure—The obligation in general
- § 6:29 Unearned wages
- § 6:30 In the service of the vessel
- § 6:31 Defenses to maintenance and cure
- § 6:32 The amount of maintenance and cure recoverable
- § 6:33 When the obligation to pay maintenance and cure  
terminates
- § 6:34 Compensatory and punitive damages for refusal to pay  
maintenance and cure
- § 6:35 Indemnity and contribution for maintenance and cure
- § 6:36 Laches

### **CHAPTER 7. LONGSHORE AND HARBOR WORKERS**

- § 7:1 Background
- § 7:2 Coverage under the Longshore Act
- § 7:3 Offshore workers

## TABLE OF CONTENTS

- § 7:4 The Section 905(a) Bar: the exclusivity of the Longshore Act
- § 7:5 Overlapping Compensatory Regimes
- § 7:6 Administration and practice
- § 7:7 The Prerequisites of a Claim
- § 7:8 Compensation and benefits
- § 7:9 Suitable alternative employment
- § 7:10 Preexisting conditions
- § 7:11 The special fund and the credit doctrine
- § 7:12 Settlements
- § 7:13 Attorneys' fees
- § 7:14 Section 905(b) suits against "vessels"
- § 7:15 Section 933(a): suits against non-vessel third parties
- § 7:16 The compensation lien and third party suits: the effect of the stevedore's concurrent negligence
- § 7:17 Settlement of third party suits
- § 7:18 The stevedore/employer's *Burnside* remedy against the third party
- § 7:19 Indemnity and contribution

## CHAPTER 8. WRONGFUL DEATH

- § 8:1 Background
- § 8:2 The Death on the High Seas Act
- § 8:3 Wrongful death and survival actions under the general maritime law
- § 8:4 Seamen
- § 8:5 Longshore and harbor workers
- § 8:6 Offshore platform workers

## CHAPTER 9. MARITIME LIENS AND SHIP MORTGAGES

- § 9:1 Nature, creation and acquisition
- § 9:2 The executory contract doctrine
- § 9:3 Liens for "necessaries": the Commercial Instruments and Maritime Liens Act
- § 9:4 State law liens
- § 9:5 The preferred ship mortgage
- § 9:6 Foreclosure and priority of claims
- § 9:7 Discharge and extinction of liens
- § 9:8 Choice of law and recognition of foreign *in rem* judgments
- § 9:9 Bankruptcy

## **CHAPTER 10. CARRIAGE OF GOODS**

### **A. THE BUSINESS OF SHIPPING**

- § 10:1 The commercial context: underlying transactions and contracts
- § 10:2 Government regulation of ocean transportation
- § 10:3 Common carriage and private carriage
- § 10:4 Multimodal carriage of goods
- § 10:5 The contract of affreightment
- § 10:6 Freight
- § 10:7 Freight forwarders, agents, brokers, and non-vessel operating common carriers (NVOCC)
- § 10:8 Terminal operators, stevedores, and the Himalaya Clause
- § 10:9 The carrier
- § 10:10 The proper party to bring suit for loss or damages to cargo

### **B. THE BILL OF LADING**

- § 10:11 Bills of lading: applicable laws, function, and use
- § 10:12 The misleading or inaccurate bill of lading: the doctrine of estoppel and protection of the consignee

### **C. THE INTERNATIONAL CONVENTIONS**

- § 10:13 The international conventions relating to the carriage of goods by sea
- § 10:14 The Hamburg Rules and the Hague-Visby Rules
- § 10:15 The Rotterdam Rules

### **D. COGSA AND THE HARTER ACT**

- § 10:16 Coverage and application of the Carriage of Goods by Sea Act and the Harter Act
- § 10:17 The carrier's responsibility before loading and after discharge
- § 10:18 Delivery of cargo
- § 10:19 Deck cargo and other excluded cargoes
- § 10:20 Exoneration clauses
- § 10:21 COGSA choice of forum and choice of law clauses
- § 10:22 Arbitration clauses
- § 10:23 The shipper's prima facie case
- § 10:24 Dangerous cargo

