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MARITIME LIENS - AN AMERICAN VIEWPOINT

by

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MARITIME LIENS AND RIGHTS IN REM IN UNITED STATES LAW

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I. Introduction

The United States law of maritime liens comprises an integrated system of law and practice that is quite different from the maritime lien law of other legal systems, even those in the Commonwealth of Nations. The United States is not a signatory to the 1926 International Convention for the Unification of Certain Rules Relating to Maritime Liens and Mortgages,[1] or to the 1952 International Convention Relating to the Arrest of Sea-Going Ships.[2]

In order to appreciate the conflict of laws problems that go with maritime lien litigation in United States courts, the Commonwealth maritime lawyer needs first to learn something about the indigenous United States law of maritime liens and actions in rem; second, to learn how courts of the United States have treated issues of enforcement and recognition of foreign maritime liens; and third, to accept the unfamiliar aspects of United States maritime law and practice as parts of an organic legal system, trying not to reject them as archaic and perverse legal curiosities--though that is the prevailing tone of the current single-volume treatise on United States admiralty law, Gilmore and Black.[3]

II. The Maritime Lien Law of the United States

The United States possesses, by comparison with other nations, a very long list of maritime liens.[4] It enforces whole families of liens that may not exist elsewhere (for example, repairs, supplies, cargo damage, stevedoring, and breach of charter party); liens that arise from express contracts; and liens creating obligations that are enforced only in personam by other legal systems.

The maritime lien under United States law-- including contract-based liens--arises by operation of law, not by the agreement of the contracting parties. By contrast with other legal systems, the United States district court in admiralty thereby acquires added power to give or to withhold relief quasi ex contractu as to the vessel, limited only by the clearest waiver of rights in rem by the creditor.[5]

The in rem concept also bears upon the choice of law question. If a charter party (a personal contract) is fixed in the United Kingdom, and even if it casts upon the charterer the obligation to provide and pay for bunkers, the furnishing of bunkers to the vessel by a United States supplier is treated by United States courts as a separate contract, executed between the supplier and the vessel, and calling for the application of United States law. Only if the supplier deliberately waives its option to rely upon the credit of the vessel does it lose the United States maritime lien.[6]

Furthermore, the maritime lien created or enforced by United States law is "indelible"--not literally and forever, to be sure, but surviving the passage of a reasonable amount of time in which to arrest the vessel, and even surviving the transfer of a vessel to a bona fide purchaser for value without notice. The indelibility of the collision tort lien in The Bold Buccleugh [7] also applies in United States law to contract liens.[8]

Finally, a vessel may be liable in rem under United States law although her owners are personally immune to suit for one reason or another. The prime statement of the United States rule arose in a collision tort case involving compulsory pilotage,[9] but the rule also applies to actions for breach of maritime contract brought against vessels by creditors to whom the owners are immune.

The United States also has a well-developed and currently

operating system of actions in rem, chiefly against ships,[10] in which neither the presence nor the absence of a parallel action in personam impedes the action in rem. For example, The Barnstable[11] is often cited as the basic United States case declaring that a chartered vessel may be liable in rem even though the owner is immune in personam, and the opinion so holds: the absence of the owner in personam is irrelevant.[12]

The classic in rem situation keeps recurring in United States litigation: the owner time-charters his vessel; the charterer orders fuel and supplies in a United States port without having the supplier rely exclusively on the charterer's credit; the charterer fails to pay; and the supplier arrests the vessel in a United States port.[13] The owner would win under a foreign law that gave no supply lien at all, or one that gave no right to arrest when the owner was not personally liable; but under United States law, the supplier wins consistently, and United States law applies where the furnishing took place in a United States port, regardless of foreign contacts otherwise.

