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Book Review. Cases and Materials on Admiralty by N. J. Healy and B. Currie

A. A. Fatouros

Indiana University School of Law

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To the problems which a reviewer faces when dealing with a casebook, there is added in the instant case the sad realization that this is Brainerd Currie's last publication. A book review is not the proper place for an assessment of Professor Currie's contribution to the law of Admiralty; the task should be left to others, better qualified and writing in a more appropriate context. The monument to his work in this field will surely be the recent merger of the Admiralty Rules with the Federal Rules of Civil Procedure. His other contributions, apart from his teaching, consist of a major article, a masterly book review and his co-authorship of the casebook here reviewed.

Of course, Professor Currie's death does not obviate the need for a review. Not only is his co-author, Professor Healy, most actively with us, but, more important, a review is only in part a dialogue with a book's authors. It is also an attempt on the part of the reviewer to think over the problems of the book's subject-matter, and to provide part of what is in a sense the necessary background for a book, its historical context. To do so he must inquire into the authors' conception of their topic, as compared to other current or possible approaches, into the manner in which they have carried out the task they set to themselves and, in the case of a casebook, into its fitness as a "teaching tool."

1 For a first brief appraisal, see Colby, in "Brainerd Currie—Five Tributes," 1966 DUKE L.J. 2, 15.


5 HEALY and CURRIE, CASES AND MATERIALS ON ADMIRALTY (1965), hereinafter cited as HEALY & CURRIE.
The possible conceptions of the subject matter to be covered have been admirably listed by Professor Currie in his review of the Gilmore and Black treatise:  

The admiralty course is perhaps what the instructor chooses to make it. To some it no doubt provides the opportunity for concentration on problems associated with commercial law; others may make of it a comparative study, or an intensive course in tort problems arising under a somewhat recondite system, or a dilettantish dalliance with such esoteric concepts as general average, salvage, and limitation of liability. I have tended to emphasize the problems of federal jurisdiction, of federal-state relationships in general, and of conflict of laws, and also the opportunities for insight into the processes whereby courts resolve legal problems. Gilmore and Black have their own clear conception; an intensely practical one: the book is a study of the distinctive legal framework in which the shipping industry operates.  

On the basis of this list, it is possible to identify the approach, or rather approaches, followed in the casebook under review. For it appears, in fact, to follow two main approaches, one for each of its authors. The chapters prepared by the late Professor Currie are, predictably, oriented toward the "federal jurisdiction" approach. He has successfully avoided, however, the temptation to let this concern override the interest in the substance of the course. While an earlier casebook had tried to gather together the cases dealing with federal-state jurisdiction and choice of law, Professor Currie deals with these topics (chiefly with the former and only incidentally with the latter) in the concrete context of the substantive problems. This arrangement provides plenty of opportunity for concentration on the federal jurisdiction aspect of the topics, but does not isolate it from the substantive claims of the parties and the actual regulation of the subject matter. This, I submit, is the best way to teach the federal jurisdiction problems; moreover, it allows those who do not wish to use this particular approach to deal with the substantive topics without skipping all around the book.  

The chapters prepared by Professor Healy are less easy to label (perhaps because the author has not labelled them for us in advance, as Professor Currie did.). They may be said to adopt two approaches at once, from Professor Currie's list, the commercial law approach, on the one hand, and the "law of shipping" approach, on the other. The unifying thread is the concern with the point of view of the private parties concerned.

