

THE ANDREA DORIA'S CONTRIBUTION TO THE TEACHING OF ADMIRALTY LAW

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On July 25, 1956, one of the greatest and most spectacular sea disasters of recent years occurred when the Italian luxury liner, the Andrea Doria, sank as a result of a collision with the Swedish vessel, the Stockholm. I was vacationing in Woodstock, Vermont, at the time when the news of the tragedy was received. All of us at the inn where I was staying eagerly read that masterpiece of reporting in the New York Times, which carried the most extensive news account of a disaster at sea since the sinking of the Titanic.

It had been only a few weeks before July 25th when, after finishing reading Lord's vivid account of the Titanic disaster in his book, *A Night To Remember*, I had remarked to my wife, "You know, it seems as though great disasters at sea are a thing of the past. We have not had a Titanic or a Morro Castle in years." Unfortunately, I was wrong. Here in the Andrea Doria-Stockholm disaster was something which, in these days of radar observation and all manner of safety devices, was of great significance. The security of life at sea was, despite our technical advances and codes of safety, still subject to the hazard of human misjudgment or carelessness.

But just as the teaching physician regards a patient suffering from a rare and fatal disease with a mixed sense of pity and professional interest, in that he sees an opportunity to instruct his students at first-hand concerning the symptoms, course, and treatment of the disease, so did I, as a teacher of Admiralty law, see in the Andrea Doria disaster a remarkably live subject for my Admiralty class which would begin in September.

On August 8, 1956, the New York Times published in full the petition filed by the owners of the Stockholm to limit their liability, should the Stockholm be found to be at fault, to \$3,000,000, the value of the Stockholm and her pending freight. The tenth and eleventh paragraphs of that petition particularly attracted my attention. Messrs. Haight, Gardner, Poor, & Havens, proctors for the Swedish Line, had said in paragraph ten that if liability were found on the part of the Stockholm, they prayed the benefits of either or both of the limitation statutes of the United States and the limitation provisions of the Brussels Convention of 1924. In paragraph eleven, when referring to the division of collision damage, they invoked not the American rules relating to such loss but, the Collision Convention of 1910, to which they asserted both Italy and Sweden were parties but which the United States had not ratified. In the field of Admiralty conflicts alone, here was a made-to-order situation for classroom study.

But whether the conventions of 1924 or of 1910, or the American rule of limitation of liability or collision loss should apply were only a portion of the myriad of legal problems that the Andrea Doria disaster would bring forth. Rights of seamen, rights of representatives of deceased passengers, rights

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of the injured, claims of cargo owners, insurance complications—these and more were bound to be litigated. Upon my return to Chapel Hill, I posted a notice on the Law School bulletin board that students contemplating taking Admiralty should collect all news items relating to the Andrea Doria disaster and in particular should follow the daily editions of the New York Times.

On the completion of fall registration, I found that eleven students had enrolled for the Admiralty course. This, to me, was just about the right number, for I wished to have the group sit around the table in one of our seminar rooms and to work on the subject matter much as a group of lawyers in a large firm handling such litigation would do. I was fortunate to have in the class two or three boys who had spent some years at sea with the Navy and who were familiar with the rules of the road at sea and other problems of navigation.

While newspaper and magazine articles would be of help and interest to the students, I knew that the real meat of the litigation would be in the various petitions and pleadings filed, the court orders made, and the testimony to be taken at the pretrial hearings. Accordingly, I communicated with Haight, Gardner, Poor, & Havens, proctors for the Swedish Line, and with Burlingham, Hupper, & Kennedy, proctors for the Italian Line. Through the gracious courtesy of Mr. Charles S. Haight, in charge of the litigation for his firm, and Mr. Eugene Underwood, counsel in charge for the Italian Line, I received duplicate copies of all the principal papers filed in the cause.

These papers I set up in a special folder in our library for the use of Admiralty students. This folder included, among other documents, copies of the following: the petition of the Swedish Line for exoneration and limitation of liability, the answer of the Italian Line to that petition, the proof of claim filed by the Italian Line in the Swedish limitation proceeding, the order for taking depositions and appointing special masters made by Judge Lawrence E. Walsh, the petition filed by the Italian Line to limit its liability and for exoneration, the libel of the Italian Line against the Stockholm and the Swedish Line, the different orders entered by the court relating to the taking of depositions and issuing of monition, the monition, the claim of the Swedish Line filed in the Italian limitation proceedings, and typical claims of cargo owners and passengers.

On September 19, 1956, hearings of a pretrial nature began before special masters appointed by the court in New York City. The navigating officers of both lines, the captains and various subordinate personnel, were called to testify from time to time. This went on through the entire fall semester. These hearings were very ably reported by the New York Times, which, in the significant areas, gave a question and answer account of the testimony. Each week, I gathered the daily clippings of these hearings and we would then take them up in class. For example, the Italian Line made much of the fact that the Stockholm was not travelling in the recognized eastbound lane. What legal significance did this have? Was there any legally established lane which the Stockholm should have followed? Personnel of both vessels spoke of radar observations. Fog was or was not present, depending on who told the story; the Stockholm was to the right or to the left of the Andrea Doria, again depending on who was testifying. In many respects, the evidence resembled the type of testimony produced by the ordinary auto-

mobile intersection accident, but when it came to the law applicable, there was a vast difference.

