

708 3 2 1 On Wednesday, March 7, 1928, an ocean-going steam tug, the T.J. HOOPER, steamed from Hampton Roads, Virginia bound for Boston. Unknown to her Captain, she was also bound for the admiralty law casebooks. The T.J. HOOPER was towing three loaded coal barges in line. Two days out, radio broadcasts were forecasting increasingly stormy weather along the coast of New Jersey. Some of you younger listeners may not remember, but back in 1928, radio receivers were on the cutting edge of technology in the marine trade. Since the T.J. HOOPER was unequipped with radio receivers and only had transmitters for distress purposes, her crew missed the critical weather information and passed by a port of safety. Other tugs received the weather broadcasts and stopped in port. In the forecast storm, the T.J. HOOPER lost one of her barges, and owners of the cargo of coal and owners of the barge brought suit. Hell hath no fury like the owners of soggy coal.

The owners of the T.J. HOOPER petitioned for limitation of their liability. They argued that since they were following the industry custom, and radios were by no means standard issue on tugs in the trade, their vessel was seaworthy. Since the limitation of liability would have severely limited the amount recoverable, the cargo owners and barge owners tried to prove that the T.J. HOOPER was "unseaworthy" without the radios on board, and that the lack of the radios actually caused the loss.

When does the lack of a safety device or navigation aid make a vessel unseaworthy? When must the owners or operators of a vessel equip her with the latest device? Can one rely on the accepted practice of similar vessels or on a custom in the industry? When

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may the failure to equip a vessel result in legal liability?

In 1932, the U.S. Supreme Court affirmed the opinion of Judge Learned Hand writing for the Second Circuit Court of Appeals, which answered some of these questions. Judge Learned Hand found the T.J. HOOPER unseaworthy for lack of a radio receiver, citing the relatively low cost of a suitable radio receiver and the great protection provided to vessels by such equipment.

The T.J. HOOPER speaks to marine operators today and requires them to take advantage of protection available at reasonable cost to avoid risk to life and property from perils of the seas.

More next week on The Admiralty Docket. Until then, remember your rights and responsibilities may change as you approach the shore and may God Almighty grant you pleasant sailing. 708

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