

**ARNOULD LAW OF MARINE INSURANCE AND AVERAGE
AND AVERAGE**

J.C.B. Gilman, M.V. Smith, Sweet and Maxwell, London (1997); Vol. III
Sixteenth Edition.

Reviewed by Jonathan Lux

Volume 3 of the Sixteenth Edition can be divided up into two sections. Part 1 deals with the New Policy Forms and Institute Clauses and Part 2 is the first supplement to the Sixteenth edition. Generous appendices reproduce the policies relevant to Part 1 and clauses including: Institute Time Clauses Hulls, Institute Time Clauses Freight and the Institute Cargo Clauses (A), (B) and (C), Institute War and Strikes Clauses, the Institute Strike Clauses Cargo and a copy of the York Antwerp Rules 1994.

Although the chapter headings and the system of individual paragraph numbering provides a clear outline of the development of each topic which makes the book in accessible and easy to use, it is rather disappointing that the publisher opted for a noter up (supplementary) volume to the existing edition rather than a completely revised new edition.

The book is designed not only for the student, but for the practitioner. Arnould is well known, not only in the United Kingdom, and it is often cited by Judges. One of the roles of such a book is to distil and present a mass of information to a reader who is too busy to assimilate it himself and who wants to know fairly quickly the legal position in relation to a particular problem. The noter up aspect of this volume presents difficulties, as the practitioner has to refer to it in addition to the other two volumes. The writers acknowledge that the volume is not designed to stand on its own stating that the book should "be seen as a permanent work of reference forming a bridge between the old and the new". That said, a completely revised version of the Sixteenth edition would be welcomed by practitioners and students alike.

Part 1

One of the essential roles of a leading text book such as Arnould is to chart not only where the courts and the legislature have been, but where it might appear the

courts are going. In Part 1 of volume 3 on the New Policy Forms and Institute Clauses there are useful discussions on the old S.G. Form and the evolution of Marine cover in the market in response to a changing world. In addition, there is a discussion of the law interspersed with an explanation of present day market practice and a projection of what the latest interpretation of those forms holds for future market practice. This approach not only enables a newcomer to the subject to gain a comprehensive understanding of the new clauses, but it also enables the practitioner to view the new clauses in relation to familiar landmarks and points of reference.

Part 2

Chapter 17 is an additional chapter on the doctrine of utmost good faith which did not appear in previous editions and it extends the discussion in the Sixteenth Edition which was confined to pre-contractual misrepresentation and non-disclosure. The authors examine in particular the nature and scope of any duty of good faith continuing after the contract of insurance is made.

An examination of this topic has been long overdue. The particular strength of this chapter is the comprehensive nature of the case law discussed. Moreover, the balance of the material between text and footnote ensures that the discussion of a large volume of case law does not interrupt the clarity of the main text.

There is an extensive discussion of the *C.T.I. - v - Oceanus*, *Pan Atlantic v. Pinetop* and the *Star Sea* decisions. These are clearly milestone cases, which merit examination notably lacking in other leading texts on the subject.

Conclusion

Volume 3 will prove valuable to practitioners and students alike as it manages to achieve the feat of being a useful source by analysing and abstracting from cases to a degree that is both practical in application while at the same time being academically stimulating.

Many major issues of principle and standard clauses have been examined and interpreted by the courts at all levels since Volumes 1 and 2 of the sixteenth

edition was published in 1981 and an update of Arnold has been long overdue. To that extent, Volume 3 to the sixteenth edition is a welcome publication that will bridge the gap until a completely revised new edition is published.

*Jonathan Lux
Ince & Co.*