

# THE HORNPIPE

VOLUME 29, NO. 5

MAY 2005

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### Commodore's Comments

It's finally time for the first shakedown cruise! The weather has been barely cooperative, but we finally got the new head completely installed and are good to go, and flushed with success at one of the first major upgrades. Both Jenny and I were astounded at the quantity and variety of bruises that surfaced the next day — as you might expect, we spent time upside down, backwards, and squeezed into impossibly tiny spaces, but we got it done. Still no fresh water system (Note to self: check to make sure all hoses are connected before filling tanks in the future!), but that's not a problem for an overnight. However, I suddenly realized all the stuff you do need for overnights, and had a serious shopping event happen to me. Luckily, I confined my excess to a hardware store and a supermarket, and stayed out of marine supply stores. *Mutima* is now well equipped with such essentials as cork screws, can openers, salt and pepper shakers, three ways to make coffee, aspirin, benedryl, and whiskey (see below).

Two weeks after the shakedown cruise it will be Memorial Day, with a three-day cruise to the Wye; and then the June cruise for the *best* cheap

wine. At least I'll be prepared to open any bottles that actually come with corks!

See you out on the water!

*Nan Shellabarger*

### Be Prepared!

I've been reading a lot of accounts of adventures in small boats in the wide ocean recently. I'm struck by the differences in approach many of the adventurers have. Take Tania Aebi, whose story Jenny reviewed last month. Barely 18 years old, barely competent, relying on the kindness of strangers along the way, she made it around the world more or less alone. You can follow in her narrative her competence and confidence blossom. Then there is Tami Oldham Ashcraft, who, at roughly the same age, set to sea the first time with a chance boyfriend and was made more than a little nervous by having no idea where she was and with no control where she was going. Before going offshore again, she thoroughly learned celestial navigation as well as seamanship. This stood her in good stead when she found herself alone aboard a dismasted 44-foot sloop 20 days out from Papeete, after a typhoon and a capsized. Forty-one days later

she sailed herself into Honolulu harbor, all because the sextant had survived intact — and she knew how to use it.

Steve Callahan is one of the finest examples of the “be prepared” school of thought. When his boat was stove in by a whale in the middle of the night, he instantly got into his raft. He was able to go back aboard to fetch his enhanced abandon ship bag. In that bag he had packed a previous account of survival at sea, and over the next 76 days he constantly referred to it for guidance on how to handle himself. I was struck in his account by how, each time he got a fish or each time it rained, he calculated out “10 more days I can stay alive” or “I have water for 18 more days”. Much of his equipment didn’t work as advertised, but he figured out how to make it work well enough. He even steered his raft by changing the position of a warp towed astern, and made a primitive sextant to judge his latitude. He drifted right into Guadeloupe. Guess what — he has made his living since the wreck by lecturing about emergency preparedness. I’d pay to hear him.

Since I naturally incline towards preparation and planning, as opposed to chance and fate, I have been studying how best to equip my boat. One of my favorite resources is an anthology from the old “Rudder” magazine, which was a staple of my youth. There, I sought advice on first aid preparation from an article originally printed in 1950. Dr. Louis Merker, described in the introduction as a “doctor who talks like a yachtsman!”, had a simple and straightforward set of guidelines. For coastal cruisers, he said, you needed to be self-sufficient in first aid for only six hours — by then you should have reached or summoned help. And aside from the obvious — stop bleeding, ensure breathing — he pretty much had one prescription: the patient should take aspirin and bendryl, and everyone, including the captain as well as the patient, should take some whiskey for their nerves. I’ve decided to follow his advice in the future, and have filled out the medicine cabinet appropriately.

*Nan Shellabarger*

## Spring Picnic, April 23

The rain that sprinkled on us the day of the picnic didn’t dampen our spirits or the food. Just as a precaution, Andy Monjan, arranged with the Durrs for the use of the shelter on Hammock Island. Our thoughtful social chair also provided a wide selection of cold cuts and trimmings for the feast. Thus, we didn’t even miss the hot dogs and hamburgers. Of course, the rest of the picnic goers provided an assortment of accompaniments that rounded out the selection of morsels that stuffed our bellies.

Commodore Shellabarger interrupted our chatting and munching for a few minutes to review the 2005 cruise schedule that Vice Commodore Callis provided us. Captains for cruises were asked to volunteer, and attached to this Hornpipe is the revised schedule with the captains also listed. As you will note, there is still opportunity to volunteer for leading a cruise. Please review the list and let Dick Callis know which cruise you would like to captain.

Please remember the following rafting up etiquette: inquire by radio from those already at the rafting site, which side to come alongside; have your fenders out on both sides of your vessel; have your docking lines ready to throw to the anchored vessel; do not cross from one boat to another through the cockpit, to ensure some privacy, unless already agreed upon; and be sure all rigging is tight so that it does not bang in the wind at night.

