

Ключові слова: ІКТ, інформація, судова практика, митні взаємини.

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MARITIME ENGLISH LAW: PRACTICE AND TERMINOLOGY

English law has its origins in the time when William the Conqueror began to rule England. At the time of the conquest, there was no single legal organization in England: there was no universally binding single source of law, a single judicial system, and no centralized authority that could enforce legal regulations. Uniform English common law began to take shape only in the 12th century, when royal courts gained supremacy over county and feudal courts [1, p. 240].

English law owes its uniqueness to judges who, for centuries, have identified shortcomings in legal regulation and improved this system of law.

The normative basis of the English system of law is not formed by the norms of the law of a general nature, but by judicial decisions that resolve a specific situation, and, under certain conditions, acquire the force of a precedent that is the source of law. At the same time, the laws, with rare exceptions, have a complementary meaning in relation to case law. Due to the dominant importance of individual judicial acts, legal ideas and principles of law are of great importance in the process of legal regulation.

Substantive law such as English law is the main regulator of legal relations in maritime law, which regulates these relations in such detail and transparency. Therefore, shipping companies, shipowners, charterers and charterers, insurers and insurers, not to mention financiers, surveyors, dispatchers and lawyers and other professionals – professionals in the maritime business choose the English law to regulate their contractual relations.

English law is characterized, on the one hand, by extraordinary stability, and on the other – by extraordinary dynamism, which is due to the predominance of judicial precedent as a source of law. This role, which is played by precedent in the system of legal sources, gives some researchers reason to even argue that English law by definition can not be fictitious, because the court itself in its decision sets the rules by which decisions will continue on disputes arising from similar legal relations. True, this statement seems too bold, but it is very good.

Indeed, common law, which is the most important part of the English legal system, gives it vitality and allows it to respond adequately and sensitively to the realities of practice in the commercial, in particular, maritime sphere.

This does not mean that the role and importance of statutory law in England are diminished. On the contrary, the influence of regulations – legislation passed by parliament – has been growing recently. The influence of customs and traditions, which give English law extraordinary stability, or even some conservatism cannot be written off.

Doctrine has a great influence in the legal field, in theoretical positions that are expressed and published by prominent legal scholars. Common sense is also very important, ie the logic according to which the legal relations themselves, which are the subject of legal regulation, are formed. Such a diverse and extensive legal field, of course, creates considerable difficulties for lawyers, but that is the professionalism of a real specialist to deal with all these difficulties. Not to mention that precedents are very controversial and not always well-founded. All this sets high standards for a lawyer who specializes in English law [2, p.176]. Especially for lawyers who are accustomed to practice in the system of continental law. Terms of civil law can not always be reasonably and clearly translated into English and find exactly the equivalent of the relevant civil law institution in the English law system. But this does not mean that it is absolutely impossible to overcome these difficulties. On the contrary, the deep unity of the nature of commercial relations always allows you to find a way out and understand each other.

A separate issue is the English process. It is clearly impossible to reveal all its subtleties here. But it should be noted that it is complex enough for non-professionals to apply to the English arbitration or court.

Although English law often seems to be a very complex system, as it really is, to be understood by lawyers who practice it on a daily basis, it is easier to understand than the seemingly simple forms of law of continental legal systems, in particular Ukrainian.

Detailing the provisions of English law, even some of their controversy, leads to the astonishment of legal norms and their flexibility, which is surprising for a lawyer practicing in continental legal systems.

For lawyer, the reversal of legal matters in the English legal system is usually surprising, from the determination of legal relations by a jurisdiction to the definition of legal norms, but this leads to a clear definition of the content of legal relations and their impact on international trade and maritime transport.

References:

1. Cam Helen. Law-finders and law-makers in medieval England. Collected studies in legal and constitutional history. London, Merlin, 1962. 240 p.
2. Ogilvie Charles. The King's government and the common law 1471-1641. Oxford, Blackwell, 1958. VII, 176 p.

Ключові слова: морське англійське право, загальне право, доктрина.

Ключевые слова: морское английское право, общее право, доктрина.

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