The effect upon actions in United States courts of the pendency of actions in foreign courts has been explored to some extent. A United States cargo claimant got a German judgment essentially in rem in 1971, but the vessel had been under charter, and the judgment exonerated the owner. While a further appeal in Germany was pending, the cargo claimant sued the owner in Norfolk in personam and attached a sister ship. The district court dismissed and the Fourth Circuit affirmed, holding that the German judgment in rem could not be the foundation for a United States action in personam.[14]

In 1984, the Fifth Circuit held that the three-year pendency of a United States bunkering company's action in personam in The Netherlands was no impediment to bringing the same claim in rem when the vessel visited the United States.[15] Once again, the action in rem was separate from the action in personam in United

States admiralty practice, and whether the owner was absent or present was irrelevant. It has even been held that the district court having possession in rem may ignore orders of another district court seeking to delay the sale on behalf of in personam creditors.[16]

Of course, if both actions can be brought in or transferred into the same forum, they may be pleaded and tried together.[17] There is a small body of case law holding explicitly that a plaintiff's claim in rem against a vessel is not merged into the plaintiff's prior judgment in personam against the vessel's owner.[18]

The rationalization of doctrine in United States maritime lien and action in rem practice dates only from the mid-nineteenth century, but the doctrine receives the deference due to much more ancient origins. The United States maritime law in this respect has never been codified, although maritime lien[19] and ship mortgage statutes[20] have diverted and complicated the application of United States law. Both maritime lien law and specialized admiralty practice are alive and well today in the United States federal courts. Though constitutional due process challenge threatens the in rem practice, and codification threatens the substantive law, little thought has yet been given to replacing the United States system with any other system.

III. Enforcement and Recognition of Foreign Maritime Lien Law

A. Maritime Lien Actions

When a United States court is confronted with the opportunity to apply foreign law that confers a maritime lien, the United States court already must have possession of the vessel in question, a factor that seems to incline the court toward enforcing those liens under foreign law that resemble United States maritime liens. The practical effect is to apply the lex fori,

although the announced United States policy is to apply the lex loci contractus as to contract-based liens.[21] United States courts in admiralty may and often do accept maritime lien actions between foreigners, having no United States contact except arrest of the vessel,[22] and this creates the pressure to find out what the foreign law is; but as one Court of Appeals frankly described its process some years ago, "There is no presumption that the law of foreign countries is unlike ours. One who would rely upon the difference between them must prove its existence. If he does not, we apply our law to the case."[23] The court showed its relief at not having to choose between the lex loci contractus and the law of the flag, each of which was pressed strenuously. In the absence of proof of foreign law, the United States court is free to apply the United States law--especially when the law of the flag is also the United States.[24]

Once upon a time the reason given for thus applying the lex fori was adherence to general maritime law. Chief Justice Marshall wrote in 1828,

> A case in admiralty does not, in fact, arise under the Constitution or laws of the United States (an allusion to one basis of federal court subject-matter jurisdiction appearing in the Constitution). These cases are as old as navigation itself; and the law, admiralty and maritime (another allusion to constitutional subject-matter jurisdiction), as it has existed for ages, is applied by our Courts to the cases as they arise.[25]

Justice Oliver Wendell Holmes, Jr., did not believe in the general maritime law; he called it scornfully a "brooding omnipresence in the sky."[26] Writing for the Court in 1922, Justice Holmes said of both foreign law and the general maritime law, "There is no mystic over-law to which even the United States must bow."[27] But many United States judges have referred to the general maritime law in terms that make its existence both real and dispositive by itself--neither as the domestic law of the United States nor the law of another nation.

In the long run, Justice Holme's influence has been strong,

but a respected United States "admiralty" (really a federal district court) judge, Addison Brown of the Southern District of New York, was in good company when he used the general maritime law concept to explain why he enforced a Haitian maritime lien for supplies against a United Kingdom vessel arrested in New York. Yet in his holding, Judge Brown used the law of the place at which the obligation to pay became fixed, the lex loci contractus, not the law of the British flag (which deprived the master of power to incur this lien in this manner), nor yet the lex fori (which happened to enforce the Haitian type of lien).[28] Judge Brown's opinion showed that he was well aware of the British legal history that produced doctrine, remedies, and statutes decidedly in flux and considerably at odds even with Commonwealth nations, to say nothing of France and the United States. What The Scotia shows is that the restricted British maritime law could not prevent the United States judge from enforcing a third-country maritime lien.

