PROPORTIONAL FAULT IN MARITIME COLLISIONS—CHARTING THE NEW COURSE

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I. INTRODUCTION

The historic admiralty rule of dividing damages equally in collision cases involving contributing fault by both vessels has received its final blow. On May 19, 1975, the United States Supreme Court handed down its decision in United States v. Reliable Transfer Co., establishing a new rule which allocates liability among the parties proportionately to the degree of fault of each party. This article is not intended to trace the origins of the rule of divided damages, but will focus on an evaluation of the prospects created by the new rule and some of the questions which it raises for practitioners.

II. THE DIVIDED DAMAGES RULE

The divided damages rule was laid down for American courts by the Supreme Court of the United States in The Schooner Catharine v. Dickinson in 1855, based on the application of the rule by English admiralty courts and the lower courts of the United States. In The Schooner Catharine the Court concluded that both vessels in the collision were at fault. Faced with the decision of establishing a rule of damages for such situations, Mr. Justice Nelson, speaking for the Court, stated: "Under the circumstances usually attending these disasters, we think the rule dividing the loss the most just and equitable, and as best tending to induce care and vigilance on both sides, in the navigation." The Supreme Court adhered to this rule for 120 years.

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1 421 U.S. 397 (1975).

2 The rule is qualified with the proviso that damages will be allocated equally when the parties are equally at fault or when the relative degrees of fault cannot be fairly measured. Id. at 411.

3 58 U.S. (17 How.) 170 (1855).


6 Id. at 177-78.

7 The most recent expressions before Reliance on the rule by the Supreme Court were in
A. Criticism of the Rule and the Rationale of Reliable Transfer.

Despite the conclusion of the Supreme Court that the Rule was "just and equitable," less than 20 years later the Court itself was seeking ways to alleviate its harshness. In The Great Republic the Court laid the groundwork for what later became known as the "major-minor" fault rule. In that case, while both vessels were at fault, the fault of one bore "so little proportion to the many faults" of the other, that the Supreme Court concluded the vessel only technically at fault should not share the consequences, i.e., divided damages. In The City of New York the major-minor fault concept was articulated in the following manner:

Where fault on the part of one vessel is established by uncontradicted testimony, and such fault is, of itself, sufficient to account for the disaster, it is not enough for such vessel to raise a doubt with regard to the management of the other vessel. There is some presumption at least adverse to its claim, and any reasonable doubt with regard to the propriety of the conduct of such other vessel should be resolved in its favor.

While not a criticism per se, it should be noted, as the Supreme Court did in Reliable Transfer, that as early as 1910, the maritime nations of the world proposed a rule of proportional fault in the Brussels Collision Liability Convention. The Reliable Transfer Court observed that the United States was virtually alone among the maritime nations in not adhering to the Convention.

Weyerhaeuser S.S. Co. v. United States, 372 U.S. 597 (1963) and in Halcyon Lines v. Haenn Ship Ceiling & Refitting Corp., 342 U.S. 282 (1952). In 1972 the Court granted certiorari in Union Oil Co. v. The San Jacinto, 409 U.S. 140 (1972), to reconsider the divided damages rule. The Court did not, however, reach the issue because of its conclusion that one of the vessels was totally free of fault. Id. at 146.


90 U.S. (23 Wall.) 20 (1874).

Id. at 35.

147 U.S. 72 (1893).

Id. at 85. The Court further refined the rule in The Victory & The Plymouthian, 168 U.S. 410 (1897), by holding that when the fault of one vessel is obvious and inexcusable, then its evidence must clearly and convincingly establish fault of the other vessel. Id. at 423. See also The Oregon, 158 U.S. 186 (1895).

421 U.S. at 403.


421 U.S. at 403-04. Gilmore and Black have pointed out that the failure of the United States to adhere to the Brussels Convention has encouraged forum shopping. G. GILMORE & C. BLACK, THE LAW OF ADMIRALTY 529 (2d ed. 1975) [hereinafter cited as GILMORE & BLACK]. It is interesting to note that the primary opposition to ratification of the Convention by the
The lower federal courts became increasingly disenchanted with the divided damages rule. The chief critic was Judge Learned Hand, who described the rule as a "vestigial relic." In a dissenting opinion in *National Bulk Carriers, Inc. v. United States*, Judge Hand leveled this blast: "An equal division in this case would be plainly unjust; they ought to be divided in some such proportion as five to one. And so they could be but for our obstinate cleaving to the ancient rule which has been abrogated by nearly all civilized nations." Pointing out that the major-minor fault rule was of little help in reaching a just conclusion, Judge Hand went on to state:

"The doctrine that a court should not look too jealously at the navigation of one vessel, when the faults of the other are glaring, is in the nature of a sop to Cerberus. It is no doubt better than nothing; but it is inadequate to reach the heart of the matter, and constitutes a constant temptation to courts to avoid a decision on the merits."