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8 They are identified in the Preface to Healy & Currie, p. ix. They are ch. 1 (Jurisdiction), 2 (Maritime Liens), 3 (Personal Injury and Death) and 10 (Governments as Parties to Maritime Transactions and Litigation). And see also infra, note 10.
9 Morrison and Stumberg, Cases on Admiralty (1954), has, in addition to a chapter on Jurisdiction, chapters on "The Application of State Law Within the Admiralty Jurisdiction", and on "Choice of Law".
10 These are ch. 4 (Charter Parties and Ocean Bills of Lading), 5 (Salvage), 6 (General Average), 7 (Marine Insurance), 8 (Collision), and 9 (Limitation of Liability); see, Healy & Currie, p. ix.
Before discussing at more length the contents and especially the omissions which the choices of approach have dictated, I should like to stress that this duality of approach, the lack of integration between the contributions of the two authors, is certainly regrettable. It is true that to some extent it is unavoidable: federal jurisdiction problems are more relevant to questions of Admiralty jurisdiction, maritime liens, and personal injury and death; commercial law problems are more relevant to bills of lading, charter parties and marine insurance. One would be justified to expect, however, some concern over problems of federal jurisdiction in the latter cases and more interest in the problems which relate to the industry in the former. It seems evident that, despite their formal acceptance of "joint responsibility for the entire volume," neither of the authors interfered seriously with the other's work. The distribution of topics having been very successful, the lack of close collaboration between the authors has not hurt the book as it might have, but it remains a regrettable feature.

Even with the two authors' approaches combined, however, the coverage of the topic is still not broad enough, it seems to me. This is the proper place for stating my own bias: of the approaches that Brainerd Currie listed, I find more useful, more relevant and, in the final analysis, more congenial, that which conceives Admiralty law as the legal framework of shipping, without, however, conceding for a moment that such an approach reflects an exclusively and narrowly "practical" interest, a "narrow objective . . . of training lawyers to represent steamship lines", as Professor Currie would have it. It should be clear that the objection I am raising is in no way directed at the competence or ability of the authors. What I am questioning is the narrow (and, it may be added, wholly traditional) conception of their topic. This narrowness is manifested in three main directions: first, by the disregard of the factual, non-legal, background, second, by the lack of interest in "public law" problems, and third, by the limited concern for the international legal context.

To begin with, the authors generally disregard the factual, non-legal, background of the problems with which the cases they so carefully compiled are dealing. I might concede that with respect to certain fields, or courses, it may be appropriate to ignore to some extent the non-legal background, either because this background is too varied (because, e. g., there is no single industry behind the branch of law concerned) or because it is a specifically and exclusively legal field ("lawyer's law"). But in a field such as Admiralty, which concerns itself with a single, well-developed, highly standardized, and indeed quite articulate, industry, there is no justification for ignoring the non-legal background. The problems of maritime liens and ship mortgages are seen out of context when their present-day function and use are not elucidated, or when there is no reference to the problems and procedures of financing the building and operation of ships. In a field where private lawmaking is of such overwhelming importance, the background of practices and facts is indispensable. Shipping conferences are too important to be

11 Ibid.
12 Currie, supra note 7, at 689.
13 The inquiry into the actual, as contradistinguished from the hypothetical, effects of the law is of course a distinct proposition; this is needed in these as in all other fields of law.
relegated to a note; was there no space in the casebook for the text of a "typical shipping conference agreement." Some factual information is included, it is true, in the annotations to the standard forms or to the cases, but it is fragmentary and deals with specific practices and not with the structure and the policy problems of the industry as a whole.

The second way in which the current view of Admiralty, as represented by the casebook at hand, limits the scope of the field is through the disregard and virtual elimination of the "public law" elements. Again, even if a case can be made for excluding such elements from some fields (and I would question that it can be done with full justification), Admiralty is a peculiarly inappropriate instance. The role of government and governmental agencies and of special legislation serving national public policies is evident and all-pervasive. Shipbuilding subsidies, discriminatory legislation in favor of national shipping, state trading, and administrative regulation of shipping are too important to be altogether omitted from consideration, or to be glimpsed indirectly, through occasional court decisions. Nor is there anything "non-legal" in the related problems—an objection which is, within limits, valid in at least some cases, and which can justify the exclusion of some of the materials of the type discussed in the preceding paragraph. In practice, the related problems are usually handled by lawyers, whether before the courts or before administrative agencies in which the legal viewpoint is relevant and important. All in all, they are the kind of problems that lawyers are trained to deal with.