What The Scotia did not show was that a British supplier, who had no maritime lien for necessaries furnished in the United Kingdom, might yet have one if he could arrest the vessel in the United States. Exactly this situation arose in The Snetind,[29] where, in the absence of proof of United Kingdom law to the contrary (a dispositive absence), the judge gave English creditors a maritime lien on a United States flag vessel for supplies, repairs, and advances. In the same year, a New York federal court took the more patient view of ordering the complaint amended so as to plead the law of The Netherlands, where the work was done, in order to determine whether any lien arose in the lex loci contractus, thus avoiding preferring the no-lien Dutch creditor.[30] To complete the lex loci contractus variations, where English law was proven to give liens for insurance premiums and new-ship materials furnished to a Newfoundland vessel in ports governed by English law, the United States court enforced the liens, even though they did not exist in United States law.[31]

United States courts are still wrestling with these problems.

Quite recently a Port of Quebec ship chandler acquired a maritime lien for supplies furnished to the Panamanian Caribbean Klif, but he lost the lien under Canadian law when the owners sold the vessel to bona fide purchasers, who renamed her the Honduran Leah. The chandler arrested the Leah in Charleston, South Carolina, but the district court found that Canadian law barred the necessary lien, [32] and the court of appeals affirmed this part of the decision.[33] In as simple a case as this, the Canadian chandler got no better treatment in the United States than he would have had at home. Actually, counsel wisely but unsuccessfully tried to show that the supply contract had been made with the Canadian plaintiff's affiliate in the United States, but the courts held that the goods were furnished in Canada--the in rem connection again. [34]

Substantial United States contacts will call for the application of United States law, even though the bulk of the contacts seem to be foreign. Quite recently the United States Court of Appeals for the Ninth Circuit (the West Coast) ruled that even though the law of Italy (which indicated the law of the flag, Norway, for bunker liens) and the law of Egypt (for Suez Canal tolls) did not give maritime liens, by means of balancing contacts with the United States (the charter party, the necessaries viewed as orders rather than deliveries, and visits of the vessel to the United States), United States law governed--thereby treating the furnishers of bunkers and canal passage better in the United States than they would have been treated in their home courts. [35] An East Coast circuit earlier took a similar balancing position where the vessel was arrested in the United States, she had been chartered under a United States time charter form, and a preponderance of other contacts were with the United States; the law of the flag (United Kingdom) was held not to be the single dominant contact, nor did the intent of the parties dictate United States law, as the lower court had held. [36]

The law of the flag seems to be applied most easily to wage

liens, but the seaman's wage lien must be the closest approximation to a universal maritime lien, and conflicts of law do not arise. Conflicts have arisen for centuries, though, over the shipmaster's right to a maritime lien for his services, and the United States gave the shipmaster a lien for his wages only in 1968.[37] In prior cases, if the United States court refused to enforce the foreign master's lien, the foreign master lost outright.[38] Somewhat more subtly, the United States court could recognize the foreign lien but apply the United States priority scheme, in which case the lienworthy master finished out of the money.[39]

"Interest analysis," the attempt to determine whether some other sovereign has a more significant relationship to the action, is now being used by United States courts in reaching their decisions on whose law to apply, in contract as well as in the more numerous tort cases. The analysis of contacts is still well-entrenched, though, partly because it offers a framework upon which to marshal facts,[40] and partly because United States contacts analysis developed in maritime cases under the "Jones Act", the United States apparently world-wide seamen's injury and death statute.[41]

Considering the assortment of choice-of-law tests presently available for use, it may seem surprising that a United States court still occasionally applies the lex fori to a case that does not seem to yield to contacts testing or interest analysis. For example, where the plaintiff chartered a vessel in the United States, and where numerous other United States contacts existed, the court found that the place of loading cargo for export (Sweden), where the affreightment contract was also breached, did not prevent the application of United States law.[42] On the other hand, where the only United States contact was arrest of an Italian vessel, the repairman was Japanese, and the owner was Italian, the judge applied Japanese maritime lien law, the lex loci contractus, without hesitation.[43] The enforcement of foreign maritime liens in United States courts thus has a pragmatic foundation of in rem practice that does not fit predictably the

changing fashions in conflict of laws analysis that are applied to transitory actions in personam.