The picnic attendees were: Nan Shellabarger, Jenny Poniske, George Alberts, Andy Monjan, Carol and Bill Durr, Cynthia and Duncan MacDonald, Barbara and Dick Callis, Anna and Bob Cox, Robbie and Ed Sabin, Judy and Steve Foland, Pat and Ed Shippey, and new members Linda Serf and Patrick McGeehan and Barbara and Matthew Coyle.

*Judy Foland*

## THE TAX BILL COMETH (WITH THE BOAT)

At the end of our last episode (“The Taxman Cometh [By Boat],” *The Hornpipe*, Volume 29, No.

4, April 2005), our hero, one Mr. Schwartz, had purchased a large and richly appointed power yacht in Edgewater, Maryland, on June 9, 2000. Thereafter, he docked it in his slip in Grasonville through the summer while he repaired onboard window blinds, compasses, microwave ovens, air conditioners, trash compactors, bimini tops, and other critical ship's systems. On October 28, 2000, which was just as soon as these repairs were completed, Mr. Schwartz set sail (so to speak) for Florida on the vessel. But only shortly before the heavy hand of the law, in the form of an eagle-eyed Department of Natural Resources (DNR) inspector who observed the vessel at its slip throughout the summer without Maryland registration bow stickers, slapped a bill on Mr. Schwartz for \$34,625.43 in unpaid excise tax plus fees, penalties, and interest. Our tale now continues.

Well, this is America. Mr. Schwartz paid the assessed tax, applied for a refund, and sued DNR when it denied his refund application.

Throughout the ensuing legal proceedings, Mr. Schwartz argued that he would only be subject to the excise tax if he purchased the vessel with the intention that Maryland be the "state of principal use" (hereinafter abbreviated as "SOPU"). According to Schwartz, he intended Florida as the SOPU, had so certified to DNR at the time of purchase, and had moved the boat from Maryland as soon as needed repairs were completed. He further argued that the time the vessel was undergoing the specified repairs, continuously from June 9 to October 27 in his view, did not count as time in Maryland waters for SOPU purposes.

On the other hand, DNR argued that, under its long-standing administrative policy, a newly purchased boat must be removed from Maryland waters within 30 days of purchase to be exempt from excise tax. If not so removed in that time period, a tax exemption is only available if Maryland is not the SOPU. In DNR's view, Schwartz had not removed the boat from Maryland within 30 days and instead established Maryland as the SOPU.

In deciding the case, the lower court that heard the case in advance of the Court of Appeals no doubt stunned the parties by totally disregarding their arguments. It ruled in favor of DNR and the

assessment of the tax upon poor Mr. Schwartz. The court based its decision, I believe correctly, on the fact that the excise tax statute does not provide a tax exemption for vessels purchased in Maryland where the SOPU is not Maryland. The upshot of this decision would have been highly unfavorable to boat dealers in Maryland; it would have caused a reduction in their sales where the purchaser did not intend Maryland as the SOPU.

The Court of Appeals temporarily saved the Maryland boat dealer industry (perhaps) by upholding the tax assessment upon the basis argued by DNR. The Court sidestepped the statutory issue raised by the lower court on the grounds that the issue had not been raised by the litigating parties themselves. Instead, the Court of Appeals accepted DNR's findings that Schwartz' vessel was in Maryland for 140 days in 2000, from the June 9 date of purchase to October 28, and that from this number of days only 30 days should be subtracted for repairs. Since the vessel was in North Carolina, South Carolina, and Georgia for a total of only 64 days, Maryland was the SOPU in 2000. As a result, the tax exemption as perceived by the litigating parties did not apply by its terms, and the tax was properly assessed. Mr. Schwartz is not entitled to a refund.

In its opinion, the Court of Appeals offered an instructive example of the SOPU calculation. The Court observed that if in a calendar year a vessel were used for five months in Maryland, four months in Delaware, and three months in Virginia, it would be used most in Maryland, and thus Maryland would be the SOPU — even though the vessel was in Maryland waters well less than half a year.

So, what lessons do we learn from Mr. Schwartz' travails? First, that the out-of-state SOPU excise tax exemption for boats sold in Maryland may not exist at all. The Maryland Legislature did not address this issue in its 2005 session, so the possibility exists that DNR, in the interests of generating more tax revenue, will follow the lower court's lead by henceforth taking a tougher stance on the excise tax exemption and assessing the tax on boats sold in Maryland for non-Maryland SOPU.