A related set of problems, located halfway between private and public law, is that of the legal position of seamen. There are no materials, or even references, in this casebook on the problems of seamen as employees, travellers, or citizens. We pick them up at the point where they break their leg, or drown, and we follow the court's ratiocinations on the grounds for the indemnification to be awarded them or their widows (the plural may seem particularly appropriate in this context). We are left with no guidance on the very "special problems" to which the courts keep referring, as to the seamen's rights and duties on the ship, their relationship to the master and the ship-owners, the extensive regulation of their status by government and the unions, their financial status and welfare benefits. The master's role and responsibility as head of the ship's company (rather than agent of the owners) have to be glimpsed through some of the cases; we are given no authoritative guidance on his legal position as "maître après Dieu" (at least initially—

14 Healy & Currie 417.
15 See infra, note 31.
16 To illustrate, of the matters covered by the proposed Merchant Marine Act of 1966 (Bill S. 3446, 89th Congr., 2d Sess.), intended to consolidate some of the U. S. shipping legislation, only one (ship mortgages) is covered in any detail in the casebook. Omitted topics include: the Federal Maritime Commission, the Department of Commerce's and the Maritime Administrator's roles, subsidies (construction-differential and operating-differential), the "essential trade routes" provisions, cargo preference and coastal trade restrictions.

17 The role of the United States, for example, as owner and charterer of vessels becomes evident when one reads case after case where the United States is a party. Also on this point, see the Note in Healy & Currie 851-852, which deals, however, only with the background necessary for a discussion of sovereign immunity ques-
the authority of both seems to have suffered in modern times) aboard ship. Such matters could be dealt with by the inclusion of a few cases, some notes and some statutory and other materials (e.g., text of shipping articles). The attempt to disregard such problems or to allow them to be guessed at through the cases leads to paradoxical results; at the end, we know more about the methods and institutions of Danish welfare legislation on seamen than we do about the related United States institutions.

Finally, the field of Admiralty is unjustifiably restricted by the inadequate coverage of the international (or perhaps "transnational") element. Because of its historical origins as well as of the necessities of the industry, Admiralty is a field quite exceptionally pervaded by this element. Elaboration or interpretation of legal rules through comparative study has traditionally been and is still supposed to be a well-established method, even in the courts. International standardization of forms and conditions, whether in connection with or independently from international uniform legislation, is widespread and cuts across national borders and legal systems. The very activity with which the law is concerned operates in an essentially international legal environment, both because of its use of the high seas and because of its crossing state borders. Now, it is true that the present casebook goes much further than any of the previous ones in the inclusion of texts of international conventions relating to shipping. Still, it is difficult to see how a well-rounded picture of the legal environment of shipping can be had where there is no reference to the public international law of the sea (high seas, territorial waters, Geneva Conventions, etc.) to the problems of the nationality of ships (including, of course, the multitude of questions arising out of the use of flags-of-convenience), to the Intergovernmental Maritime Consultative Organization, or to the various international conventions concerning trade.

For a successful example of treatment of such problems in a legal context (even though, admittedly, in a book not intended chiefly for lawyers), see CHORLEY and GILES, SHIPPING LAW (4th ed., 1959), esp. ch. III, "Master and Crew."


Thus the texts, or substantial excerpts, of the following international conventions are included: The Brussels Assistance and Salvage Convention, 1910 (p. 603), the International Convention on Certain Rules Concerning Civil Jurisdiction in Matters of Collision, 1923 (p. 771), and the International Convention relating to the Limitation of the Liability of Owners of Seagoing Ships, 1957 (p. 782). In addition, there are included the text of the York-Antwerp Rules 1950 (pp. 671-676) as well as the texts of international conventions enacted as United States law, for instance, the Carriage of Goods by Sea Act (Hague Rules) (p. 491), the Salvage Act (p. 605), and the International Regulations for Preventing Collisions at Sea (p. 727). For an excellent brief survey of this field, see YIANNOPoulos, "The Unification of Private Maritime Law by International Conventions," 30 LAW & CONTEMP. PROBLEMS 370 (1965).

A survey of some related questions may be found in Singh, "International Law Problems of Merchant Shipping," 107 Hague Academy of International Law, RECUEIL DES COURS 7 (1962).

