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Book Reviews

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BOOK REVIEWS

HANDBOOK OF ADMIRALTY LAW. By Robert M. Hughes, M.A., LL.D., of the Norfolk (Va.) Bar. Second Edition. St. Paul, Minn.: West Publishing Co., 1920. Pp. xviii, 572.

Maritime law, of which the admiralty is the principal exponent, should be studied and enforced through treatises and text-books rather than by cases. No branch of the law more nearly deserves to be classed as a science; it rests upon certain underlying principles and their rational deductions, and the real merit of decisions therein must be tested by their harmony with fundamental doctrines and not by the mass of current litigation assembled in the latest digest or cyclopedia. Concurrent decisions, however numerous, cannot of themselves create maritime law unless they are consistent with the principles of the law itself. Neither can legislation produce any lasting change. Opinions and statutes are useful in so far as they conform to principle, but otherwise they are mere temporary obstructions, fertile in trouble and disaster, but eventually avoided like reefs and shoals in the pathway of ships. In other branches of the law precedents are frequently conclusive, irrespective of the reasons upon which they rest; knowledge therein can be best obtained through the study of decided cases, and successful practice will depend upon following them. If this be a matter of evolution, maritime law has long since passed that stage. Its principles have become fixed by the immemorial methods of commerce by sea, to which merchants and sailors, courts and practitioners, legislators and text-writers, have all contributed. And not least in the group whose work has created the structure are those careful authors who have published their essays upon various phases of the admiralty or maritime law. It is from their books that the student will derive the most benefit and the judge find the most reliable authority for his decision. Of course, a practitioner cannot neglect the reported cases, but the careful advocate will look back of them at the unvarying and unalterable law itself, remembering that decisions and statutes, however numerous, cannot transform inconsistent propositions into permanent law. Back of all the mass of reported cases is the law itself, and incongruous precedents can have no permanent abiding place therein. It is unfortunate, but true, that the admiralty cases of the federal courts contain many conflicting and contradictory decisions, frequently leading into labyrinths of difficulties, but this necessitates the use of commentaries and text-books and renders them essential for an accurate perception of the maritime law itself.

A second edition of HUGHES ON ADMIRALTY is therefore very welcome. It was first published about twenty years ago as one of the elementary treatises composing the Hornbook Series. If intended for law schools, its value to lawyers was soon recognized and it became a well-worn tool in most offices of admiralty practice as well as in the courts. The new edition is very satisfactory and presents its subject in a compact volume of some five

hundred pages without padding or any wearisome attempt to refer to all the decided cases. If elementary, it is because it deals more with principles than with decisions, and one is glad to note that the author does not hesitate to indicate his own opinion when he thinks that a decision is unsound. Great changes have been occurring in maritime affairs during the past decade and our already chaotic mass of statutory law is increased by volumes of crude and hasty legislation. Little of it can permanently survive. Sooner or later, the statutes must be thoroughly revised and simplified and the great mass of reported cases consigned to oblivion. Proctors and judges will rely more and more on the treatises and commentaries upon maritime law, which, useful now, will presently become indispensable.

Mr. Hughes' work deserves its standing in the bibliography of the admiralty and forms one of a valued and interesting group of American authorities on its subject. As is well known, we had a broad and comprehensive admiralty jurisdiction in this country from its earliest times. The colonists maintained a vigorous and active commerce by sea. The "Rooles or Jugements d'Oleron" were enacted in Rhode Island as early as 1647, and the first charter of the colony of Massachusetts Bay vested admiralty jurisdiction in the Court of Assistants. Virginia created a court of admiralty to be governed, in part, by the laws of Oleron and the Rhodian and Imperial laws. When the Constitution was adopted it had behind it more than a century of active admiralty practice, and the difficulties which the new government encountered with the French Directory, the piratical governments of the Mediterranean, and the wars of Napoleon occasioned the first great development of American law. This was along maritime lines. All the early reports, state and federal, are filled with shipping cases. The professional generation which held the stage from about 1785 to 1815 was immersed in the admiralty and its activity was soon reflected in our earliest law literature. In 1792 came Hopkinson's Admiralty Reports, soon followed by excellent translations of Azuni, Roccus, Pothier, Vattel, and Emerigon. Hall's Admiralty Practice was published at Baltimore in 1809. Wheaton's Maritime Captures and Prizes appeared in 1815, and was presently accompanied by Frick's translation of Jacobsen's Laws of the Sea, still one of the pleasures of the legal bibliophile. All these remain essential today to a practitioner's library. Of what other publications of the period can the same be said? Before 1830, Chancellor Kent had published his Commentaries, whose first and third volumes so fascinatingly present the salient principles of our subject, and Cushing had edited Pothier's Maritime Contracts. Bet's Admiralty Practice appeared in 1838. Later, Ward Phillips wrote his Treatise on the Law of Insurance, of which Lord Esher said, in *Company v. Association*, 22 Q. B. D. 587, that it was the book on which he placed most reliance in cases of marine insurance. The same period gave us Flanders on Maritime Law; Marvin's Treatise on the Law of Wreck and Salvage; Parsons on Shipping and Admiralty; Parsons on Marine Insurance and General Average; Curtis on the Rights and Duties of Merchant Seamen; and the first edition of Benedict's American Admiralty.

More recent works of high rank are Goullie on General Average, Wheeler on Carriers, and Spencer on Collisions.

This by no means exhaustive list of American books indicates a substantial contribution to the law. They are all of permanent value and characterized by scholarly research, independence of thought and accuracy of statement. All of them exhibit a wholesome and respectful readiness to differ from the courts when decisions seem wrong, and the fruits of their honest criticism have not infrequently appeared in subsequent opinions. HUGHES ON ADMIRALTY belongs to this group as a faithful presentation of the law as administered in those admiralty courts of the present time which are mindful of the principles and customs which these text writers have preserved and handed down to us from past generations.

Detroit, Michigan.

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