

40625 3 2 1 Good morning to our floating lawmeisters. We have predictably arrived at the end of another semester of admiralty law and nautical eyestrain. Time for the final examination. Three questions. Yes or no. 100% of your grade depends upon your answers. Listen carefully. And good luck!

1. When a ship strikes and damages a bridge owned by the South Carolina Department of Highways and Public Transportation, and the ship owners petition for limitation of liability in federal court, does the state's right to immunity from suit in federal courts under the 11th Amendment to the U.S. Constitution force this suit into state courts? Yes or no?

ANSWER: No. Where the state is merely a potential claimant rather than a party to the suit and has the option to pursue a claim or to remain out of the litigation, the federal limitation proceeding does not violate the state's 11th Amendment rights.

2. Mortgagee bank holds a note for \$800,000 secured by a first preferred ship mortgage on the U. S. documented sailing vessel SIMPLE INTEREST. The owners of the SIMPLE INTEREST buy an assignment of the note and mortgage for \$800,000 plus accrued interest from the mortgagee bank. Afterwards the SIMPLE INTEREST is arrested to enforce a later acquired maritime lien for necessities provided to the vessel on order of the master. In the priority dispute, will the preferred ship mortgage lien now assigned to owners be given priority over the lien for necessities? Yes or no?

ANSWER: No. Although maritime liens normally are freely assignable, the general rule is that an owner cannot acquire a lien on his own vessel.

3. Can a state impose a sales tax upon leases of ocean shipping containers delivered within the state, even though the containers will travel to many destinations in interstate and foreign commerce during the lease period? Yes or no?

ANSWER: Yes. According to the U.S. Supreme Court, such a tax does not violate the foreign commerce clause, the import-export clause, or the supremacy clause of the U.S. Constitution.

If all your answers were correct, congratulations. Otherwise, there is still time to plant a dove field and invite the teacher.

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.