Again, one may become aware that such problems exist from indirect references in the cases. See, e.g., Lauritzen v. Larsen, 345 U.S. 571, 593 (1953), reproduced in HEALY & CURRAN 271, at 270. And for a collection of related materials, see EBB, CASES ON REGULATION AND PROTECTION OF INTERNATIONAL BUSINESS 135-217 (1964). The coverage in Ebb's casebook is, of course, far more extensive than would have been necessary or appropriate in the book under review.
regulation (e.g., safety at sea, sea pollution), allocation of civil jurisdiction (e.g., regarding collisions) and labor matters (in particular, the "seafarer's code" conventions concluded under International Labor Organization auspices). As to comparative materials, these, with one exception (the United Kingdom Marine Insurance Act, 1906), are found only in the discussions in the cases themselves and in the five non-United States cases included in the book.\(^2\)

I should repeat perhaps that the authors cannot be "blamed" for the way in which they conceive their subject-matter, especially when their view is widely shared by both the practicing and the teaching professions. Still one may express regret and disappointment. From the outside, Admiralty looks like a most exciting and stimulating field, precisely because it involves legal questions from all fields of law and because it constitutes a uniquely articulated synthesis of private and public, national and international, law-making, in the context of a single industry—a complex and highly developed industry, it is true, but still a limited one, and therefore not outside the grasp of a single course. It is disillusioning to find that those who have mastered the field insist on giving to it a restricted and inadequate scope, which eliminates at least some of the intellectual excitement of the subject-matter.\(^2\)

An important question arises in this connection as to the role of publishers in determining, by positive or negative action, the contents of casebooks. The problem is elusive and many sided, but not any the less serious for that. Publishers can exercise greater control over the contents of casebooks than over those of monographs (textbooks seem to be somewhere in-between). Such control may range from the choice of print and layout, to the determination of the book's length and of the coverage of specific topics, to the methods and materials, and perhaps the very approach, of the casebook.

To the extent that such interference, direct or indirect, does exist, it raises two sets of problems. The first relates to its legitimacy and desirability. One may raise this question without necessarily implying that the only correct answer is to denounce publishers and their (hypothetical) practices. A publisher is quite legitimately concerned with the commercial features of the books he prints. The problem is how far this justified concern ought to be allowed to govern. Experimentation in the contents and organization of courses is discouraged by a multitude of factors and forces. Is it possible that it is further stifled by the difficulty of convincing publishers that a new approach or format will "sell"? It is true that the expansion of reproduction processes makes it possible today for most teachers to prepare their own materials or to add to the materials in the printed casebooks, and that this may alleviate

\(^{23}\) See infra, note 38 and accompanying text.

\(^{24}\) The lack of factual background material is especially difficult to explain in the case of the late Professor Currie, who had dealt with this particular topic in great length in his "Materials for Legal Study", 3 J. LEGAL ED. 381 (1951), 8 id. 1 (1955), and who had heartily approved of the inclusion of information of this sort in the Gilmore and Black treatise, Currie, supra note 7, at 488. For another indication of his concern with such problems, see his editor's Foreword to a Symposium on "Interterritorial Freight Rates," 12 LAW & CONTEMP. PROBLEMS 301 (1947). On the other hand, the chapters that Professor Currie prepared in this casebook could account only for a part of the missing materials. It is the book's structure that is at fault, not the contents of specific chapters; most of the topics mentioned in the text should have been covered in one or two additional chapters.
pressures for more experimentation in printed materials. However, mimeographed or multilithed collections of materials are not fully satisfactory, since they do not have the kind of dissemination (and thereby use, influence and critical examination) that a printed book has. The topic is important enough to warrant further study by an appropriate professional body, perhaps some committee of the Association of American Law Schools.

