

MARTIN DAVIES

Tulane University Law School
6329 Freret St
New Orleans, LA 70118

Office telephone : (504) 862-8824
Office fax : (504) 862-8855
Email : mdavies@tulane.edu

ACADEMIC APPOINTMENTS

Tulane University Law School, New Orleans, LA	since 2000
Admiralty Law Institute Professor of Maritime Law	since 2002
Professor of Law	2000-2002
Director, Tulane Maritime Law Center	since 2004
Co-Director, Tulane Maritime Law Center	2002-2004
Deputy Director, Tulane Maritime Law Center	2000-2002
Melbourne Law School, The University of Melbourne, Australia	since 1995
Professorial Fellow	since 2000
Harrison Moore Professor of Law	1995-2000
Associate Dean (Academic), Faculty of Law	1996-1998
Monash University Law School, Melbourne, Australia	1989-1995
Associate Professor of Law	1993-1995
Senior Lecturer in Law	1989-1992
Associate Dean (Research), Faculty of Law	1991-1993
The University of Western Australia Law School, Perth, Australia	1983-1989
Lecturer in Law	1983-1989
Sub-Dean, Faculty of Law	1986-1989
Department of Law, Nottingham University, Nottingham, U.K.	1980-1981
Lecturer in Law	1980-1981

VISITING APPOINTMENTS

Law Faculty, National University of Singapore	
Distinguished Visitor	2008, 2009
Maritime and Port Authority Distinguished Visitor	2004
Università degli Studi Cagliari, Sardinia, Italy	
Visiting Professor	2007, 2008

PROFESSIONAL EMPLOYMENT

- Consultant, Norton Rose Fulbright, Australia, Singapore and USA** since 2011
- Consultant, Blake Dawson Waldron, Melbourne, Sydney and Brisbane, Australia**
1999-2011
- Consultant, Mallesons Stephen Jaques, Melbourne and Sydney, Australia**
1989-1999
- Consultant, Gibson and Gibson, Perth, Australia** 1988-1989

OTHER PROFESSIONAL APPOINTMENTS

- Panel Arbitrator, International Center for Dispute Resolution, American Arbitration Association** since 2014

EDUCATION

- B.A. (with First Class Honours) in Jurisprudence, University of Oxford 1978
- B.C.L. (with First Class Honours), University of Oxford 1979
- LL.M., Harvard Law School 1980
- M.A., University of Oxford, England 1983

SUBJECTS TAUGHT/AREAS OF RESEARCH EXPERTISE

Admiralty and Maritime Law (all aspects); International Sale of Goods; Conflict of Laws/Transnational Litigation; International Commercial Arbitration; Contracts; Torts.

PUBLICATIONS

Books (author or co-author)

INTERNATIONAL TRANSACTIONS IN GOODS: GLOBAL SALES IN COMPARATIVE CONTEXT (Oxford University Press, 2014), with David V. Snyder.

NYGH'S CONFLICT OF LAWS IN AUSTRALIA (LexisNexis Butterworths, 9th ed., 2014), with Andrew Bell, S.C. and Justice Paul Brereton.

- Eighth edition (with Bell and Brereton) 2010; seventh edition (with Peter Nygh) 2002.

ADMIRALTY AND MARITIME LAW: PRACTITIONER'S EDITION (2 volumes)(Beard Books, 2005), with Robert Force and A.N. Yiannopoulos.

- Revised editions published 2008, 2012.

ADMIRALTY AND MARITIME LAW: ABRIDGED EDITION (Beard Books, 2006), with Robert Force and A.N. Yiannopoulos.

- Revised edition published 2008.

SHIPPING LAW (Thomson LawBook Co, 3rd ed., 2004), with Anthony Dickey, Q.C.

- Second edition 1995; first edition 1990.

INTERNATIONAL TRADE LAW: COMMENTARY AND MATERIALS (Thomson LawBook Co., 2nd ed., 2004), with Michael Pryles and Jeff Waincymer.

- First edition 1996.

TORTS (LexisNexis Butterworths, 7th ed., 2015), with Ian Malkin.

- First edition 1992; second edition 1995; third edition 1999; fourth edition 2003; fifth edition 2008; sixth edition 2012.

CONFLICT OF LAWS: COMMENTARY AND MATERIALS (Butterworths, 1997), with Sam Ricketson and Geoffrey Lindell.

Books (editor)

JURISDICTION AND FORUM SELECTION IN INTERNATIONAL MARITIME LAW: ESSAYS IN HONOR OF ROBERT FORCE (ed. Martin Davies, Kluwer Law International, 2005).

