Prawo morskie [Maritime Law], Vol. II, Ossolineum 1988, 199 pp.

The international relations connected with the exploitation of the sea and its resources are the sphere of international economic relations where the introduction of the principles of New International Economic Order (NIEO) was postulated comparatively early, that is in the late 1960s. The problem of the impact the NIEO assumptions had on the international maritime legislation was discussed at a seminar organized in Toruń on the initiative of Faculty of Law and Administration, Mikołaj Kopernik University, and Maritime Law Commission, Polish Academy of Sciences. The participants were representatives of world academic centres from various countries with free market economy, as well as Polish specialists in maritime law. Papers delivered by the participants, as well as studies sent in by several authors, were subsequently published within a series of works of the Maritime Law Commission, Polish Academy of Sciences, in the form of the book under review.

General problems related to the process of creation of NIEO have been discussed by M. J. Shah : "International Maritime Legislation and Developing Countries : Attitudes and Trends" (pp. 9—43), and J. Łopuski : "Main Evolutionary Trends in Maritime Private Law : The Influence Exercised by Demands of Developing Countries" (pp. 43—63). Both authors focus their discussion on the problem of navigation relations under maritime private law ; although they represent two different legal cultures (common vs. continental law), their conclusions and observations are highly convergent. This is no doubt a symptom of maritime law's internationalism, with the resulting trend towards its unification. It is from that viewpoint that M. J. Shah analyzes the impact of the NIEO assumptions on international legislation, stressing particularly the political conditions of the process of unification of maritime law (p. 10). J. Łopuski, instead, bases his discussion on the initial thesis that maritime law is submitted to a natural process of evolution towards its adjustment to the socio-economic and technological transformations.

The analysis of the process of development of maritime law leads both authors to the conclusion that a radical change in quality took place in the international maritime legislation after World War II and was related to the birth of the UN and specialistic organizations. Both authors agree in their appraisal of the importance of the developing countries' activity in the international forum for speeding-up internationalization of the legislative processes in navigation and for involvement in those processes of the entire community interested in sea trade. At the same time, however, they are aware of the developing countries' modest substantial contribution to the process of revision of the existing legal solutions they criticize. Those countries' failure to submit proposals of original normative conceptions is explained by the fact that their systems of maritime law have a European origin inherited from colonialism. The developing countries' reservations to the maritime law in force concentrate on two basic issues : the organizational structure and principles of operation or the world navigation markets controlled by line conferences, and the orientation in favour of shipowners of many legal institutions adopted by maritime law.

Taking the above reservations into account, the authors analyze the legislative acts prepared in the international forum with regard to the NIEO assumptions, considering at the same time the problem of their poor effectiveness. The caution shown in this respect by the developed countries is hardly astonishing as those countries invariably admit the present trend of evolution of maritime law to be economically groundless and irrational, based on the moral reasons only.[1] On the other hand, the wait-and-see policy of the developing countries is explained by the fact that the pro-cargo option is not emphatic nowadays in those countries, and their former struggle against the navigation relations that favour shipowners proved to be directed also against their own expanding merchant marines.

A discussion of the problems of effectiveness of the international maritime legislation has been contained in a study by R. Herber : "The Hamburg Rules and the New International Economic Order" (pp. 63—79). The author tries to find the answer to the question why the Hamburg Rules (that is, the UN convention on the Carriage of Goods by Sea—a document that regulates the basic problems of sea trade, and a much more excellent legislative act than the Haga—Visby Rules[2]—have

[1] This is illustrated among others by the remarks included in another study contained in the book, R. Herber's *The Hamburg Rules and the New International Economic Order*, p. 74.

to wait so long to enter into force despite the universal approval they met with initially. The author's thesis is worthy of attention that the legal regulation of carriage of goods by sea requires that the principle of equality of parties should be observed, and that a superiority of interests of any party (including also the developing countries) is improper here.