Additionally, the weight of the textbook *The Law of Admiralty* was thrown against the ancient rule when its author suggested in the 1957 edition that the Supreme Court could "confess error" and adopt the proportional fault doctrine in an appropriate case. This admonition was repeated in the 1975 edition, just in time for citation in the *Reliable Transfer* opinion.

Making full reference to the many criticisms of the rule and noting in particular the unsatisfactory performance of the major-minor fault rule, the Supreme Court concluded that equal division of damages was only where each vessel's fault was approximately equal or where proportionate degrees of fault could not be measured on a rational basis.
The new rule poses three basic questions for admiralty lawyers in this country. First, will the new rule be applied retroactively or prospectively? Second, what effect will the rule have on the major-minor fault doctrine? Third, how will the courts apply the Pennsylvania rule in light of the new rule? The remainder of this article will be devoted to a treatment of these questions.

B. Retroactive or Prospective Applicability

Litigants in pending collision cases and parties to collisions not yet in litigation will wish to know whether the new rule affects them or will only apply to collisions postdating Reliable Transfer. While most Supreme Court decisional law on retroactivity involves criminal law and criminal procedure, there is precedent in the civil arena which provides some insight into this area. In the admiralty field itself, the Court dealt with the retroactivity of a prior decision in Chevron Oil Co. v. Huson. There the Court considered the retroactivity of its decision in Rodrique v. Aetna Casualty & Surety Co., in which it had determined that state law provided the only remedy for wrongful death occurring on an artificial island on the Continental Shelf outside the territorial limits of the state. If Rodrique applied retroactively, the claim of the plaintiff in Chevron, who had suffered injuries on such an artificial island, would be barred by the state statute of limitations.

In concluding that the Rodrique decision would not be applied retroactively, the Court set forth three factors which it felt must be considered in determining the issue of retroactivity in civil cases: (1) the decision being considered must establish a new principle of law, "either by overruling clear past precedent on which litigants may have relied, . . . or by deciding an issue of first impression whose resolution was not clearly foreshadowed"; (2) the merits and demerits in each case must be weighed by looking to "the prior history of the rule in question, its purpose and effect, and whether retrospective operation will further or retard its operation"; and (3) the "inequity imposed by retroactive operation" must be examined. The traditional general rule favors retroactive application of

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* See The Pennsylvania, 86 U.S. (19 Wall.) 125 (1874); notes 42-75 infra and accompanying text.
* 404 U.S. at 106.
* Id. at 106-07.
* Id. at 107.
the overruling decision. It is likely that all three of the Chevron factors must be satisfied before a decision will be given prospective application only.

Certainly, only the first factor could qualify Reliable Transfer for prospective application only. As noted above, the decision overrules clear past precedent, sanctioned by the Supreme Court since 1855. Although in 1972 the Court granted certiorari in Union Oil Co. v. The San Jacinto to reconsider the divided damages rule, there was no indication from that case (in which this issue was not reached), nor from other cases considered in the past 25 years, that the Court was dissatisfied with the rule.

As for the second Chevron factor, the Court referred for guidance to Linkletter v. Walker, the decision denying retroactive application to the exclusionary rule of Mapp v. Ohio. In Linkletter the Court enunciated a tripartite set of exceptions to the general rule favoring retroactivity: (1) where justifiable reliance on decision is present and substantial harm results to those so relying; (2) where the purpose of the overruling decision can be effectuated without retroactivity; and (3) where retroactive operation might greatly burden the administration of justice. It seems unlikely that parties seeking to invoke the divided damages rule for collisions occurring prior to Reliable Transfer will be able to qualify under the first exception, since navigators can hardly claim justifiable reliance in situations where they ought to avoid collision at all cost. The third exception also would not appear to offer safe harbor, since the volume of collision cases is relatively small and the problems of administration of justice can hardly be compared with the immense problems engendered by the flood of habeas corpus petitions which might have ensued from the retroactive application of Mapp. With regard to the second exception, the small number of cases which militated against the third exception would seem to give some support to the proposition that the purpose of the overruling decision can be effectuated without retroactivity. In all likelihood, the Court's goals in Reliable Transfer were to enunciate an equitable rule of allocating damages according to fault and to prevent colli-

