

Sea Sickness

**By Reg P. Wydeven
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The other night I was watching one of my favorite shows, 'The Simpsons.' In this particular episode, Homer house-sits for his billionaire boss, Mr. Burns. One morning, Homer goes to the bar but is upset because he can't buy beer until 2 p.m. Moe, the bartender, informs him that he can either wait or "steal a boat and sail out to international waters...Once you get twelve miles out, there's no laws at all. That's where they held the Tyson-Secretariat fight."

Inspired, Homer borrows Mr. Burns' yacht and sets sail with his buddies for international waters. As they cross the line, Moe begins selling beer to all of the passengers. As they begin imbibing, the men assess the other rebels taking advantage of international waters, which Homer refers to as "the land that law forgot!"

On one boat, a live bullfight takes place, while on another a man marries a cow. A third boat has a large satellite dish on it that Homer explains is used to broadcast Major League Baseball "with implied oral consent, not express written consent!"

While it makes for a hilarious episode, Homer's antics made me curious about the real rules of international waters.

Surprisingly, it turns out Homer wasn't exactly right. His misunderstanding is based on the concept of freedom of the seas, however, this principle only applies to nations, not individuals. Individual sailors will always be subject to the laws of at least one country, if not more.

Dutch jurist Hugo Grotius is commonly credited for establishing the doctrine of freedom of the seas. When Holland attempted to get into the East Indies trade in the early seventeenth century, other countries, especially Spain and Portugal, claimed control over all the oceans and prevented the Dutch from reaching foreign ports.

Grotius argued for the right of innocent passage on the high seas, claiming the sea could not be owned, and that no country could deny another country's ships innocent passage right up to the shoreline. The concept of 'Freedom of the Seas' can be found in the 'United Nations Convention on the Law of the Sea' which states: "the high seas are open to all states, whether coastal or land-locked."

Where Homer is kind of right is the extension of the border. While Grotius advocated for free passage to the shoreline, fear of smuggling and armed attacks led coastal nations to claim control of the water immediately offshore. While ships still have the right of free passage, countries can stop and inspect vessels and punish violators of its laws within its territorial waters that extend 24 miles offshore. This area is identified as a country's "potential contiguous zone."

While ships have the right of innocent passage over the seas, this right ends at a country's coastline. Once there, the ship needs permission to gain access to the nation's internal waters where the ships and their passengers are subject to all of that country's laws.

In addition, all ships and their passengers are subject to the laws of the country whose flag it flies. Sea captains can't just pick the flag of a country whose laws are most favorable. To fly a flag, a ship must have a "genuine link" with the country and the ship must have the country's permission after providing it with the ship's "name and particulars."

So I guess I'll have to cancel my plans to sail out to international waters to cut the tags off my mattress.

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