Students came into class with all sorts of clippings from newspapers and magazines. One was particularly fascinated by the fact that divers had recovered a suitcase belonging to a passenger in which there was certain jewelry. A perfect opening for a study of the law of salvage! During the course, I assigned to individual students short research topics. The following are some of them:

1. What law of division of collision damage will apply as between the two vessels, assuming both at fault—the United States law or the law of the Convention of 1910? And what is the difference?
2. What law of limitation of liability applies in general—the United States law or the provisions of the Brussels Convention of 1924? And how do they differ, if at all?
3. Suppose the law of Italy gives the widow an action for wrongful death where a passenger (her husband) was killed due to negligent operation of the vessel. Assume Mr. Cianferra (N. Y. Times correspondent) was killed by reason of the negligence of the officers navigating the Andrea Doria. Could the United States limitation of liability statute be applied to limit the recovery of his widow?¹
4. Assume the widow sued for her own injuries and would have an action under Italian law, would the United States Limitation of Liability Act apply?
5. Divers have gone down to the Andrea Doria and have brought up a suitcase containing jewels belonging to a passenger. These divers went on their own venture. What are the relative rights of the divers and the passenger in the suitcase and contents, and how and where are they determined?
6. Giovanni was a seaman on the crew of the Andrea Doria. He was injured in the collision. Assuming both vessels were to blame, what are the rights of Giovanni against the Stockholm and/or its owners and similarly against the Andrea Doria or its owners? Would his rights differ as to enforceability in the United States if
 - (1) he had been hired and signed up in Italy,
 - (2) he had been hired and signed up in the United States?

Since I had every reason to believe that some, if not all, of the problems of this nature would, in due course, be made the subject of legal office memoranda in the law firms representing the two lines, I requested counsel of those firms to mail me any extra copies they might have of their office law memoranda for use in my Admiralty class. Again, I was favored with the courtesy of those lawyers, and memoranda were sent me. This led to some very gratifying results from the standpoint of the students. For example, the student who had been assigned the first problem enumerated above reported that he could find no case exactly in point, but that the nearest case

¹ Incidentally, Mrs. Cianferra, the widow of the N. Y. Times correspondent who lost his life in the disaster, subsequently filed personal injury and death claims against both lines totalling \$3,100,000. Approximately \$116,000,000 in claims have been filed to date.

from which argument might be made was *The Mandu*.² Naturally, this student was particularly pleased, when, on reading the copy of the law memorandum sent to me by one of the New York admiralty firms involved in the litigation, he found that those counsel had also concluded that there was no case in point, but that *The Mandu* was the nearest case from which argument might be made.

The placing of ultimate responsibility for the collision between the *Andrea Doria* and the *Stockholm*, of course, involved a consideration of the International Rules of the Road. I might have given a lecture on these, but I had had no practical background in so far as experience with those rules at sea is concerned. One of my students who had been at sea in the Navy for a good while expressed considerable interest in the Rules of the Road. I conferred with him during the course and found he would be delighted to give a lecture to the class on those rules. I gave him several weeks notice to prepare for the lecture. When the day came for him to address the class, I found a large box on our seminar table. In due course, the student in question took out small models of ships and other marine equipment and proceeded to demonstrate the matter of lighting, movement, signalling, etc. with his equipment on the seminar table. He discussed the significance of the various maritime terms, explained the mariners' compass, of which he had a model used in teaching navigation, and distinguished between the Inland and International Rules of the Road. The collection of model boats and other equipment he had obtained through the courtesy of the United States Navy. I can assure you his lecture on the Rules of the Road was a far better one than I could have given.

This past week, we held our last class in Admiralty. Throughout the semester, we had worked with the aid of one of the leading casebooks on the subject. But we ended, as we had begun, by discussing one of the pending legal problems presented by the *Andrea Doria* litigation. While time had run out on us, that case was still going on, and in the final days of class, we were again discussing the testimony just given by Captain Nordenson, of the *Stockholm*, who had returned to the stand following his illness.

As, at the end of the last hour, I closed my file and said, "Well, gentlemen, this is the end of our voyage," I sensed the feeling of regret expressed by some students and appearing in the countenances of others. Why, we are leaving off in the middle—or is it just the beginning? We have lived with the *Andrea Doria* and the *Stockholm*. We felt the anguish of Captain Calamai as he spoke of the loss of his ship and his now hatred of the sea. We experienced the tenseness of the moment when Captain Nordenson collapsed in the middle of the unrelenting cross examination by Eugene Underwood. We marvelled at the courage of the junior officer of the *Andrea Doria* who testified that had he been at the wheel he would have turned to starboard instead of port! But more than that, we loved the struggle with the legal problems calling for solution. Many remain to be solved—we have but begun in our work. Yes, this course in Admiralty should go throughout the year—no, it should continue until the final decision of the Supreme Court on the last appeal from *Andrea Doria* litigation. Then, in the year 19—, we could calmly consider the rationale of the majority opinion and, if past performance is to be a guide, the theory of the dissent.

² 102 F.2d 459 (2d Cir. 1939), 114 F.2d 361 (2d Cir. 1940), *cert. denied*, 311 U.S. 715, 61 Sup.Ct. 397, 85 L.Ed. 466 (1940).