The second problem, more relevant to a book review, relates to the apportionment of responsibility for the end result between publisher and author. Apart from and in addition to the eternal quest of reviewers for misprints (even with respect to these, the problem arises whether and how far the author should be held wholly blameless) there are some other difficult queries: is an author to be held wholly responsible for the end result, whenever he has accepted the publisher’s suggestions? Is the publisher to be blamed for an author’s easy capitulation to his suggestions? Obviously, no general answer can be given; the bargaining position of authors and publishers depends in each particular case not only on the personality of the individuals involved but also on their professional standing, the relative importance of the specific issue, the stage at which a difference of opinion arises, even the particular state of mind or mood of the author at a specific moment. In the absence of specific information, however, the rough allocation of responsibility that is commonly made tends to favor the publisher since he is held responsible only for the technical qualities and defects of the book.

After these comments, it may (though it shouldn’t) come as a surprise when I state most emphatically that this is an excellent casebook, which constitutes a great improvement over its predecessors. As already indicated, the improvement does not lie in the structure or organization of the book. In this respect, the present casebook remains very close to its own previous edition and to the other relatively recent casebook. In fact, its organization is identical with that of the former, except for the addition of a chapter on the role of government in litigation (which in the earlier edition was covered briefly in the chapter on jurisdiction) and the unification of the chapters on charter parties and bills of lading. As already noted, Professors Healy and Currie did not adopt the Morrison and Stumberg casebook’s separate treatment of federal-state jurisdiction and choice of law; they also included discussions of charter parties and marine insurance which are not found in that book.

One obvious reason why this casebook was needed is the fact that the previous casebooks were both outdated. Since 1950 and 1954, their respective years of publication, the developments in case law as well as in legislation and treaty-making had made a new casebook necessary. About one-fourth of the cases in the present casebook have been decided since 1954 (and more than one-third since 1950). Indeed, a comparison of the case content of the three casebooks leads to certain interesting, though not surprising, findings on the

25 Sprague and Healy, Cases on Admiralty (1950).
26 Morrison and Stumberg, op. cit. supra note 9.
27 Sprague & Healy, op. cit. supra note 25, at 151-177. Four cases were reproduced, as compared with six in Healy & Currie. Morrison & Stumberg, op. cit. supra note 8, did have a separate chapter, with five cases, three of which are also in Healy & Currie.
28 See, on this point, Professor Currie’s more detailed comments, seven years ago, supra note 7, at 687.
comparative rate of development in the various branches of the law of Admirality. The chapter on "Personal Injury and Death" in Healy and Currie contains twenty-seven cases (all of them decided by the U.S. Supreme Court), twenty-three of which were decided since 1950 (nineteen of them after 1954). An even better indication of the ferment in this particular field is the fact that the earlier casebooks allotted to it less than half the space it has in the present one: Sprague and Healy reproduced eleven cases, Morrison and Stumberg seven (with sizable excerpts from another four and long notes). The rate of growth in other fields is far slower: only three of the cases on maritime liens in Healy and Currie have been decided since 1950; of the thirty-three cases included sixteen were in Sprague and Healy and twenty-two in Morrison and Stumberg. All in all, the 1950 edition (Sprague and Healy) and the present edition (Healy and Currie) of the casebook have just under seventy cases in common.²⁹ Incidentally, the present casebook contains almost two hundred cases, while each of its predecessors contained only around one-hundred and fifty.

The casebook under review is far superior to its predecessors in its inclusion of additional statutory, international and other materials. It contains a greater number of statutes and international conventions,³⁰ and in addition, it reproduces specimens of important form contracts (demise, time, and voyage charter parties, bill of lading, salvage agreement, marine insurance policy), few of which can be found in the earlier casebooks. It is thus possible to discuss in class the actual contracts in use, and to consider them as a whole, rather than in fragments found in court decisions. In my own experience, it is difficult to overestimate the usefulness of such standard forms as teaching devices, either for the purpose of clause-by-clause analysis, or for use in problems and hypotheticals.

The usefulness of these materials is enhanced by the authors' notes. Professor Healy has carefully annotated, clause-by-clause, most of the standard forms in the casebook, providing useful elucidations of their meaning and effect.³¹ It may be, indeed, that he may have gone a little too far in including sometimes long lists of cases on particular topics (see, e. g., pp. 543-44, 560, 579-80), which are of limited use in a book intended for students and not for the guidance of practitioners. It is true that both the Sprague and Healy edition of this casebook and the Morrison and Stumberg casebook had even longer lists of citations; so, in this respect, too, the present casebook is to some extent an improvement.