Secondly, if DNR does not change its position on the excise tax exemption, purchasers of boats intended for non-Maryland SOPU must correctly calculate SOPU, something Mr. Schwartz did not do. Briefly, this calculation is as follows: The measuring period starts on the date of purchase and ends on December 31 of the calendar year of purchase. Periods of repair can be deducted if protracted (30 continuous days or more). In the measuring period, not only must the vessel not be present in Maryland for more than one-half of the period, but it must also not be present in Maryland more than it is present in any other single state. That is certainly far from intuitive and can easily trap other boaters struggling with their onboard blinds and trash compactors on newly purchased vessels.

Finally, whatever happened to KISS (“Keep It Simple, Sailor”)? For Mr. Schwartz, so many appliances, so many break-downs. For me, my knock-off Topsiders are my onboard trash compactor, and my eyelids are my onboard blinds. When they stop working, my problem will not be the boat.

Lin and Larry Pardey, authors of an interesting series of books about sailing their engineless 24-foot sloop, *Seraffyn*, around the world, repeatedly extolled the virtues of small and simple. As Larry wrote in the opening paragraph of Appendix III of *Cruising in Seraffyn*:

***THE HARD AND FAST RULE we stuck to while building Seraffyn was: KEEP IT SIMPLE! Of boats I had sailed before, the simple ones, the ones with the least machinery and electrical equipment, were the most fun and easiest to maintain. The complicated boats almost always spoiled my day — forcing me into the bilge to repair a leaking fuel line, or making me sail at night without navigation lights because of a short circuit.***

As 365-day-a-year, blue-water, cruising live-aboards, the Pardeys’ assessments of creature comforts and appliances would necessarily be quite different than mine, but I respect their point. Too bad Mr. Schwartz was not introduced to the Pardeys’ books before he bought his boat.

**Lee Benedict**

## **The Disaster That Wasn’t**

As Nan and I were enjoying the first sail of the season on April 16, 2005, we had one of those experiences that could — and in almost any other sailboat, *WOULD* — have been a disaster. It was clear and cool and quite breezy — 20-25 knots from the north — as we headed out of the Bodkin in Nancy’s Freedom 28. We decided to play with the reefing to check out performance characteristics in the rough and choppy seas — 2-3 foot swells with numerous whitecaps.

As we raised the jib, Nan said, “Hmmm, I think the forestay is a bit slack; remind me to tighten it when we get back in.” We motor-sailed out past the Bodkin 7 mark, then fell off eastward on a close-hauled port tack. As we set about getting to know *Mutima*, I noticed something amiss on the foredeck. Nan saw my quizzical expression and asked what was wrong. I said, “I think your forestay just parted!”

A perfect juncture for a diversion: a trip down Memory Lane to my misspent youth and a couple of dismastings. They may both have been the same year — my memory is not clear on that fact — one occurred in May and the other during high summer.

The one in May was the result of Nan and my deciding that we would skip homeroom and get a sail in before school. We borrowed our friend Phil’s boat, the Marauder 16 of other tales, and quickly cast off. The wind was out of the west, making our course along the pilings of the pier to leeward a broad reach, blocking our view of the pilings. In our haste, we failed to keep a proper watch and were horrified when one of the pilings, somewhat further out than the others, fouled the starboard shroud. In a sequence of events that culminated in a crack like a rifle shot, the mast (wooden) snapped in two about 18 inches above the deck and the whole rig collapsed on a pair of very stunned girls! We somehow managed to disentangle the rigging from the piling, then pulled and paddled our way back to the slip and went to class, dreading the afternoon when we would have to confess our misdeed to Phil. He was not amused, but let us off the hook when inspection revealed that no damage was done to anything except the mast, and that was

reparable with a little ingenuity and elbow grease. Phil supplied the ingenuity; splinting, pinning, and gluing, and Nan and I supplied the elbow grease; fetching, carrying, and holding.

The second event was not one that involved Nan, just to prove that it isn't HER fault! I was sailing an O'Day 18 belonging to the father of my high-school sweetheart. David wasn't a sailor, but was willing to sail his father's boat with me (brave man!). As I mentioned earlier, it was high summer on the Great South Bay of Long Island, which usually meant (unlike the Chesapeake) steady winds from the southwest at five to ten knots. David and I, and two other unlucky souls, were closed-hauled on starboard, making good speed just out of the mouth of the Carmen's River, when the swage holding the starboard shroud to the turnbuckle failed.

Bear with me for another minor interruption in the narrative. What you have to understand about this particular boat is that David's father, a respectable physician of great professional repute on land, was known as "That Crazy Doctor" on the water. He was an inexperienced, unknowledgeable, but completely fearless and enthusiastic sailor. People on Bellport Bay knew and avoided his boat, because you never knew what he was going to do (like wanting to learn to set the 'chute when small craft warnings were posted...). In our little corner of the seven seas, this meant that when **that** craft made an appearance, it was watched carefully by all, especially by clammers who, being in the water, were not capable of rapid evasive maneuvers. OK, back to the tale(s)...