B. Ship Mortgage Foreclosures by United States Courts

By statute, the United States courts in admiralty have jurisdiction to foreclose foreign as well as domestic ship mortgages on vessels arrested in United States ports.[44] Whether a vessel is foreign or domestic, the United States court will certainly apply the United States law as to the maritime liens of United States creditors. Under the statute, United States suppliers' and repairmen's post-mortgage liens are senior to foreign mortgagees' security interests, but they are junior to United States mortgages that are properly registered.[45]

Foreign claims tend to be given maritime lien status according to the law of the place of furnishing necessaries, but to be given priority according to United States law.[46] For example, where a United States preferred ship mortgage was senior to an Italian supply lien under United States law, the priority of the Italian lien under Italian law became an empty promise when the United States court applied the United States' own priority system and let the mortgagee come first, wiping out the fund available to lien creditors.[47] The United States practice was explained by saying that the place of furnishing bunkers (Italy) established the existence of the lien, but the law of the forum (United States) assigned its priority. The court further held that the treaty of friendship and navigation did not require the United States to rearrange its maritime lien priority system so as to prefer the foreign creditor.

C. Foreign Judicial Sales of Vessels

The recognition of foreign maritime judgments takes place in the context of foreign judicial sales of vessels, whether by foreclosing mortgages, by executing maritime liens, or by sales in bankruptcy. Here the consequences of United States in rem

practice are projected upon the foreign sale, whether that would be the foreign practice or not, including the United States view that arrest of the vessel is constructive notice to all creditors.[48] Foreign judgments that sell vessels are not lightly subjected to collateral attack by United States creditors for reasons of contrary United States admiralty practice.[49] If the foreign court had possession of the vessel as nearly as might be in the same manner that a United States admiralty court must have, its possession was exclusive and its judgment was valid everywhere;[50] and the foreign court's adjudication extinguished all maritime liens, even liens that were not recognized in the foreign court.[51]

In one recent case, the Netherlands sale of a vessel extinguished a United States supply lien that would not be enforced under Netherlands law;[52] in another case, the sale of a vessel by a Mexican bankruptcy court was recognized, since the Mexican court took possession of the vessel; it did not merely adjudicate her owners' rights in personam.[53] And in 1977, a United States court held that a Costa Rican court's foreclosure sale of a Costa Rican vessel mortgaged in Costa Rica cut off the maritime liens of the United States creditors: a supplier, a stevedore, and a bunkerer.[54]

If the foreign court did not have possession of the vessel when it foreclosed a ship mortgage, the United States court will not recognise the foreclosure as extinguishing the United States maritime lien of a creditor who was not a party to the foreclosure.[55]

If the foreign sale took place where the creditor happened to find the ship, the United States lienholder is completely without a remedy.[56] But where a United States ship mortgagee, like a cat playing with a mouse, deliberately let the ship incur a bunker debt in the United States so the ship could sail to the Bahamas, where the bunkerer had no lien, and then foreclosed and wiped out the debt, a United States court held that the mortgagee was unjustly enriched by the amount of these bunkers--

though not as to prior supplies.[57] The question of letting the supplier arrest the ship in the United States did not and probably could not arise after the Bahamian foreclosure sale.