Book chapters

Incorporation of charterparty terms into bills of lading held by third parties: choice of law issues, forthcoming in *THIRD PARTIES' RIGHTS AND LIABILITIES UNDER BILLS OF LADING* (ed. F. Lorenzon, Taylor & Francis, 2014).

Admiralty and maritime jurisdiction in the United States: "Same same but different," in *INTERNATIONAL COMMERCIAL LAW AND ARBITRATION: PERSPECTIVES* 145-57 (ed. N. Perram, Ross Parsons, 2014).

Excuse of impediment and its usefulness, in *INTERNATIONAL SALES LAW: A GLOBAL CHALLENGE* 295-306 (ed. L. DiMatteo, Cambridge University Press, 2014).

Maritime law: the epitome of transnational legal authority in *BEYOND TERRITORIALITY: TRANSNATIONAL LEGAL AUTHORITY IN AN AGE OF GLOBALIZATION* 327-40 (eds. G. Handl, J. Zekoll & P. Zumbansen, Kluwer International, 2012).

Product liability in *FLEMING'S THE LAW OF TORTS* 555-85 (eds. Carolyn Sappideen and Prue Vines 10th ed., 2011).

Australia in *TRANSFER OF OWNERSHIP IN INTERNATIONAL TRADE* 1-30 (2nd ed., eds., A. von Ziegler, C. Debattista, A. Plégat and J. Windahl, 2011).

Warranties and utmost good faith in U.S. marine insurance contracts, in *THE MODERN LAW OF MARINE INSURANCE, VOLUME THREE* 81-100 (ed. D. Rhidian Thomas, 2009).

Classification society liability in the United States, in LIABILITY REGIMES IN CONTEMPORARY MARITIME LAW 129-147 (ed. D. Rhidian Thomas, 2007).

Forum selection clauses in international maritime contracts, (with Robert Force) in JURISDICTION AND FORUM SELECTION IN INTERNATIONAL MARITIME LAW: ESSAYS IN HONOR OF ROBERT FORCE 1-58 (ed. Martin Davies, 2005).

Taking evidence by video-link in international litigation in INTERCONTINENTAL COOPERATION THROUGH PRIVATE INTERNATIONAL LAW: ESSAYS IN MEMORY OF PETER E. NYGH 69-88 (eds. T. Einhorn and K. Siehr, 2004).

Product liability in international markets in TORTS TOMORROW: ESSAYS IN HONOUR OF JOHN FLEMING 130-151 (eds N. Mullany and A. Linden, 1998).

The end of the affair: duty of care and liability insurance in THREE ESSAYS IN INSURANCE LAW 29-47 (1989).

Journal articles

“Parallel proceedings for insolvency and limitation of liability,” [2015] Lloyd’s Maritime and Commercial Law Quarterly 24.

“Insurers’ pre-contractual disclosure obligations: the position in the United States of America,” 23 Insurance Law Journal 70 (2012).

“Forum Selection, Choice of Law and Mandatory Rules,” [2011] Lloyd’s Maritime and Commercial Law Quarterly 237.

“Deepwater Horizon: Removal Costs, Civil Damages, Crimes, Civil Penalties, and State Remedies in Oil Spill Cases,” 85 Tulane Law Review 889-982 (2011) (with Robert Force and Joshua Force).

“Liability issues raised by the Deepwater Horizon blowout,” 25 Australia & New Zealand Maritime Law Journal 35-48 (2011).

“Documents That Satisfy the Requirements of CISG Art. 58,” 49(3) Belgrade Law Review (Annals of the Faculty of Law of Belgrade) 39-66 (2011).

“More Lawyers but Less Law: Maritime Arbitration in the 21st Century,” 24 Australia & New Zealand Maritime Law Journal 13-20 (2010).

- Published version of the 2009 Australian Maritime and Transport Arbitration Commission (AMTAC) Address, Federal Court of Australia, Brisbane, Australia (video-linked to Federal Courts in Sydney, Melbourne and Perth), 2 July 2009.

“Choice of Law and U.S. Maritime Liens,” 83 Tulane Law Review 1435-61 (2009).

“Legal and Practical Aspects of Salvage in the United States” [2009] Lloyd’s Maritime and Commercial Law Quarterly 28-41.

“Whatever Happened to the Salvage Convention 1989?” 39 Journal of Maritime Law & Commerce 463-504 (2008).

“Choice of Law After the Civil Liability Legislation,” 17 Torts Law Journal 104-119 (2008).

“Court-ordered Interim Measures in Aid of International Commercial Arbitration,” 17 American Review of International Arbitration 299-334 (2008).

“*McDermott v. AmClyde*: The Quiet Achiever,” 39 Journal of Maritime Law & Commerce 11-25 (2008).