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33 381 U.S. 618 (1965).
35 381 U.S. at 622-29.
36 American Maritime Cases digested only 22 cases under its "Divided Damages" heading in its 5 year index for 1968-1972. Nine cases were indexed in 1973 and 1974.
sions. Retroactive application will affect relatively few cases and certainly will not prevent past collisions. If Linkletter's exceptions are the criteria for the second factor set forth in Chevron, then there may be some argument for nonretroactivity.

The third Chevron factor, the inequity imposed by retroactive application, appears to be the major stumbling block for those who would advocate prospective application. No parties will enter contracts relying on the divided damages rule, nor can a party to a collision take the position that he did or did not do something in anticipation of the application of the old rule. In fact Reliable Transfer is intended to eliminate what critics believed to be an inequitable rule, i.e., the nonapportionment of damages according to degrees of fault. Thus, unless some equitable argument against retroactive application can be made, it appears that a party seeking to invoke the divided damages rule for a pre-Reliable Transfer collision must founder on the shoals of the third factor in Chevron.

C. The Major-Minor Fault Rules

As previously noted, the Supreme Court became concerned with the harshness of the divided damages rule in the 1890's. It therefore evolved the major-minor fault rule as a means of avoiding application of the divided damages rule in cases where the relative degrees of fault were greatly disproportionate. In considering the effectiveness of the major-minor fault rule, the Reliable Transfer Court was openly critical, stating that it "simply replaces one unfairness with another." Hence its utility could be found only in relation to a situation where application of the divided damages rule would produce a vastly inequitable result.

What, then, is the future of the major-minor fault rule, now that divided damages have been consigned to the realm of legal history? It seems quite likely that the passing of its raison d'être will be sufficient to abolish the rule as well. In addition to the critical terms noted above, the Supreme Court also made the following observation: "That a vessel is primarily negligent does not justify its shouldering all responsibility, nor excuse the slightly negligent vessel from bearing any liability at all." The obvious dissatisfaction with the results produced by the major-minor fault rule, combined with the demise of divided damages, leads strongly to the conclusion that

37 421 U.S. at 405-07.
38 The City of New York, 147 U.S. 72, 85 (1893).
39 421 U.S. at 406.
40 Id.
Reliable Transfer implicitly abolished the rule.

As most collisions in one way or another result from a "concatenation of events" involving questionable activities by all parties, no doubt there will continue to be questions of contributing and non-contributing fault. It can be anticipated that numerous litigants will argue that although they may have been at fault in some way, their fault really did not contribute to the collision. However, their burden of absolving themselves may now be greater, since courts need not avoid a 50-50 split, but are free to apportion liability in accordance with the degree of fault found. Thus, a party whose fault may relate to another's in a ratio as low as 1:10 or 1:20 will probably find that he too will have to contribute to the damages unless he can show that he was not at fault or that his fault was not a cause of the collision.

D. The Pennsylvania Rule

Discussion of contributing fault leads almost inevitably to a consideration of the Pennsylvania rule. This rule deals with the situation in which one or more of the parties to a collision is in violation of a statutory rule intended to prevent collisions. It was first stated by the Supreme Court in The Pennsylvania, as follows:

But when, as in this case, a ship at the time of a 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.

In the approximately 100 years since the first application of the Pennsylvania rule, much litigation and debate has ensued with regard to the proper interpretation of the rule. Prior to ascending to the bench in the Southern District of Texas, Carl O. Bue provided practitioners with an outstanding guide to the Pennsylvania rule, as part of his thoroughgoing review of Fifth Circuit admiralty law. In treating the Pennsylvania rule, Judge Bue did not confine his review to the Fifth Circuit, but outlined the views of all the maritime

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41 This phrase has been a favorite of the admiralty bar since used by Judge Irving Kaufman in Cargill, Inc. v. City of Buffalo, 388 F.2d 821, 822 (2d Cir. 1968).
42 86 U.S. (19 Wall.) 125 (1874).
43 Id. at 136.
44 Bue, supra note 15, at 798-802.
circuits which had considered the problem. In general, he found that the circuits broke down into (1) those that require strict compliance with statutes or regulations, and hence applied the rule strictly, and (2) those which took a more liberal view, looking to what was reasonably required by the statute and refusing to apply it where the violation did not contribute to the collision.

