

Four Not-So-Famous Wrecks **P/C J. McLendon, JN**

In following the history of man and the sea, one hears of the many famous collisions of the titans at sea. Yet these calamities, as horrendous as they may have been to the victims, have little affect upon the daily affairs of modern mariners. More often, lesser accidents affect mariners to a greater degree than the popularly known disasters. Here we present four not-so-famous wrecks and the subsequent interpretations of the Collision Regulations (the rules) by the courts. These decisions illustrate some of the principles taught in the Boating Safely and Seamanship courses in an informative and memorable way.

The Oregon - 158 U.S. 186 (1895)

On the night of December 27th, 1889 on the Columbia River, the steamer Oregon struck and sunk the anchored vessel Clan Mackenzie about a mile above a point in the river known as 'Coffin Rock Light.' Two seamen aboard the Clan Mackenzie were killed as a result of the collision. The Oregon prevailed in the original litigation on its claim that the failure of Clan McKenzie's lookout to exhibit a torch in addition to the required anchor light contributed to the accident. In the subsequent appeal, the U.S. Supreme rejected that contention and stated the following regarding the rules of navigation: "Exceptions to these rules ... should be admitted with great caution, and only when imperatively required by the special circumstances of the case. It follows that, under all ordinary circumstances, a vessel discharges her full duty and obligation to another by a faithful and literal observance of these rules. The power to superadd to them other requirements involves the power to determine what shall be superadded, and in this particular there is room for a great and embarrassing diversity of opinion. Thus, one court might hold that, in addition to displaying the regulation light, a vessel at anchor should swing a torch; another, that she should ring a bell; another, that she should blow a horn, beat a drum, or fire a cannon; and the result would be that a lookout would never know when he had performed his full duty to an approaching vessel."

Strict and literal observance of the navigation rules is mandatory for all vessels and violations may be excused only when imperatively required and to the extent necessary to avoid collision.

The Pennsylvania - 86 U.S. 125 (1873)

In 1870, off Sandy Hook N. J., a collision occurred between the British Bark Mary Troop and the British Steamer Pennsylvania. The bark sank, her master and five crew members drowned, and her cargo was lost. The Privy Council of England held the collision resulted solely from the excessive speed of the steamer even though the bark had been sounding a bell instead of the required foghorn. Subsequent litigation in the United States held both vessels to blame and the Supreme Court enunciated a new rule of law regarding collisions of vessels: "The liability for damages is upon the ship or ships whose

fault caused the injury. But when, as in this case, a ship at the time of collision is in actual violation of a statutory rule intended to prevent collisions, it is no more than a reasonable presumption that the fault, if not the sole cause, was at least a contributory cause of the disaster. In such a case, the burden rests upon the ship of showing not merely that her fault might not have been one of the causes, or that it probably was not, but that it could not have been.”

Vessels violating the collision regulations must prove that their violation did not contribute to the collision in any way to avoid liability.

The Majestic - 48 F.730

In the afternoon of June 4, 1890, the tug Nannie Lamberton was navigating the waters of the upper bay of New York, bound from the Erie Basin, Brooklyn, to Hoboken, N.J with the Emma lashed to her starboard side. Another boat, the Mildred, was lashed to the tug's port side. The Emma was loaded with a full cargo of grain. She was a good, stanch river boat and entirely fit to navigate the upper bay in ordinary weather. It was a clear, pleasant day, with little wind, and the waters were smooth. The tug and tows had reached a point beyond the northerly line of Buttermilk channel, a little to the north-east of the bell-buoy, off Governor's island when they were struck by a displacement wave from the steamer Majestic. The wave was encountered broad-side, or nearly so. It threw the tug against the side of the Emma with such force that the side of the latter was broken.

In assessing damages against the Majestic, the court reasoned: “it is plain, upon the proof, that a wave was thrown up by the steamer, which made navigation unsafe for the canal-boat. ... If, when moving ... the Majestic produces such results, then there is something in her size or build which makes it necessary for her officers to be watchful of craft they pass at that distance, as well as of those in the immediate vicinity, and to regulate her motions accordingly. It will not do to say that the swell she throws is no higher than such as are produced by a high wind in these waters. They were entitled to navigate there, and the proposition cannot be maintained that harbor waters may be put at all times and at all seasons in as perilous a condition for smaller craft, by the rapid movements of large ocean steamers, as they are occasionally by the prevalence of a gale of wind. Such waters are not to be appropriated to the exclusive use of any class of vessels. We do not mean to hold that ocean steamers are to accommodate their movements to craft unfit to navigate they bay, either from inherent weakness, or overloading, or improper handling, or which are carelessly navigated. But of none of these is there any proof here, and in the absence of such proof we do hold that craft have the right to navigate there without anticipation of any abnormal dangerous condition, produced solely by the wish of the owners of exceptionally large craft to run them at such a rate of speed as will ensure the quickest passage.”

You are responsible for your wake.

Granhholm and The T.F.L. Express - 576 F. Supp. 435,

On July 8, 1981 the Olympus Camera departed Newport, R.I. for Portugal. Kai Granhholm was sailing her alone. The first four days of the voyage passed uneventfully. On July 11, the sun set in a clear sky. Granhholm was on deck. He checked the navigation equipment and all functions of the Camera, including the sails and the navigation lights. Afterwards, he had a cup of coffee in the cockpit of the Camera and went below to sleep.

Resting in his bunk, Granhholm was suddenly awakened by "a terrible crashing noise." The Camera rolled over, throwing Granhholm to the deck. She then righted herself. Granhholm rushed to the cockpit where he saw the stern of a large vessel just passing by. Granhholm contacted the nearby vessel's master by VHF radio and asked that she return to assist him. When the Express circled back and arrived alongside the Camera, Granhholm advised her master that it did not appear that the Camera would sink. Granhholm attempted to sail the damaged vessel to port at Newport, R.I. but was forced to abandon the Camera on July 14th. He was picked up by the CYS BRILLIANCE, bound for Venezuela.

In the litigation that followed, the Granhholm was assessed 50% of the blame for not maintaining a proper lookout even though the Express was a power vessel overtaking a sailing vessel. The court stated in the decision that "Granhholm's decision to go below during the nighttime was negligent. His own testimony reflects an awareness that this was so. ... Granhholm said that 'as a rule I made it a habit to take my resting periods during daytime and when the conditions were such that I could afford having some rest.' The reasons are obvious. ... It may seem unfeeling to condemn single handed transatlantic sailors for sleeping at night. But they pursue this hazardous avocation voluntarily, and are not exempt from the requirements of prudent seamanship."

A proper lookout is required at all times, even when it is not convenient to keep a lookout.