The contrary defect may be imputed to the chapters prepared by Professor Currie. They have far too few notes; the chapter on seamen's claims, in particular, reads almost like a Langdellian casebook: case after case, with a few "problems" (which are mostly briefed cases, with a few most insightful

²⁹ By coincidence, the same number of cases are common between the Morrison and Stumberg casebook and the book at hand. A total of thirty-seven cases is included in all three casebooks.

³⁰ See supra note 20.

³¹ The useful notes explaining technical, commercial or nautical terms should also be mentioned; see, e. g., H E A L Y & C U R R I E 400, 410 (note 8), 424, 469, 719-720. They are of incalculable usefulness to landlubbers teaching or being taught. Their usefulness might indeed have been enhanced if they had been all gathered together in a Glossary, possibly with appropriate references to it, where necessary.
questions, very few notes and quite inadequate references to the related literature. The few longer notes that have been included can only be described as masterful. As examples, one may cite the notes on “jury trial under the Great Lakes Act” (pp. 28–30), on the Jensen case and its aftermath (pp. 319–22), and on some of the problems of the United States as litigant in Admiralty (pp. 851–52, 858–60, 863–64.) It is then even more disappointing that no more notes were included. It is also surprising to find no reference at all to the, at the time of editing proposed, merger of the Admiralty and Civil Procedure Rules. Modesty is a virtue, and one that is hard to find nowadays, but surely its exercise in this instance is somewhat excessive.

The actual selection of cases is, in the main, excellent. Two qualifications should be added: first, the number of sufficiently important or interesting (from a legal, not “human interest,” viewpoint) cases in Admiralty is surprisingly limited. The actual choice is therefore rather restricted. “Leading” cases have to be included (more than half of the cases in the book are U.S. Supreme Court decisions), especially when their meaning is uncertain (as, e. g., with The Tungus and its progeny, a fascinating, if frustrating, way to spend one or two class hours). Cases where new problems are raised in a meaningful manner are few (see, e. g., The Bergechief), though good editorial judgment may be needed, in some instances, in order to recognize them. In the second place, pressures of space must undoubtedly be blamed for the practice sometimes followed in this casebook of including only the latest in a series of cases and relying on the (necessarily limited and tendentious) discussions of the earlier cases within it to give some idea of the development of the topic. In terms of “black letter law,” this might be defensible, though I strongly doubt it: the law in these fields is still far from settled and an understanding of its development and of the limitations or innovations of the latest precedent remains necessary even for purely practical purposes; at any rate, the practice is certainly objectionable from a pedagogical point of view.

Two further points may be made with respect to inclusions and omissions of cases. First, it is most heartening to find even a very few non-American

32 See, for instance, the questions after Calbeck v. Travelers Insurance Co., 370 U.S. 114 (1962), HEALY & CURRIE 323–332, at 332. Their pedagogical effect, however, suffers from the nonreproduction of the Davis case (Davis v. Department of Labor, 317 U.S. 249 (1942)); this is another instance of the problem discussed in the text to note 37 infra.

33 In fact, inadequate reference to the legal, and even more the nonlegal, literature is a general feature of the casebook under review.

34 Southern Pacific Co. v. Jensen, 244 U.S. 205 (1917).


36 Afran Transport Co. v. The Bergechief, 274 F.2d 469 (1960), HEALY & CURRIE 761.

37 Thus, Mitchell v. Trawler Racer, Inc., 362 U.S. 539 (1960), HEALY & CURRIE 297–310, constitutes by itself the sub-section on unseaworthiness (with reference to seamen). Inclusion of at least Carlisle Packing Co. v. Sandunger, 259 U.S. 355 (1922) and Mahnich v. Southern S.S. Co., 321 U.S. 96 (1944) would have provided a much more fruitful pedagogical opportunity. And see also supra note 32.
cases included; there are five such cases in all, four British and one Canadian, most of them quite recent. Second, one is surprised to find, in the chapter on maritime liens, no cases included on the discharge of liens through laches. It would seem to me that this is a matter of sufficient interest to warrant some discussion.