In a subsequent case, the mortgagor first arrested the defaulting borrower's vessel in the Canary Islands, which would have enforced a United States supplier's maritime lien; but in order to let perishable cargo be sold, the mortgagee let the vessel move to The Netherlands, which did not enforce the supply lien, and where the vessel was thereafter sold. When the United States supplier sued the mortgagee for unjust enrichment, seeking to establish a constructive trust on the proceeds to the extent of its supply claim, the district judge found that in the circumstances, the mortgagee was not unjustly enriched, commenting that maritime forum shopping is not a maritime tort, and distinguishing the Gulf Oil Trading Co. case on the basis that the supplier did not enable the vessel to flee the lien-enforcing forum.[58]

To state the same concept in reverse, the foreign judicial sale system that does not cut off maritime liens cannot protect the vessel in the United States. In a very recent case, the United States bunkering company had not been paid when the time charterer's agent went bankrupt after having itself been paid. The bunkering company attached the vessel in The Netherlands, which has no action in rem; the Netherlands attachment, then, dealt neither with the vessel's liability nor with a ship mortgage foreclosure, but with the personal liability of the owner as affected by the charter party. The bunkering company therefore arrested the vessel later in a Texas port, where her liability in rem was not really open to question under the United States doctrine of personification of vessels. The Texas district court dismissed the action in rem under the doctrine of lis alibis pendens because of the action in The Netherlands, but the Fifth Circuit reversed, stressing that the Netherlands action in personam against the owner was quite different from the United

States action in rem against the vessel.[59] Apparently the United States separation of action in rem from action in personam means that the unpaid foreign maritime creditor can sue the ex-shipowner in personam in the United States, unless some other aspect of the foreign litigation, such as discharge of the owner in bankruptcy, also cuts off the creditor's personal remedy under recognized foreign law.

IV. Conclusion

United States maritime lien laws and in rem practice have reached a high state of evolution as a legal ecosystem. The system works fairly well with other systems most of the time, although good interrelations are achieved only through the frequent and heavy expenditure of intellectual effort and good will among attorneys. Improvement of the fit between the United States system and other nations' systems would call for structural alterations in the United States system, not minor cosmetic changes, and no major changes are to be expected in the foreseeable future.

FOOTNOTES

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1. 6A Benedict on Admiralty, Doc. No. 8-2

2. Id., Doc. No. 8-1. For an historical account of these Conventions, see Price, Maritime Liens 218-237 (1940); Comment, "The Difficult Quest for a Uniform Maritime Law . . . .," 64 Yale L.J. 878, 893-903 (1955); Kriz, "Ship Mortgages, Maritime Liens, and Their Enforcement: The Brussels Conventions of 1926 and 1952," 1963 Duke L.J. 671, 1964 Duke L.J. 70; and Note, "International Uniformity of Maritime Liens and Mortgages: The 1965 New York Conference of the Comitē Maritime International," 41 N.Y.U.L. Rev. 939 (1966) (draft convention text at 960-963). The Comitē Maritime International, conceding that the 1967 convention on maritime liens and mortgages, 6A Benedict on Admiralty, Doc. No. 8-3, was not a success, is currently working on a successor. Berlingeri, "Maritime Liens and Mortgages--A Progress Report," CMI Newsletter (Sep. 1983).

3. G. Gilmore & C. Black, Law of Admiralty, ch.9 (2d ed. 1975).

4. For a compact survey, see Comment, "Developments in the Law of Maritime Liens," 45 Tul. L. Rev. 574 (1971). See also 2 Benedict on Admiralty 51 (7th ed. 1982); and see The Scotia, 35 Fed. 907, 908 (S.D.N.Y. 1888).

5. E.g., Gulf Trading & Transp. Co. v. The Hoegh Shield, 658 F.2d 363, 1982 AMC 1138 (5th Cir. 1981) (Cir. J. John R. Brown), cert. denied, 457 U.S. 1119, 1982 AMC 2108 (1982).

6. See Point Landing, Inc. v. Alabama Dry Dock & Shipbuilding Co., 261 F.2d 861, 866, 1959 AMC 148 (5th Cir. 1968).

7. 7 Moore P.C. 267, 13 Eng. Rep. 884 (P.C. 1852).