Bue's 1968 study analyzed the history of each circuit's handling of Pennsylvania rule violations and generally placed each circuit in the categories of strict or liberal interpretation of the rule with generous supporting comment and data. In keeping with the scope of the present article, the author will merely refer the reader to the Bue study, bring it up to 1975 for each circuit and then endeavor to predict the future of the rule in light of Reliable Transfer.

1. First Circuit.

The First Circuit fell into the liberal category on this issue by virtue of its decision in Seaboard Tug & Barge, Inc. v. Rederi AB/DISA. It held that, in applying the Pennsylvania rule, reasonable probabilities should prevail, and not every vessel guilty of statutory fault had to meet the burden of eliminating any causal connection to the collision. No recent decisions indicative of any change in this view have been handed down in the intervening seven years.

2. Second Circuit.

Judge Bue placed the Second Circuit in the group which applies a strict standard, despite a few cases to the contrary. In Verdon v. Stakeboat No. 2 the court required a showing of impossibility that the statutory violation was a cause of the collision. While in Afran Transport Co. v. United States the Second Circuit limited the Pennsylvania rule to violations of mandatory statutes or regulations, and not mere cautionary suggestions, the strict burden to show that the violation could not have been a contributing cause was reaffirmed in Petition of Long.

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45 Id. at 802-07. The Eighth, Tenth, and District of Columbia Circuits are the nonmaritime circuits.
46 See id.
47 213 F.2d 772 (1st Cir. 1954).
48 Id. at 775.
49 Compare The San Simeon, 63 F.2d 798 (2d Cir. 1933) with The Mabel, 35 F.2d 731 (2d Cir. 1929).
50 340 F.2d 465 (2d Cir. 1965).
51 435 F.2d 213 (2d Cir. 1970).
52 439 F.2d 109 (2d Cir. 1971).
3. **Third Circuit.**

The Third Circuit falls under the restrictive heading based upon its conclusion that the major-minor fault rule could not be applied where there was a violation of a statutory requirement intended to prevent collisions. While there have been no circuit level decisions in the intervening years bearing directly upon this point, the Federal Court of the Eastern District of Pennsylvania cited the Third Circuit’s continuing disregard of major-minor fault in statutory violation situations in *Tug Management Corp. v. Jacquet.*

4. **Fourth Circuit.**

In 1968, Judge Bue noted that the Fourth Circuit had characterized itself as being of the liberal view, at least with respect to cases involving proper lookout. Based upon *Anthony v. International Paper Co.* and *United States v. Steamship Soya Atlantic* this interpretation would appear to be true. Bue contrasted these cases with the holdings of *Rowe v. Brooks* and *Gary v. United States Oil Screw Echo* where a more constrictive view of the Pennsylvania rule was expressed. In the case of *Chesapeake Bay Bridge & Tunnel District v. Lauritzen* the Fourth Circuit opted for the restrictive view. It held that a statutory violation created a strong inference imposing a heavy burden of showing by clear and convincing evidence that the violation did not contribute to the collision. On the other hand the Federal Court of the Eastern District of Virginia, in attempting to follow the lead of the circuit court of appeals, reached a more liberal conclusion in *Tiger Shipping Co. v. The Tug Carville.* The most that can be said as of 1975 is that the Fourth Circuit has one foot in each category.

5. **Fifth Circuit.**

Bue gave extensive treatment to the Fifth Circuit, finding it to be quite liberal. In the Fifth Circuit the rule was declared not to be one of liability but merely one of shifting the burden of proof, as in *Green v. Crow.* As of 1968, the most recent Fifth Circuit decision

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53 See Boyer v. The Merry Queen, 202 F.2d 575 (3d Cir. 1953); Tide Water Associated Oil Co. v. The Syosset, 203 F.2d 264 (3d Cir. 1953).
55 289 F.2d 574 (4th Cir. 1961).
56 330 F.2d 732 (4th Cir. 1964).
57 329 F.2d 35 (4th Cir. 1964).
58 334 F.2d 199 (4th Cir. 1964).
59 404 F.2d 1001, 1007 (4th Cir. 1968).
61 243 F.2d 401 (5th Cir. 1957).
was China Union Lines, Ltd. v. A. O. Anderson & Co.,62 in which the more relaxed interpretation again held sway. There is nothing since to indicate a contrary course.