“Bypassing the Hague Evidence Convention: private international law implications of the use of video and audio conferencing technology in transnational litigation,” 55 American Journal of Comparative Law 205-237 (2007).

“Litigation fights back: avoiding the effects of arbitration clauses in charterparty bills of lading,” 35 Journal of Maritime Law and Commerce 617-43 (2004).

“Forum selection clauses in maritime cases,” 27 Tulane Maritime Law Journal 367-87 (2003).

“Obligations and implications for ships encountering persons in need of assistance at sea,” 12 Pacific Rim Law & Policy Journal 109-41 (2003).

“Time to change the federal *forum non conveniens* analysis,” 77 Tulane Law Review 309-86 (2002).

“Foreign maritime liens: should they be recognised in Australian courts?,” 76 Australian Law Journal 775-82 (2002) (with Kate Lewins).

“In defense of unpopular virtues: personification and ratification,” 75 Tulane Law Review 337-411 (2000).

“Subrogation, contribution and insurance law: an Australian view,” [2000] Restitution Law Review 70-81.

“Just (don”t) do it: ethics in international trade,” 21 Melb U L Rev 601-20 (1997).

“Common law liability of statutory authorities,” 27 UWAL Rev 21-43 (1997).

“Evidence, documents and preliminary discovery in international litigation,” 26 UWAL Rev 286-308 (1996).

“Exactly what is the Australian choice of law rule in torts cases?,” 70 Australian Law Journal 711-22 (1996).

“Proximate cause in insurance law,” 7 Insurance Law Journal 135-151 (1996).

“Too little imagination or too much? *Phillips v Eyre* revisited yet again,” 3 Torts Law Journal 273-298 (1995).

“Two views of free in and out, stowed clauses in bills of lading,” 22 Australian Business Law Review 198-207 (1994).

“Conflict of laws issues in fatal accidents actions,” 1 Torts Law Journal 45-62 (1993).

“The liability of auditors to third parties in negligence,” 14 UNSWLJ 171-197 (1991).

“The elusive carrier: whom do I sue and how?,” 19 Australian Business Law Review 230-247 (1991).

“Equitable relief against withdrawal for non-payment of hire in time charterparties,” 18 Australian Business Law Review 328-337 (1990).

“‘Special skill’ in negligent misstatement,” 17 Melbourne University Law Review 484-496 (1990).

“Private nuisance, fault and personal injuries,” 20 UWA Law Review 129-142 (1990).

“What price a gold sovereign? - Limitation of liability under the Hague Rules,” 6 Australian Bar Review 49-55 (1990).

“The off-hire clause in the New York Produce Exchange time charterparty” [1990] Lloyd’s Maritime and Commercial Law Quarterly 107-113.

“The end of the affair: duty of care and liability insurance,” 9 Legal Studies 67-83 (1989). (Highly Commended by the Australian Insurance Law Association, 1988).

“Limiting shipowners’ liability for economic loss,” 16 Australian Business Law Review 271-281 (1988) (with Guy Lawson).

“Reading cases,” 50 Modern Law Review 409-431 (1987).

“Negligently caused economic loss: a restatement,” 16 UWA Law Review 209-218 (1985).

“The road from Morocco: *Polemis* through *Donoghue* to no-fault,” 45 Modern Law Review 534-555 (1982).

Essays, case notes and other short pieces

“A tribute to Professor William Tetley,” 39 Tulane Maritime Law Journal i-iii (2014).

“Conversion of intangible goods,” 88 Australian Law Journal 235-37 (2014).

“Wrongful arrest of ships – a reply to Sir Bernard Eder,” 38 Tulane Maritime Law Journal 137-42 (2013).

- A response to Hon Mr Justice Bernard Eder, “Wrongful arrest of ships: a time for change,” 38 Tulane Maritime Law Journal 115 (2013).
- See also “Wrongful arrest of ships: rejoinder by the Honourable Mr Justice Bernard Eder,” 38 Tulane Maritime Law Journal 143 (2013).

“Houseboat or floating home or what? Certiorari process in the U.S. Supreme Court,” 87 Australian Law Journal 234-6 (2013).

“Teaching Admiralty requires dismissing important subjects,” 55 Saint Louis University Law Journal 483-90 (2011).

“Arbitration awards in “manifest disregard of the law”,” 84 Australian Law Journal 602-4 (2010).

“Reflections on the past decade of transnational litigation,” 10 Melbourne Journal of International Law 46-48 (2009).

“Punitive damages and the *Exxon Valdez*,” 83 Australian Law Journal 23-26 (2009).

