

# **Admiralty Law - History of the Law of the Sea, Guilty until Proven Innocence**

Admiralty Law encompasses all controversies arising out of acts done upon or relating to the sea, and questions of prize. Prize is that law dealing with war, and the spoils of war -- such as capture of ships, goods, materials, property -- both real and personal, etc.

Admiralty law - is the command enforcement necessary to maintain the good order and discipline on a ship, especially as a ship was operated in the mid-1700's. As the availability of crewmembers was a finite problem in the middle of the ocean, the enforcement of ship law had more to do with getting wayward crewmembers back into a state of obedience and usefulness, rather than as the imposition of lawful punishments -- the latter being the purpose of law enforcement on the land.

Maritime Law is that system of law that particularly relates to commerce and navigation. Because of this fact, as you will see, you don't have to be on a ship in the middle of the sea to be under Admiralty Jurisdiction. This jurisdiction can attach merely because the subject matter falls within the scope of Maritime Law - and, bills, notes, cheques and credits are within the scope of Maritime Law.

Admiralty Law grew and developed from the harsh realities and expedient measures required to survive at sea. The jurisdiction of maritime cases includes both civil and criminal. Because of its genesis, it contains a harsh set of rules and procedures where there is no right to trial by jury, no right to privacy, etc. In other words, there are no rights under this jurisdiction -- only privileges granted by the Captain of the maritime voyage.

For instance: in this jurisdiction there is no such thing as a right not to be compelled to testify against oneself in a criminal case -- the Captain can; however, if he wishes, grant you the privilege against self-incrimination. There's no such thing as a right to use your property on the public highways -- but the Captain may grant you the privilege to do so, if he so chooses. There is no such thing as a right to operate your own business -- only a privilege allowed as long as you perform according to the captain's regulations.

Back at the time, just before the revolution -- when our Colonies were festering and threatening revolt from the King -- when we had the Common Law of the Colonies. The King's men came over to collect their taxes. They didn't use the Common Law on us; they applied Admiralty Law on us -- arrested people, held Star Chamber proceedings and denied us our common rights as Englishmen.

This, more than any one thing, (sure, taxation without representation was part of it) -- but it was denial of our Common Law rights by putting us under Admiralty

Law wherein the King was the Chancellor. His agents deprived us of jury trials, put us on ships, sent us down to ports in the British West Indies -- where many died of fever in the holds of ships -- and very few returned. This was one of the main reasons for the revolution in 1776.

What is the Common Law? Historically, the Common Law came from the Anglo-Saxon Common Law in England. It existed, and controlled and ruled the land of England previous to the reign of William the Conqueror [1066], when the Normans conquered Anglo-Saxon England. In it was the Golden Rule (Rule of Civil Justice) that in the negative form reads: "Do not unto others as you would not have others do unto you." P.S. The positive form deals with Social Justice.

Where did this law come from -- this Anglo-Saxon Common Law? Did it come from Christianity's introduction to England? Apparently not. . . It is on record in the Vatican --- The early Christian missionaries reported that the people of Northern Germany "already have the law". It is suspect that Sons of Isaac (the last tribe of the 12 tribes of Abraham) tin traders taught these people the law many years before Christ.

So what has happened? The English people had this simple and pure Common Law of rights and property rights. But there also existed along side of it, even in those days, the law of commerce, which is the Maritime Law. The earliest recorded knowledge we have of Maritime Law is in the Isle of Rhodes, 900 B. C. -- then there's the Laws of Oleron, Laws of the Hanseatic League, Maritime Law, which was part and parcel of their civil law. This is the law of commerce, whereas the Common Law was the law that had to do with the land, and with the people of the land.

William the Conqueror subjugated all the Saxons to his rule except London Town. The merchants controlled the city and their walls held off the invaders. The merchants were able to provision the city by ships and William's soldiers were not able to prevail. Finally, acknowledging that he could not take the City by force, he resorted to compromise. The merchants demanded "the "Lex Mercantoria" [the Merchant Law]. This was granted and remains to this day. The inner City of London has its special law where the Merchant's Law is the law of the City of London.

Protection of their shipping industry was one of the main reasons for the resistance by the merchants of London. The Saxon Common Law had no provision for fictitious persons (companies) or limited liability; but, recognized only men and women and full liability. The Roman Civil Law was a derivative of the Maritime Law and is the basis of Civil Law in most European countries. Identifying features of Roman Common Law are the usage of precedent and judgement by magistrate(s) in courts of Summary jurisdiction.

At Runnymede, in 1215, the Barons of England forced King John to sign the Magna Carta, one of three primary documents establishing the fundamental rights of the English people to this day, {The others being the revision of the Magna Carta in 1225, the Petition of Rights [1628] and the Bill of Rights [1689]}. The primary objective and content of the Magna Carta was the prohibition of the use of Summary jurisdiction [the Roman or Admiralty Law] as a means of unauthorized taxation and seizure of property without due process of Law or just compensation. The colonists were, on the whole, very well schooled in the Common Law and were quite aware of the wrongs that King and Parliament were committing against them. This eventually forced them to rebel.

The Common Law that we had in our land is parallel to another ancient law. You will find that when our Founding Fathers set up the declaratory trust, known to us as the Declaration of "Independence", Jefferson listed 18 grievances and in each one of these grievances he showed how we were being denied our rights as freeborn Englishmen. So, he made an appeal to the nations of the world that the acts being committed against the colonists were acts committed against the Laws of Nations, and it (the Declaration of Independence) became an ordinance, a public trust, within the Law of Nations -- and those Founding Fathers knew that they would have to fight to win the independence that they had so declared.

After the English surrendered at Yorktown, the Articles of Confederation period followed. Then our Founding Fathers implemented the Constitution into this Public Trust, which was the mechanism to provide for us our hopes and aspirations. In the Constitution you will find principles; but, not necessarily those found in the Declaration of Independence.

Some of the writers of the Constitution thought it was a little too restrictive. It was generally conceded, for instance, that the people had the right to bear arms, but they also knew that if we ever were placed or allowed ourselves to be brought under Maritime Admiralty Law concerning our persons and property, we would have dire need of a guarantee for our rights -- thus, the ten amendments were added to the Constitution, and that became the substantive part of the Constitution. Article III, Section 2, of the Constitution defines the Maritime Admiralty jurisdiction.

How have we been tricked out of our Common Law rights; and, into the Admiralty courts? How has equity as well as Admiralty been corrupted? How has the Federal Government made it almost impossible for us to receive our constitutional rights -- our substantive rights in the Constitution?

Now, to understand the Constitution -- we must examine the Declaration of Independence and those 56 men who signed it, and pledged their lives, liberty, family, property, and their honour to this sacred trust. All of these men were very knowledgeable and learned in the Common Law -- they knew the law because they studied the law, they may not have had a high school education (many of

them). But they could read, and they read and studied law. They were men of the age or reason and they knew and they understood. They knew exactly what the king was doing. They knew the law. Knowledge is a very important thing. And, as **James Madison wrote years ago: "Knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power which knowledge gives."** Education should never be terminal! The First Amendment to the US Constitution cites "Freedom of Religion" that in actual fact is "Freedom of Education" since the church controlled education, at the time of its writing.