6. Sixth Circuit.

As of 1968, the Sixth Circuit was clearly in the range of strict application as exemplified by such cases as Eastern Steamship Co. v. International Harvester Co.,63 Federal Insurance Co. v. Steamship Royalton,64 and Reiss Steamship Co. v. Compagnia Fletera Cajotamil, S.A.65 Nothing in the intervening time suggests a change of this view.

7. Seventh Circuit.

The Seventh Circuit was also placed in the strict category, based primarily on Commercial Transport Corp. v. Martin Oil Service, Inc.66 The recent case of Complaint of Charles N. Wasson67 reinforces the view that the Seventh Circuit applies the Pennsylvania rule strictly, since the court in that case required the violator to show that the violation could not have contributed to the collision.


Judge Bue noted that while earlier Ninth Circuit cases68 had applied the rule strictly, a softening in the rule had been noted in States Steamship Co. v. Permanente Steamship Corp.69 and in Pacific Tow Boat Co. v. States Marine Corp.70 States Steamship Co. held that the violator did not have the burden of establishing that "its fault could not by any stretch of the imagination have had any causal relation to the collision no matter how speculative, improbable or remote."71 This trend has not, however, continued into the 1970's. In Waterman Steamship Corp. v. Gay Cottons,72 the Ninth

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62 364 F.2d 769 (5th Cir. 1966), cert. denied, 386 U.S. 933 (1967); see Hess Shipping Corp. v. The S.S. Charles Lykes, 417 F.2d 346, 351 (5th Cir. 1969) (dissenting opinion). Chief Judge Brown's forceful dissent describes the rule as "stringent." Id. at 352.
63 189 F.2d 472 (6th Cir. 1951).
64 312 F.2d 671 (6th Cir. 1963).
65 374 F.2d 117 (6th Cir. 1967).
66 374 F.2d 813 (7th Cir. 1967).
67 495 F.2d 571 (7th Cir. 1974).
68 The Denali, 105 F.2d 413 (9th Cir. 1939); The Silver Palm, 94 F.2d 754 (9th Cir. 1937), cert denied, 304 U.S. 576 (1938); The Beaver, 219 F. 134 (9th Cir. 1915), aff'd sub nom. Lie v. San Francisco & Portland S.S. Co., 243 U.S. 291 (1917).
69 231 F.2d 82 (9th Cir. 1956).
70 276 F.2d 745 (9th Cir. 1960).
71 231 F.2d at 86.
72 414 F.2d 724 (9th Cir. 1969).
Circuit Court of Appeals again opted to apply the rule "very strictly." The Federal Court of the Northern District of California took this seriously in United States v. States Steamship Co., wherein it held that the burden of proof under the Pennsylvania rule could not be avoided by incantation of the major-minor fault rule and that the burden of the Ninth Circuit was a heavy one indeed. In the very recent case of Ishizaki Kisen v. United States, the Ninth Circuit has even declared that the Pennsylvania rule does more than merely shift the burden of proof, but that it is a substantive rule of law requiring a very heavy burden and that in most instances it will impose liability.

In 1968 one could divide the circuits almost evenly into the strict and the liberal schools on the application of the Pennsylvania rule. With some shifting in the Fourth Circuit and a definite lurch to the strict side by the Ninth, only the First and Fifth Circuits remain in the liberal camp. Inasmuch as one of the Supreme Court's goals in discarding the divided damages rule was to avoid a harsh result based on the Pennsylvania rule, violators may find it even harder to escape the consequences of their acts when their punishment can fit the crime. In view of the utility of the Pennsylvania rule over its century of existence, it would seem that courts applying it strictly can now reach equitable results.