8. The Key City, 81 U.S. (14 Wall.) 653 (1871).

9. The China, 74 U.S. (7 Wall.) 53 (1868).

10. For the mechanics, see Rogers, "Enforcement of Maritime Liens and Mortgages," 47 Tul. L. Rev. 767 (1973).

11. 181 U.S. 464 (1901).

12. The owner was very much present in fact, however, because the reason for the appeal was the impleading action by the owner in personam against the demise charter in personam; the owner won.

13. E.G., Gulf Trading & Transp. Co. v. The Hoegh Shield, 658 F.2d 363, 1982 AMC 1138 (5th Cir. 1981), rehearing en banc denied, 670 F.2d 182 (1982) (table), cert. denied, 457 U.S. 1119, 1982 AMC 2108 (1982).

14. M.W. Zack Metal Co. v. International Nav. Co., 510 F.2d 451, 1975 AMC 720 (4th Cir. 1975), cert. denied, 423 U.S. 835, 1975 AMC 2159 (1975).

15. Belcher Co.v. The Maratha Mariner, 724 F.2d 1161 (5th Cir. 1984) (dismissal rev'd; action in rem remanded with directions to stay the United States proceedings pending decision of the Netherlands action, in which the owner had posted a letter of undertaking).

16. Wong Shing v. The Mardina Trader, 564 F.2d 1183 (5th Cir. 1977).

17. Fed. R. Civ. P. 20 (a).

18. E.g., The Eastern Shore, 24 F.2d 443, 1928 AMC 327 (D. Mc. 1928); followed in The Henry S., 4 F. Supp. 953, 1933 AMC 1401 (E.D. va. 1933. See G. Gilmore & C. Black, Law of Admiralty 614 nn. 72-73 (2d ed. 1975). The authorities in Continental Grain Co. v. The FBL-585, 364 U.S. 19, 25 n.4, 1961 AMC 1 (1960), do not bear out Justice Black's statement to the contrary, though his statement is probably consistent with the current Supreme Court view that questions of claim and issue preclusion lie within the judge's discretion. See Parklane Hosiery Co. v. Shore, 439 U.S. 322, 331 (1979) (not a maritime case).

19. 46 U.S.C. 971-975

20. 46 U.S.C. 911-961, 981-984.

21. E.g., The City of Atlanta, 17 F.2d 308 (S.D. Ga. 1924).

22. E.g., The Maggie Hammond, 76 U.S. (9Wall) 435 (1870).

23. The Hoxie, 297 Fed. 189, 190, 1924 AMC 630 (4th Cir. 1924), cert. denied, 266 U.S. 608 (1924).

24. See the Snetind, 276 Fed. 139 (D. Me. 1921).

25. American Ins. Co. v. Canter, 26 U.S. (1 Pet.) 511, 545.

26. Southern Pac. Co. v. Jensen, 244 U.S. 205, 222 (1917) (dissenting opinion).

27. The Western Maid, 257 U.S. 419, 432.

28. The Scotia, 35 Fed. 907 (S.D.N.Y. 1888).

29. 276 Fed. 139 (D.Me. 1921).

30. The Woudrichem, 278 Fed. 568 (E.D.N.Y. 1921).

31. The Maud Carter, 29 Fed. 156 (D. Mass. 1886

32. Ocean Ship Supply, Ltd. v. The Leah, 1982 AMC 2740 (D.S.C. 1982).

33. 729 F.2d 971 (4th Cir. 1984).

34. Id. at 973-974.

35. Gulf Trading & Transp. Co. v. The Tento, 694 F.2d 1191, 1983 AMC 872 (9th Cir. 1982), cert. denied, 103 S. Ct. 2091 1983 AMC 2109 (1983).

36. Rainbow Lines, Inc. v. The Tequila, 480 F.2d 1024, 1973 AMC 1431 (2d Cir. 1973).

37. Pub. L. No. 90-293, 82 Stat. 107, 46 U.S.C. 606

38. E.g., The Graf Klot Trautvetter, 8 Fed. 833 (D.S.C. 1881)

39. The Olga, 32 Fed. 329 (S.D.N.Y. 1887).

40. See Restatement (Second) of Conflicts of Law, 6, 188 (1969), as applied in Gulf Trading & Transp. Co. v. The Hoegh Shield, 658 F.2d 363, 1982 AMC 1138 (5th Cir. 1981), cert. denied, 457 U.S. 1119, 1982 AMC 2108 (1982).

