FOREWORD

Dame Sara Cockerill, Judge of the Commercial Court

It is a truth universally acknowledged, that however many cases you read, Rob Merkin has read more! Never has that truth been so borne in on me than when reading the draft of this book.

Rob told me that he had written a history of marine insurance up to the 1906 Act, which had taken on a 'slight life of its own' because the Act has holes and because it simply was not possible to explain some of the cases without setting out their context. That context, it turns out, translates into a fascinating, detailed and often revelatory legal (and sometimes social) history of trade, war and empire up to 1906. In reading it I have been both appalled and humbled by the amount of work which has gone into it. But I have been simply delighted to read it, for it fills in so many gaps in so many stories. In many ways this is a book that has been waiting to be written; that it has not been written before may be in part because its scope is so grand, but may well be much to do with the fact that the sources are legal cases, where most historians would not think to look. As Rob remarks in his preface, previous histories of the period covered by him disclose that most historians have ducked the challenge of engaging with the legal source material, referring instead in the most general terms to key pieces of legislation and cases.

In fact, as any commercial lawyer knows, much of the social history of each generation is written in the cases which decide the disputes about the things which people valued at the time. What we love about being commercial lawyers is in large part the ability, as a side product of deciding a dispute, to be dropped into the middle of businesses, to discover how they work, and all about the people who work in them. Thomas Grant's recent bestseller *Jeremy Hutchinson's Case Histories* does this to the very recent past via the prism of criminal cases. But an equally fascinating and broader view of the period would be accessible using commercial cases. What Rob has done is to do this and switch the focus further backwards; to open up the history of a period by looking at the cases of the time and to use the narratives which result to take us through the era when Britain defined itself by its maritime enterprises. Arriving at the proper context for the Marine Insurance Act may be the goal – triumphantly achieved; but the journey gives us so much more.

So yes, I do think that this book will be invaluable to students of marine insurance now, and will be cited to contextualise legal arguments in twenty-first century courts. Yes, of course it will be a joy to practitioners in the shipping and insurance worlds, as we trace back the law relating to barratry, the way that the maritime world moved from one of almost unimaginable dangers through to the territory of classification societies, and International Maritime Organization (IMO) regulations, or the gradual acceptance of the concept of reinsurance.

But it will also prove invaluable to anyone who loves the novels of Patrick O'Brian, and wants to understand the legal basis of Letters of Marque, or the origins and workings of the Prize Court (as I did constantly when reading them). It will also be a great resource to (to give but two examples) those trying to understand either the history of colonialism or the workings of the East India Company. My sense, reading the book, was that into each chapter was condensed material which could have yielded a considerable general interest history book – the story of the Confederate Cruisers not being the least among them. This would be one which Lord Bingham, author of the seminal article on the Alabama Claims Arbitration, would most assuredly have welcomed. And the book will, as Rob notes, make this rich vein of source material more accessible to other historians of the period. I doubt, however, whether his ambition of reaching the pub quiz enthusiasts will be fulfilled!

Overall what Rob has produced is a book which will answer questions produced by cases, by other historical reading, and by general pondering on the state of the world. Whether reading for work, recreation or curiosity one is equally assured of education and interest.