The actual editing of the cases is generally good and quite "discreet." Any law teacher exasperated by the omission of facts, truncating of decisions and elimination of dissenting opinions in so many current casebooks will be thankful for the under-editing of the cases in the present book. An anthology of brief excerpts from leading decisions may have its uses but it should not be called a casebook. Like any good thing, of course, under-editing can be carried too far. Was it really necessary to include so much of the opinion in The S. S. Seathunder? And quite exceptionally, there is a slip up and a part of a case is edited to death (or to incomprehension). All these are minor complaints, of course, which hardly affect the general excellence of the editing.

Another minor complaint is the omission of a few useful statutory provisions. Although the casebook as a whole provides a quite satisfactory coverage of statutes, in some instances, surely by inadvertence, a useful section or two are not reproduced. Thus, the amended section 933 of the Longshoremen's and Harbor Workers' Compensation Act should have been printed, because of its relevance to the arguments in the Ryan case, if for no other reason. Also, section 953 of the Ship Mortgage Act was surely relevant to the discussion in The Favorite, where it is in fact quoted in part.


39 Except for United States v. The Richard J. Moran, 201 F.Supp. 670 (1962), Healy & Currie 239, which deals, however, with the more specific question of laches by the U.S. Government.


41 See, e. g., the last two paragraphs of the excerpts from Todd Shipyards Corp. v. The City of Athens, 83 F.Supp. 67 (1949) in Healy & Currie 206-212, at 212.


45 120 F.2d 899 (1941), Healy & Currie 221-224.
most casebooks are compiled, i.e., by subsuming most words under a limited number of lead words). For these very reasons, however, a detailed Table of Contents is needed, both for the student who approaches the casebook for the first time, and for the teacher who cannot be expected to remember where a case, a statute or a reference is located. In its absence, I found myself compiling a table on my own.

Other relatively minor printing faults include the occasional omission of quotation marks, especially where in the original the quotation must have been printed in small print and indented (see, e.g., pp. 535, 536, 557, 571), and the eternal misprints, of which there are very few, in most cases not particularly bothersome. I should make an exception for printing "principal" for "principle" (p. 427, note 19) a misspelling which in this or in its reverse form never fails to bother me.

It should be clear, I hope, that within the limitations of the traditional conception of the field which the authors adopted, this is an excellent casebook. It is complete, up to date, intelligently prepared. In view of the diversity of approaches to Admiralty and of teaching methods, in general, no single casebook can be fully satisfactory to all teachers. One indication of the quality of a casebook—not the only one and not a necessary one, in all cases, but still a significant one—is that it can be used by teachers differing widely in their methods and approaches. This is certainly true of the present casebook. At the same time, it retains a personality of its own (or perhaps two); it is not a ragbag of relevant materials haphazardly collected. It will be a pleasure to use for a long time.

A. A. Fatouros

Indiana University


Among present-day anthropologists, Max Gluckman is without doubt the leading student of legal institutions. His earlier study, The Judicial Process Among The Barotse of Northern Rhodesia (Manchester University Press, 1955), with its excellently-documented collection of cases, set a new standard for empirical research on the subject; while on the analytic side, his training in law has allowed him to move much more freely and surely than most of his colleagues between the language and thought of the anthropologist and that of the student of Western jurisprudence. In these lectures, he examines the law of the Barotse in the light of Western legal history, especially as interpreted by Sir Henry Maine. The two fields, he suggests, throw light upon each other: Maine's notion of the development from status to contract is found to be generally valid for the Barotse and other "tribal" peoples; at the same time, since anthropological fieldwork yields kinds of data which historical jurisprudence is denied by its dependence upon highly selective written sources, studies of the Barotse and other contemporary peoples whose law is dominated by status help to complete and correct the analyses of Maine, Maitland and the others. Following a discussion of the judicial process among the Barotse, he pursues this theme through the fields of constitutional theory, land and other property, contract, injury and debt.