III. INTERNATIONAL IMPLICATIONS

The rapid expansion of "flag of convenience fleets" since World War II, and in particular the participation of companies controlled from the United States, has meant that in most instances at least one if not both of the vessels involved in a collision will be flying a foreign flag. As the Supreme Court noted, most of the major maritime nations have adhered to the Brussels Collision Liability Convention of 1910, bringing themselves within the rule of proportional fault. Thus, there was the temptation to forum shop, depending on

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72 1972 A.M.C. 642 (N.D. Cal.).
71 Id. at 646.
73 1975 A.M.C. 287 (9th Cir.).
74 Id. at 292.
75 421 U.S. at 406.
76 Brussels Collision Convention supra note 14.
78 421 U.S. at 403.
80 Article 4 of the Convention provides in part:
   If two or more vessels are in fault the liability of each vessel shall be in proportion to the degree of the faults respectively committed. Provided that if, having regard
the circumstances of the various parties, with those bearing the greater amount of fault seeking to invoke United States law in the hope of dividing damages. Prior to Reliable Transfer, American courts found no difficulty in applying the proportional fault rule of the Brussels Convention to collisions in international waters or in the territorial waters of a signatory state involving foreign vessels and owners who were subjects of signatory states.82

It should be noted that the Brussels Convention also applies a different rule than the United States applies with regard to the rights and liabilities of cargo aboard colliding vessels.83 American law permitted cargo interests to recover the loss in full from the other vessel, with the other vessel having the right to add cargo's recovery to its loss to be divided with the carrying vessel. The Brussels Convention makes cargo accept the same proportion of fault as its carrier.84 Thus, shipowners sought the application of the Brussels Convention, while cargo owners preferred the United States rule. The Reliable Transfer decision makes no reference to this point, but shipowners will doubtless urge that there is no logic in applying proportional fault to collision issues and not to cargo. Cargo interests no doubt will argue that the application of proportional fault to collision issues does not require that the same rule apply to cargo; inasmuch as cargo is innocent of any active wrongdoing. However, the historic concept of vessel and cargo constituting a joint venture may militate against such an interpretation. Since the Supreme Court looked to the Brussels Convention in deciding Reliable Transfer, it may, if faced with an appropriate case, enunciate a new rule for cargo by reference to the Convention.

IV. PROSPECTS AND CONCLUSION

The Supreme Court's embarkation on a new era of damage allocation in maritime collision cases will not, in all likelihood, result in great changes in the practice of the average attorney. One should be alert, of course, to new developments in apportioning liability according to degree of fault not only in collision cases, but also in

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82 See, e.g., The Mandu, 102 F.2d 459 (2d Cir. 1939).
83 Brussels Collision Convention, supra note 14, art. 4.
84 Id.; see Anglo-American Grain Co. v. The S/T Mina D'Amico, 169 F. Supp. 908, 910 (E.D. Va. 1959). This, of course, accounts for the opposition of cargo interests to ratification by the United States of the Convention, as discussed in note 15 supra.
noncollision property damage and personal injury and death cases, as well as to the new ground being plowed in the areas of indemnity and contribution. Most attorneys practicing collision law in the United States have foreseen the possibility that proportional fault in collision cases might someday become the law of this country. As suggested by the Supreme Court, it may discourage forum shopping to some extent by bringing American law into line with the nations following the Brussels Convention. Counsel should not expect retroactivity in most cases. As noted above, collisions involving damage to or loss of cargo may generate litigation as to the continued viability of the rule of joint and several liability of all vessels involved. There will certainly be arguments by counsel for shipowners that the international rule of the Brussels Convention is now the most appropriate.

The two major changes one may anticipate involve major-minor fault and the Pennsylvania rule. In all probability the major-minor fault rule has been consigned to the realm of legal history along with divided damages. As for the Pennsylvania rule, some attorneys feel that it too has been abolished. This writer thinks that, to the contrary, we may and should expect a furthering of the strict application of the Pennsylvania rule, since the prime criticism of harshness when applied along with divided damages has now disappeared.

This article has attempted to survey the impact of Reliable Transfer on the international shipping community and in particular to analyze the prospects for maritime collision practitioners and their clients. Hopefully it has provided some "Sailing Directions" which will be of assistance to the courtroom navigator in avoiding the rocks and shoals of the new course in collision litigation.

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83 For a treatment of some of the prospects see Villareal, Halycan to Ryan to Weyerhaeuser to Cooper—Where Do We Go From Here?, 6 J. MAR. L. & COM. 593 (1975).