“Renvoi and presumptions about foreign law: *Neilson v Overseas Projects Corporation of Victoria Ltd*,” 30 Melbourne University Law Review 244-268 (2006).

“The role of juries in US torts cases,” 10 Torts Law Journal 109-118 (2002).

“*Kuwait Airways Corp v Iraqi Airways Co*: The effect in private international law of a breach of public international law by a state actor,” 2 Melbourne Journal of International Law 523-534 (2001).

“Insured’s post-contract duty uberrimae fidei: *Manifest Shipping Co Ltd v Uni-Polaris Shipping Co Ltd (The Star Sea)*,” 32 Journal of Maritime Law and Commerce 501-510 (2001).

“Common law liability of statutory authorities: *Crimmins v Stevedoring Industry Finance Committee*,” 8 Torts Law Journal 133-151 (2000).

“Application of the Hague Rules” “perils of the sea” defense in Australia: *The Bunga Seroja*,” 23 Tulane Maritime Law Journal 449-64 (1999).

“A chink (or two) in the bill of lading plaintiff’s jurisdictional armour? Good news for Australian maritime arbitration?,” 26 Australian Business Law Review 70-74 (1998).

“A curate’s egg: good in parts - *Akai Pty Ltd v People’s Insurance Co Ltd*,” 25 Australian Business Law Review 215-21 (1997).

“What is “ownership” for the purposes of ship arrest under the Admiralty Act 1988 (Cth)?,” 24 Australian Business Law Review 76-80 (1996).

“The Hamburg Rules: what happens in 1997?,” 23 Australian Business Law Review 235-36 (1995).

“The Constitutional Validity of Residence Requirements in No-Fault Transport Accident Compensation Schemes,” 2 Torts Law Journal 275-84 (1994).

“Section 37 of the Admiralty Act 1988: Safety net or not?,” 22 Australian Business Law Review 447-50 (1994).

“Strict Liability and Reasonable Foreseeability: *Cambridge Water Co v Eastern Counties Leather plc*,” 2 Torts Law Journal 12-21 (1994).

“The Exocet finds a new target, or fear and loathing for freight forwarders and other carriers by sea,” 21 Australian Business Law Review 377-84 (1993).

“Auditors’ liability to third parties: *R Lowe Lippman Figdor & Franck (a firm) v AGC (Advances) Ltd*,” 1 Torts Law Journal 114-21 (1993).

“What obligations does a shipowner take over from a defaulting time charterer under charterers’ bills of lading?,” 21 Australian Business Law Review 227-30 (1993).

“The new Act, old bills of lading and the United States District Court for the Southern District of New York: an interesting mix,” 20 Australian Business Law Review 432-36 (1992).

“Case note: *New South Wales Leather Co Pty Ltd v Vanguard Insurance Co Ltd*,” 5 Insurance Law Journal 159-64 (1992).

“Deviation is alive and well and living in New South Wales,” 19 Australian Business Law Review 379-83 (1991).

“Fruits of the Blooming Orchard,” 19 Australian Business Law Review 217-22 (1991).

“Default of one in a chain of charterparties,” 19 Australian Business Law Review 51-57 (1991).

“Carriage of Goods by Sea Bill,” 19 Australian Business Law Review 57-60 (1991).

Case note: *Qantas Airways Ltd v SS Pharmaceutical Pty Ltd*, 18 Australian Business Law Review 435-40 (1990).

Case note: *Verna Trading (Aust) Pty Ltd v New India Assurance Co Ltd*, 18 Australian Business Law Review 430-35 (1990).

“*San Sebastian* revisited,” 17 UWA L Rev 150-159 (1987).

EDITORIAL POSITIONS

Member, Editorial Board, LLOYD’S MARITIME AND COMMERCIAL LAW QUARTERLY

Member, Editorial Advisory Board, INTERNATIONAL AND COMPARATIVE LAW QUARTERLY

Member, Editorial Advisory Board, AEGEAN REVIEW OF THE LAW OF THE SEA AND MARITIME LAW

Member, Editorial Board, AUSTRALIA & NEW ZEALAND MARITIME LAW JOURNAL

Member, Editorial Board, NEW ZEALAND BUSINESS LAW QUARTERLY

Member, Advisory Board, MELBOURNE JOURNAL OF INTERNATIONAL LAW

Member, Advisory Board, THE UNIVERSITY OF WESTERN AUSTRALIA LAW REVIEW

PROFESSIONAL BODIES

Member, Maritime Law Association of the United States since 2000

Associate Member, American Bar Association since 2000

Member, Maritime Law Association of Australia and New Zealand	1990–2000
Member, Documentary Committee, Intertanko	since 2003