#### **1. THE CARRIER'S DUTIES**

- § 10:25 Burdens of proof and presumptions

## TABLE OF CONTENTS

- § 10:26 The duty of the carrier to make the vessel seaworthy and to provide a proper ship
- § 10:27 The carrier's duty to properly load, handle, and care for the cargo

### 2. EXCEPTED PERILS

- § 10:28 Errors in the navigation or management of the ship
- § 10:29 Fire
- § 10:30 Overwhelming natural forces: perils of the sea and act of God
- § 10:31 Overwhelming human forces: act of war, act of public enemies, restraint of princes, quarantine, strikes, riots and civil commotions
- § 10:32 Faults of the shipper, inherent vice, insufficiency of packing and latent defects
- § 10:33 The Q clause: the catch-all exemption

### 3. FUNDAMENTAL BREACH

- § 10:34 Deviation and fundamental breach (herein also the *(I)* clause of COGSA)

### 4. LIMITATION OF LIABILITY AND DAMAGES

- § 10:35 Limitation of liability and the "package" problem
- § 10:36 Customary freight unit
- § 10:37 Opportunity to declare a higher value
- § 10:38 Damages
- § 10:39 Damages for delay
- § 10:40 Consequential damages
- § 10:41 Indemnification and contribution

### 5. NOTICE OF CLAIM AND LIMITATION OF ACTIONS

- § 10:42 Notice of loss or damage
- § 10:43 Time limit for filing suit

## Volume 2

### CHAPTER 11. CHARTER PARTIES

#### A. CONTRACT FORMATION AND TERMS

- § 11:1 Charter party forms and functions

- § 11:2 Charter party fixtures: formation of the contract
- § 11:3 The demise (bareboat) charter
- § 11:4 The voyage charter
- § 11:5 Time charter

## **B. BILLS OF LADING UNDER CHARTER PARTIES**

- § 11:6 Bills of lading under charter parties
- § 11:7 Bills of lading under charter parties: who is the carrier?

## **C. MAJOR CHARTER PARTY ISSUES AND PROBLEMS**

- § 11:8 The obligation to provide a seaworthy vessel ready to load
- § 11:9 Care of the ship and redelivery
- § 11:10 Safe port and safe berth clauses
- § 11:11 Freight, hire, and the off-hire clause
- § 11:12 The charterer's recovery for loss of use of the vessel
- § 11:13 Liability for cargo damage
- § 11:14 Prosecution of the voyage
- § 11:15 Loading and discharge: lay time, demurrage, and detention
- § 11:16 Frustration and commercial impracticability
- § 11:17 Remedies and liens
- § 11:18 Indemnity and responsibilities to third parties
- § 11:19 Arbitration

## **CHAPTER 12. TOWAGE**

- § 12:1 Towage defined
- § 12:2 The contract of towage
- § 12:3 The duties and liabilities of tug to tow and cargo
- § 12:4 The warranty of workmanlike service
- § 12:5 The duties of the tow
- § 12:6 Rights of third parties against the tug and the tow
- § 12:7 Towage and limitation of liability
- § 12:8 Exculpation clauses in towing contracts
- § 12:9 Contracts to procure insurance and waiver of subrogation
- § 12:10 Forum selection clauses and conflicts of laws

## **CHAPTER 13. PILOTAGE**

- § 13:1 The pilot
- § 13:2 Government regulation

## TABLE OF CONTENTS

- § 13:3 The pilot's rights against the ship
- § 13:4 Liability of pilots and their employers
- § 13:5 Pilots' associations
- § 13:6 Liability of the owner and the vessel to third parties
- § 13:7 The "borrowed servant" doctrine and the "pilotage clause"

## **CHAPTER 14. COLLISION AND MARINE CASUALTY**

- § 14:1 Introduction
- § 14:2 Jurisdiction
- § 14:3 The basis of liability
- § 14:4 Presumptions, burden of proof, and evidence
- § 14:5 Apportionment of liability
- § 14:6 Protecting navigable waters; public works and removal of wrecks
- § 14:7 Damages
- § 14:8 Economic losses and remote claims
- § 14:9 Cargo damages, rights and duties
- § 14:10 Jurisdiction and choice of law

