

*BRITISH SHIPPING LAWS—VOLUME 6*

# FORMS AND PRECEDENTS

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## PREFACE

*"Set it down to thyself as well to create good precedents  
as to follow them." Sir Francis Bacon, Att.-Gen. 1613*

The *creation* of good precedents has been the major, but not the only, object of this book. The Admiralty parts, for instance, are intended not only to assist practitioners and officials in England, but all those in scores of Commonwealth States who, with a growing shipping interest, have adopted English Admiralty practice without the know-how necessary to apply it. In this respect this volume forms a supplement to *Admiralty Practice (British Shipping Laws, Vol. 1)*.

All Admiralty pleadings, and pleadings of the Commercial Court, have been specially drafted for this volume by Admiralty counsel and counsel of the Commercial Bar, after perusal of dusty remains in Chambers of cases they and their forbears had produced for pending actions sometimes years before. Profiting from past mistakes, and the freshness of disciplined youth, these pleaders have devised document after document in true Baconian spirit!

The first chapter, on Model Bills of Lading, was solely devised as *precedents* which the mercantile world has been waiting for (or already using from B.S.L. Vol. 13, in modified form). The reliable draftsmanship, abbreviation in size, and ease in use is so obvious a need both to international trade generally, and to traders, shipowners, banks, insurers, and every clerk employed by any of them, that further comment is unnecessary. We emphasise much international consultation on the size and format of bills of lading and local work such as that done on the SITPRO committee (§ 1a). As to general conditions necessary, see §§ 1 and 5.

The Model Passenger Ticket (Chap. 2) follows in the footsteps of the Short Form Model Bill of Lading; see § 41. It naturally has relevance to all concerned with family holidays by sea, and it is hoped that it will be demanded of shipping lines by all reputable travel agents.

Charterparties caused the authors more difficulty. We were supplied after years of research, mainly by the Documentary Committee of the Chamber of Shipping of the United Kingdom, with a mass of charterparties in approved forms. As negotiated in practice, on the Baltic or some similar Exchange, each becomes a mass of typed clauses to meet the individual case upon, but mostly almost

completely overriding, the approved form (see §§ 53, 54, 55), chosen or available (see §§ 51, 52). Our conclusion was inescapable: it was pointless to draft a model charterparty as a precedent in the Baconian sense. Special charters, for very limited purposes, such as a Yacht Charter Agreement (§ 106) are a different matter; this, however, is merely exhibited, not as a precedent, but because it is in general use.

However, we could and did do something. Many clauses in approved forms are referred to by name in typed clause, and therein incorporated, without merchant, broker or shipowner seeming to have any idea of the scope and possibly disastrous consequences of their wording as applied to the individual charter in question. The Centrocon Arbitration Clause stands at the apex of this international commercial folly. (See §§ 96, 97, for its history and effect.) Alternative clauses, in approved forms, are set out in *toto* thereafter. On such grounds most clauses commonly incorporated by name in typed charters, but often inaccessible, are set out in full in Chapter 3.

For these reasons, an enormous proportion of the material perused has been discarded in preparing this slim volume. Nothing has been printed which is contained in other volumes of *British Shipping Laws*.

With a view to ensuring that this volume formed an efficient reference book, the authors decided that the index should be wholly drafted by them personally. It is the most utilitarian part of any book. What would *Whitaker* be worth without one!

Our deepest thanks go out to many professional pleaders, to all maritime bodies in the City of London (including in particular Protection and Indemnity Clubs and the Chamber of Shipping) and to a myriad of other advisers (not least individual shipping companies) and others who have assisted us in years past. We can only pray that this book will now aid them as small recompense for their toil.

February 23, 1973

RAOUL COLINVAUX  
DAVID STEEL  
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