## Contents

General Editor's Preface		V
Acknowledgements		vii
Table of Cases		xiii
Tables of Le		xxi
Chapter 1	Introduction	1
	The Theme	1.01
	1. The Arrest of Ships	1.01
	2. The Scope of the Book	1.08
II.	The Aim	1.13
	1. Advancing Further Harmonization	1.13
	2. The Objectives	1.20
III.	The Key	1.21
	1. Different Functions of Arrest of Ships	1.21
	2. The Protective Function	1.23
	3. The Jurisdictional Function	1.24
	4. The Security Function	1.28
IV.	The Perspective	1.30
	1. A Private International Law Study	1.30
	2. Juridical Continuity of Legal Relations across	
W.	National Borders	1.33
V.	The Context	1.36
	1. The Europeanization of Private International Law	1.36
PART I:	THE ARREST OF SHIPS AS A PROVISIONAL	
	AND PROTECTIVE MEASURE	
Chapter 2	The Arrest of Ships in International	
	Commercial Litigation	19
I.	Introduction	2.01
	1. The Variety of Approaches used in Different Legal Systems	2.06
	2. Arrest in Civil and Commercial Litigation	2.11
II.	The Arrest of Ships in the Ancient Lex Maritima	2.12
	1. The Earliest Times of Maritime Navigation	2.12
	2. The Arrest of Ships in the Medieval Era	2.15
	3. Ship Arrest in Early English Maritime Practice	2.19
	4. Arrestment of Ships in Early Scottish Maritime Practice	2.27
III.	The Arrest of Ships in the Nineteenth Century in Great Britain	2.35
	1. England	2.35
	2. Scotland	2.44
IV.	Conclusions	2.53

x

Chapter 3	The Arrest of Ships in the International	
	Arrest Conventions	44
I.	Introduction	3.01
	The International Level	3.06
	The Arrest of Ships and Drawbacks to Uniformity from	
	a Private International Law Perspective	3.11
	1. Scope of Application of the International Conventions	3.14
	2. Problems of Interpretation of the 1952 International	
	Arrest Convention	3.21
IV.	Characterization and Autonomous Interpretation of	
	International Uniform Law: The Devices	3.24
V.	Characterization in ordinem of Arrest of Ships:	
	The Results	3.29
	1. The Arrest of Ships as a Provisional Measure	3.30
	2. The Arrest of Ships as a Protective Measure	3.42
VI.	Conclusions	3.49
Chanter 1	Ship Arrest in England	67
	Introduction	4.01
	Admiralty Jurisdiction in England  The England Poveloped	4.04 4.07
111.	The Framework in which Ship Arrest has Developed  1. The <i>in rem</i> Claim	4.07
TX7	Different Types of Ship Arrest	4.19
ı v.	1. Different Functions of Ship Arrest	4.22
V	Consistency with the International Conventions	4.35
V •	1. Ship Arrest as a Provisional Measure	4.41
	2. Ship Arrest as a Protective Measure	4.51
VI	Conclusions	4.55
V 1.•	Correction	
Chapter 5	Arrestment of Ships in Scotland	92
I.	Introduction	5.01
II.	Admiralty Jurisdiction in Scotland	5.04
III.	The Framework where Arrestment of Ships Develops as a	
	Provisional and Protective Measure	5.07
	1. Diligence on the Dependence	5.07
IV.	Different Types of Arrestment of Ships	5.14
	1. Arrestment in rem	5.15
	2. Arrestment on the Dependence	5.22
V.	Consistency with the International Conventions	5.28
	1. Arrestment of Ships as a Provisional Measure	5.33
	2. Arrestment of Ships as a Protective Measure	5.52
VI	Conclusions	5.53