## **CHAPTER 15. LIMITATION OF LIABILITY**

- § 15:1 Background
- § 15:2 Persons entitled to limit liability
- § 15:3 Claims subject to limitation
- § 15:4 Choice of law
- § 15:5 The insurance underwriter
- § 15:6 Procedure and practice
- § 15:7 Saving to Suitors Clause Claims
- § 15:8 Privity or knowledge
- § 15:9 The limitation fund
- § 15:10 Distribution of the fund

## **CHAPTER 16. SALVAGE**

- § 16:1 The nature and elements of marine salvage
- § 16:2 Property subject to salvage
- § 16:3 Who can be a salvor?
- § 16:4 The salvor's negligence and misconduct
- § 16:5 The salvage award
- § 16:6 Contract salvage
- § 16:7 Historic shipwrecks and "treasure" salvage
- § 16:8 Life salvage
- § 16:9 International salvage conventions

## CHAPTER 17. GENERAL AVERAGE

- § 17:1 Basic principles
- § 17:2 Requirements of a general average loss: general maritime law and the York-Antwerp Rules
- § 17:3 The effect of fault and the Jason Clause
- § 17:4 Procedure and calculation

## CHAPTER 18. MARINE POLLUTION

- § 18:1 The international framework for marine pollution control
- § 18:2 Marine pollution from shipping activities: an overview of United States regulatory law
- § 18:3 Spills of oil and hazardous substances—the statutory schemes
- § 18:4 The scope of liability to private-party claimants for pollution damages
- § 18:5 Operational discharges from vessels
- § 18:6 Operational discharges from offshore structures
- § 18:7 Ocean dumping
- § 18:8 Seabed mining

## CHAPTER 19. MARINE INSURANCE

- § 19:1 Origins and functions
- § 19:2 Definition and jurisdiction
- § 19:3 Contract formation
- § 19:4 The policy
- § 19:5 Marine insurance intermediaries
- § 19:6 Choice of applicable law and forum
- § 19:7 A breakdown of uniformity?
- § 19:8 A jurisprudential interpretation of *Wilburn Boat*
- § 19:9 Legacy of *Wilburn Boat*
- § 19:10 Hull insurance
- § 19:11 Cargo insurance
- § 19:12 Protection and indemnity insurance
- § 19:13 Insurable interest
- § 19:14 The duty of “utmost good faith”: *uberrimae fidei*
- § 19:15 Warranties
- § 19:16 The warranty of seaworthiness
- § 19:17 Perils insured against
- § 19:18 Proximate cause
- § 19:19 Losses
- § 19:20 Claims handling
- § 19:21 Rights of the insurer
- § 19:22 “Additional insured”

## TABLE OF CONTENTS

- § 19:23 Direct actions
- § 19:24 Reinsurance
- § 19:25 Maritime fraud

## CHAPTER 20. SOVEREIGN IMMUNITY

- § 20:1 Suits against the United States
- § 20:2 Suits against state and local governments
- § 20:3 Suits against foreign governments

## CHAPTER 21. ADMIRALTY PRACTICE AND PROCEDURE

- § 21:1 The Supplemental Rules for Admiralty or Maritime Claims
- § 21:2 Rule 9(h) election: pleading admiralty and maritime claims
- § 21:3 Maritime attachment and garnishment: Rule B
- § 21:4 The action *in rem*: Rule C
- § 21:5 Possessory, petitory, and partition actions: Rule D
- § 21:6 Rule E. General provisions applicable to actions *in rem* and *quasi in rem*
- § 21:7 Constitutional questions and the admiralty rules
- § 21:8 Limitation of liability: Rule F
- § 21:9 Admiralty *in personam* actions
- § 21:10 Admiralty venue and transfer between districts
- § 21:11 Contract venue: enforcing forum-selection clauses
- § 21:12 *Forum non conveniens* and choice of law
- § 21:13 Third-party practice
- § 21:14 Supplemental jurisdiction
- § 21:15 Jury trials in admiralty
- § 21:16 Appeals
- § 21:17 Injunctive relief in admiralty
- § 21:18 Maritime arbitration
- § 21:19 Enforcement of maritime arbitration awards

### Table of Laws and Rules

### Table of Cases

### Index