The articles by J. Hołowiński : "For Unified Understanding of Charter Party Contracts" (pp. 79—85), and E. du Pontavice : "Le Concept de 'Nouvel Ordre Economique International' a l'épreuve des faits dans la pratique maritime" (pp. 85—113) present two different opinions as to the legal nature of the charter party for voyage, differently appraised in the Anglo-Saxon, French, and other European countries' legal systems. E. du Pontavice quotes the arguments for its distinguishment, as a contract of affreightment from contracts for carriage of goods by sea and stresses the fact that the discussed contract's different nature is determined by the aim and circumstances of its negotiation in the conditions of a competitive market. For that reason, it is not adhesive, and the scope of the freighter's duties is limited here to careful action, and does not involve the achievement of results as is the case with contracts for carriage of goods by sea. According to the author, the international conventions that regulate carriage of goods by sea take this distinct feature into account, excluding charter parties for voyage from their scope. Instead, J. T. Hołowiński declares for a universal recognition of that contract as a contract for carriage of goods by sea of a kind, pointing to the fact that in the modern conditions of navigation, the argument as to the specific nature of a charter party for voyage as an obligation to act with care loses its former importance as the achievement of the purpose of transporting the cargo is equally important for both parties to that contract. What is more, also the nature of the modern tramping navigation market has changed, and the charter-party forms are commonly used there for contracts for carriage of mass cargo which have little in common with a contract of affreightment, that is the charter party for voyage according to the French and Anglo-Saxon law (pp. 80—81).

According to R. Richter ("Ship Financing and the New International Economic Order : Some Legal Aspects," pp. 113—121), the changes in regulation of the legal relations connected with sea carriage of goods towards equalizing the protection of interests of the cargo with those of the shipowner are but an indirect step aimed at strengthening the developing countries' position in sea trade. Those countries' growing participation in sea transport requires legal measures to support the development of their own merchant marines, and particularly to stimulate the engagement of considerable financial means to that aim.

T. Schulze ("Security in the Shipowners' Freight Earnings under Long-Term Charter Parties for Long-Term Credits in Shipbuilding," pp. 121—127) analyzes one of the legal forms of security for credits for shipbuilding granted by the shipyard. He observes that the offer of the shipyard that gives credit for shipbuilding must on the one hand secure the refunding of outlays, and on the other hand remain attractive and competitive for the possible customers.

The legal problems related to marine environment protection against pollution have been discussed by E. Gold ("New Directions in Ship-Generated Marine Pollution Control : The New Law of the Sea and Developing Countries," pp. 127—141), and

[2] The Brussels Convention on standardization of some principles concerning bills of lading, 1924 (*Journal of Laws*, No. 33/1937, item 258), amended by a protocol signed in Brussels in 1968 (*Journal of Laws*, No. 14, item 48).

Z. Brodecki ("Extension of the Geographical Scope of the Conventions on Liability for Pollution Damage," pp. 141—151). E. Gold makes a significant observation that it was only after the war that importance of the sea was noticed not only for the aims of transport but also due to the value of its biological resources. That fact gave birth to the process of legal protection of marine environment by way of international conventions which before focused nearly exclusively on the problem of protection of human life and property against dangers at sea (p. 128). That sphere of legal regulation, which is new as regards quality, is to square the interests of the international community with those of the separate countries. To that aim, the author suggests that the International Maritime Organization should be given the function of supervision and mediation, with due appreciation of that organization's role and achievements in the sphere of marine environment protection against pollution (pp. 130—139).

The problem of international justice has been discussed in greater detail by J. Gilas ("Notion of Justice in the United Nations Convention on the Law of the Sea," pp. 151—165). The author states that that notion, originally based on the principles of sovereignty of States and of their equal treatment in the system of the 1958 Geneva Conventions, was then verified in the NIEO assumptions and also in the course of reforms of the international law of the sea. In the new convention on the law of the sea, the principle of equality has been infringed by conceptions of rightness and honesty (p. 158), and it has become necessary for the achievement of justice to either privilege (pp. 160—162) or discriminate (p. 162) certain subjects. D. Fluharty ("The Exploitation of Natural Resources of Marine Areas : NIEO and LOS," pp. 165—179) analyzes the provisions of the UN Convention on the Law of the Sea concerning the animated sea resources in the light of the economic NIEO assumptions. The author estimates those provisions as progressive and profitable both for the developing and for the developed countries. He makes a reservation, however, to the extent that the convention's solutions are disadvantageous for a specific groups of countries and economic units interested in fishery (p. 175).

T. Ballarino ("The European Economic Community and the Regime of Fishing Rights," pp. 179—191) analyzes the joint policy of EEC in the sphere of sea fishing (pp. 179, 180) and stresses the fact that that organization strives to square the principle of non-discrimination with that of special rights of a coastal country, aiming at a just division of the fishing quotas with special consideration to the postulates of the developing countries. The remarks of H. Westphal (pp. 191—199) concern the problems regulated in the UN Convention on the Conditions for Registration of Ships passed in 1986.

The high theoretical standard, as well as the generalizing and systematizing nature of the studies included in the book under review give it a particular scientific value.

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