The third edition of this justifiably well-known book by Professor William Tetley is bigger and better than ever. Expressed with the author's customary verve, the book is written as a reference work for practicing lawyers who have to resolve carriage claims, but it is equally accessible and comprehensible to other professionals involved in the shipping industry.

The basic arrangement of the contents and the provision of supporting materials are carried over from the second edition to the third. However, five more chapters have been added to the previous forty and a great deal of these have been rewritten and expanded. As a result the volume is twice as long and tends to be encyclopedic. Professor Tetley continues his unique presentation of the subject matter around the structure of a marine cargo owner's claim. Thus, the book is organized in five parts reflecting the proof of defence of a cargo claim.

Part I (chapters 1-7) deals with a number of preliminary, yet significant, topics including the application and interpretation of the international rules of sea carriage and the construction of standard carriage documents. The key here is the chapter entitled “The Burden and Order of Proof”. With concise strokes Professor Tetley outlines the steps in a typical cargo claim. On this framework, he then constructs the rest of the book. Part II (chapters 8-13) discusses what the cargo claimant must prove while Part III (chapters 14-23) considers what the defendant carrier must establish. The claimant’s grounds for proof counter to the carrier’s arguments are presented in Part IV (chapters 24-27), while the arguments open to either party are related in Part V (chapters 28-45). This arrangement is very convenient for the busy practitioner, whether she or he is representing the cargo, the ship or their respective insurers.

A happy consequence of this structure is that it also provides considerable elucidation of the complex problems of proof presented by carriage disputes. The older common law of strict liability for the goods carried, which demanded proof by the claimant only of the fact of injury and not of the cause of the loss or damage, has long given way to notions of liability based on the carrier’s fault. However the international Hague Rules, which introduced the changes, do not express a single clear operative principle; instead they extend a number of different rules and exceptions that make a hodgepodge of carriage liability.

However much we may wish that the Hague Rules had been organized around a straightforward principle such as the carrier’s presumed fault, as the more recent Hamburg Rules are, until they come into force internationally and into effect nationally we must cope with the difficulties of the Hague Rules and a mass of sometimes contradictory jurisprudence. Professor Tetley does not have the legal
authority to put these matters aright, but, to his credit and our gain, his organizational emphasis on the order of proof greatly assists in relieving the seeming confusion in the detailed rules of this field of law.

The text also makes a comparative study of the Canadian, American, British and French law concerning carriage by sea. The bridge between the civil and common law traditions thus provided is both unusual and appropriate in legal writing about ships considering that they move so freely between jurisdictions. By the use of copious headings and subdivisions, Professor Tetley makes it abundantly clear what topic and whose law he is discussing. It is thus easy for readers to discover the pages that deal with the matters of their concern in the jurisdiction of their primary interest.

The comparative materials are all the more significant and useful now that several different sets of uniform international rules of sea carriage compete for implementation. Two different versions of the Hague Rules obtain in Canada and the United States. Britain applies the amended Hague/Visby Rules, while France incorporates them in its own distinctive fashion. In addition, the most recent international reforms, in the shape of the Hamburg Rules, await application as soon as a sufficient number of countries ratify them. Professor Tetley’s text deals lucidly with these differences and affords a width of perspective that is not available in other works on carriage. Incidentally, copious appendices are included which set out the international conventions and national laws that establish the governing rules.

The revised text incorporates the many changes in the law of sea carriage since the last edition of the book. Professor Tetley reports them faithfully even when, as with Himalaya clauses, he disagrees with the adopted developments. Two new chapters also reflect the evolution of cargo handling methods. The book now appropriately includes a chapter on freight forwarders (chapter 33), who increasingly act as if they are carriers rather than merely as shippers’ agents, and another on waybills (chapter 45), fairly described as “the modern contract of carriage”.

Three other new chapters round out the treatment of carriage contracts in this edition. The addition of a chapter entitled “Interpretation of Bills of Lading and Superseding Clauses” (chapter 4) complements the existing chapter “Interpretation and Construction of the Rules” (chapter 3). The chapter entitled “Sale — The Passing of Title and Risk — A Résumé” (chapter 7) provides a résumé of sales law as it affects the rights and duties of the parties to a contract of carriage, which is typically undertaken in execution of a sale transaction. The chapter on set-off (chapter 42) discusses the cargo claimant’s right to withhold unpaid freight. The availability of such a self-help remedy, which has once more been the subject of judicial consideration, obviously affects the outcome of an allegedly broken carriage contract. One can think of little touching marine cargo claims that has been left
out of this book except perhaps carriers’ liens for freight, but then Professor Tetley has written a separate book on that subject.\textsuperscript{1}

Not all readers will agree with Professor Tetley’s interpretation of the law or choice of authorities in every respect. For instance, he argues in chapter 26 that:

Care of the cargo under the Hague or Hague/Visby Rules is a stringent obligation, because art. 3(2) states that the carrier shall “\textit{properly and carefully}” care for the goods... There is nothing in the Hague or Hague/Visby Rules referring to \textit{due diligence} to care for the cargo.\textsuperscript{2}

However, a number of judicial opinions, which Professor Tetley offers as “erroneous decisions”, do not agree with him. It is true that “\textit{properly}” adds something to the word “\textit{carefully}” but it need not raise the standard of conduct required of the carrier above “\textit{due diligence}”. There is room to think that acting “\textit{properly}” requires due diligence in establishing a sound system for handling the cargo, while behaving “\textit{carefully}” means operating that system with due diligence towards the goods. This is merely one example of an opinion that might be challenged, an argument for which Professor Tetley himself provides much of the ammunition in laying out so clearly such a wealth of jurisprudence. But then Professor Tetley has never shied away from taking a stand; he may be relied upon to express thought-provoking views in a stimulating fashion.

The overall utility of the book is enhanced by the inclusion of a collection of national summaries by local lawyers from forty-five countries — from Argentina to Yugoslavia. Through translation into Russian and Japanese, the second edition reached around the world. The third edition is eminently deserving of an even greater audience.

\textit{Hugh M. Kindred*}

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\textsuperscript{1} W. Tetley, \textit{MARITIME LIENS AND CLAIMS} (London: Business Law Communications, 1985).

\textsuperscript{2} P. 551 [emphasis in original].

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