Contents

PART II:	THE ARREST OF SHIPS IN PRIVATE INTERNATIONAL LAW	
Chapter 6	ARREST OF SHIPS, SECURITY, AND APPLICABLE LAW	117
I.	Introduction	6.01
II.	The Security Function of Arrest of Ships	6.09
	1. The Civil Law Approach	6.12
	2. The Approach in English and in Scots Law	6.16
III.	The Applicable Law Problems	6.17
	1. Two Faces of the Same Coin: Existence and Ranking	
	of Rights of Preference	6.23
IV.	Maritime Liens in the Conflict of Laws	6.26
	1. Maritime Liens: Generalities	6.26
	2. Applicable Law Governing Rights of Preference	6.32
	3. Applicable Law Governing the Ranking of	
	Maritime Claims	6.52
V.	The Role of the Security Function of Arrest of Ships	
	in the Ranking of Maritime Claims	6.80
	1. International Conventions	6.81
	2. English Law	6.84
7.71	3. Scots Law	6.88
V 1.	At the Crossroads: Substance/Procedure and  Right/Romody in Private International Law	6.97
VII	Right/Remedy in Private International Law Conclusions	6.110
V 11.	Conclusions	0.110
Chapter 7	Arrest of Ships and Jurisdiction	164
I.	Introduction	7.01
II.	The Jurisdictional Function of the Arrest of Ships	7.05
	1. Bases of Jurisdiction	7.09
III.	Forum Arresti: The Problems	7.18
	1. The Different Perspective in International	
	Shipping Litigation: The Balance between	
	Principles and Practicalities	7.19
	2. Forum Shipping, Forum Shopping	7.23
	3. Territorial Proximity: The Underpinning of	
T T 7	Forum Arresti	7.25
IV.	Different Paradigms of International Jurisdiction	7.30
	1. The European Paradigm of Jurisdiction	7.32
	2. The Scottish Paradigm of Jurisdiction	7.53
17	3. The English Paradigm of Jurisdiction	7.73
V.	Forum Arresti: The International Solutions  1. The 1952 International Arrest Convention	7.86 7.89
	<ol> <li>The 1952 International Arrest Convention</li> <li>The 1999 International Arrest Convention</li> </ol>	7.05
1/1	Forum Arresti as a Cooperative Jurisdictional Basis	7.100
V 1.	1. Forum Arresti: A Special Jurisdictional Basis	7.100
	2. Forum Arresti: A Cooperative Forum	7.105
VII	Conclusions	7.112
·		

xii Contents

Chapter 8	ARREST OF SHIPS, JUDICIAL COOPERATION, AND THE	
	RECOGNITION AND ENFORCEMENT OF	
	Foreign Judgments	216
I.	Introduction	8.01
II.	The Protective Function of Arrest of Ships	8.06
	Ancillary Jurisdiction	8.11
	1. The Concept of Ancillary Jurisdiction	8.11
	2. The European Framework	8.14
	3. England (Sections 25 and 26 of the Civil	
	Jurisdiction and Judgments Act 1982)	8.20
	4. Scotland (Sections 27 and 28 of the Civil	
	Jurisdiction and Judgments Act 1982)	8.26
	5. The International Arrest Conventions	8.29
IV.	International Judicial Cooperation	8.30
	1. The Principle of Territorial Proximity Revisited	8.32
V.	Recognition and Enforcement of Foreign Judgments	8.37
	1. The UK Framework	8.39
	2. The European Framework	8.46
VI.	The Lex Specialis Provision Revisited	8.49
	1. The 1999 International Arrest Convention	8.50
VII.	Conclusions	8.54
Chapter 9	Conclusion	243
I.	Towards Advancement in the Enforcement of Maritime	
	Claims in Europe	9.01
II.	The Arrest of Ships: A Distinctive Institution	9.03
III.	English and Scots Law: Advantages and Disadvantages	
	on Both Sides of the Border	9.05
IV.	The Arrest of Ships: A Provisional and Protective Measure	9.11
V.	The Necessary Distinction between the Arrest of Ships,	
	Maritime Liens, and the in rem Claim	9.16
VI.	The Need to Avoid a Fragmented Approach to the	
	Characterization of Maritime Liens	9.18
VII.	A Positive Approach to Case Management through	
	International Judicial Cooperation	9.20
VIII.	Forum Arresti: The Paradigmatic Jurisdictional Basis in	
	Shipping Litigation	9.21
Bibliograph	y	255
Index		273