41. 46 U.S.C. 688; application to a largely Danish-contact case rejected in Lauritzen v. Larsen, 345 U.S. 571, 1953 AMC 1210 (1953)

42. Cardinal Shipping Corp. v. The Seisho Maru, 1983 AMC 2573 (S.D. Tex. 1983).

43. Kawasaki Heavy Inds., Ltd. v. The Sorrento, 1984 AMC 263 (E.D. Va. 1983).

44. Ship Mortgage Act, 1920, 46 U.S.C. 951 (unnumbered second paragraph added in 1954, Act of June 29, 1954, ch. 419, 68 Stat. 323).

45. See Payne v. The Tropic Breeze, 423 F.2d 236, 239, 1970 AMC 1850 (1st Cir. 1970), cert. denied, 400 U.S. 964, 1971 AMC 818 (1970).

46. E.g., Potash Co. v. The Raleigh, 361 F. Supp. 120, 1973 AMC 2658 (D.C.Z. 1973).

47. Brandon v. The Denton, 302 F.2d 404, 1962 AMC 1730 (5th Cir. 1962).

48. E.g., Zimmern Coal Co. v. Coal Trading Ass'n, 30 F.2d 933, 1929 AMC 334 (5th Cir. 1929).

49. See Atlantic Ship Supply, Inc. v. The Lucy, 392 F. Supp. 179, 1975 AMC 1153 (M.D. Fla. 1975), aff'd per curiam, 553 F.2d 1009 (5th Cir. 1977).

50. Hilton v. Guyot, 159 U.S. 113, 167 (1895).

51. The Trenton, 4 Fed. 657 (E.D. Mich. 1880) (Henry B. Brown, later Justice Brown--an American "admiralty judge").

52. Alpine Gulf,Inc. v. First Nat. Bank, 1981 AMC 540 (N.D. 111.1979).

53. Gulf & Southern Terminal Corp v. The President Roxas, 1983 AMC 435 (E.D.N.C. 1982), aff'd, 701 F.2d 1110, 1983 AMC 1521 (4th Cir. 1983), cert. denied, 103 S. Ct. 3115, 1983 AMC 2109 (1983). It has been and continues to be doubtful whether a foreign court would recognize the sale of a vessel free of maritime liens by a United States bankruptcy court, which is different from a United States admiralty court. See Morgan Guaranty Trust Co. v. Hellenic Lines Ltd., 1984 AMC 1074 (S.D.N.Y. 1983).

54. Atlantic Ship Supply, Inc. v. The Lucy, 392 F. Supp. 179, 1975 AMC 1153 (M.D. Fla. 1975), aff'd per curiam, 553 F. 2d 1009 (5th Cir. 1977).

55. Todd Shipyards Corp. v. The Maigus Luck, 243 F. Supp 8, 1966 AMC 1608 (D.C.Z. 1965) (excellent details of examining foreign law through expert witnesses).

56. E.g., Gulf & Southern Terminal Corp. v. The President Roxas, 701 F.2d 1110, 1983 AMC 1521 (4th Cir. 1983).

57. Gulf Oil Trading Co. v. Creole Supply, Inc., 596 F. 2d 515, 1979 AMC 585 (2d Cir. 1979).

58. Alpine Gulf, Inc. v. First Nat. Bank, 1981 AMC 540 (N.D. 111. 1979).

59. Belcher Co. v. The Maratha Mariner, 1983 AMC 2089

(S.D. Tex. 1983), rev'd, 724 F.2d 1161 (5th Cir. 1984). Counsel for the vessel have advised that author that the Netherlands court decided that the supplier had no lien, and that the vessel probably will take no further appeal.