The shroud parted with a whining crack and the rig immediately departed to port, nearly swamping us as the airfoil scooped water and slewed our little craft into a sudden, sideways halt. By the time the stunned crew realized what had happened, there were three clam boats bearing down on us at high speed. Many hands make light work, and it didn't take long to untangle the rigging, unbend the sails, and get everything bundled on deck and secure for the tow back to the slip. As disasters go, it was fairly benign, resulting in the loss of nothing more than an afternoon on the water. The tabernacle-mounted aluminum mast just fell and didn't bend or break, and the loose end of the

shroud did not catch anyone when it let go. The good doctor was back out terrorizing the bay in a week, after a rigger made repairs and thorough inspection of the rest of the rig.

Back to the present: "Nan, I think your forestay just parted!" NOT a disaster — although I'm sure Nan's heart skipped a beat — the Freedom's *freestanding* rig uses the forestay only as a guide to raise the jib. I went forward to check the damage. When I came back to the cockpit, I told Nan that securing the frayed end of the stay to the pulpit rail to keep the ends from tearing the jib and tightening up on the jib halyard would be all that was needed for the short term. She went forward to verify my assessment and secure the stay, and we continued to enjoy a pleasant, if cool, day on the bay. By the time this reaches your inboxes, the riggers will have replaced the offending portion of what is considered *running* rigging on a Freedom, and a couple of unrepentantly sail-crazy females will be terrorizing the Chesapeake again.

Fair winds, Jenny

P.S. A word on the riggers: W&R Rigging, whose contact information is posted in the clubroom on Hammock Island, are a husband and wife couple who were actually doing some work when we docked the afternoon of the 16<sup>th</sup>. They came right over, provided a ballpark estimate of both the cost and timetable to make the repairs, produced a contract with the specific request, and, according to Nan, have been punctilious about calling when they said they would and keeping her in the loop on progress. I'm sure she will provide a review of their services when the work is complete. So far, the report is excellent: personable, professional, knowledgeable, informative, and serious about the business.

*Linda Jensen*

## **RACING RULES REVIEW (Finishing A Race While Capsized)**

I recently picked up a book on the yacht racing rules and happened upon a reported decision that I found interesting in its treatment of a rather bizarre factual situation. I offer it for your consideration.

Situation: A racing dinghy capsized 20 yards before crossing the finish line. The tide quickly swept the boat across the finish line bottom up, with both crew members in the water beside her. The Race Committee timed the boat in and took no action to disqualify her. No protest was filed. However, the Race Committee sought the opinion of the Appeals Committee of the national authority as guidance, since it perceived the repetition of this incident to be “conceivable,” an interesting circumstance in itself.

Race Committee Decision: The Race Committee reasoned that the boat had satisfied the definition of “finishing”, which provides that a yacht finishes when any part of her hull, or of her crew or equipment in normal position, crosses the finishing line in the direction of the course from the last mark, either for the first time or after fulfilling her penalty obligations.

The rule that troubled the Race Committee most was a predecessor to current Rule 47.2, requiring the crew of a yacht to remain “on board”. This rule now provides that no person on board a yacht shall intentionally leave the yacht, unless injured or ill, or for the purpose of rendering assistance to a person or vessel in danger, except that any crew member leaving the yacht accidentally or to swim must be back on board before the yacht continues in the race.

Appeals Committee Ruling: An Appeals Committee decided in the matter titled Bosham Sailing Club (UK), 1962/22, that the crew is “on board” for this purpose if the complete crew remains with the boat by swimming alongside or hanging on to the boat. Furthermore, on the facts stated, the Appeals Committee could find no other rule justifying the disqualification of the boat. However, the report of the decision ends with the comment, “It seems to be carrying things rather far if a boat can win a race while capsized and with no one in her!”

Observations: First, I offer the Appeals Committee’s decision-ending comment as a classic example of British understatement!

Second, I have heard that the tides on the English Channel are something serious to contend with. The subject incident, occurring at Bosham near Plymouth on the South coast of England, and

the Racing Committee’s observation that a capsized finish could happen again, confirm that fact.

Third, based upon my short and now distant-in-time experience with Wednesday night racing on the Chesapeake Bay, I have to believe that the boat in question was last in class when she crossed the finish line in her unusual predicament. I cannot image any boat finishing after her not protesting.

Finally, I note what a shame it is that film of the heroic finish of the boat in question never came to the attention of the producers of ABC’s sports television show of years gone by, “The Wide World of Sports”. That film could have been inserted into the show’s leader right after the ski jumper who crashed off the edge of the ski-jump ramp while the announcer droned about “the thrill of victory — the agony of defeat”. If my speculation about finish position is correct, the boat in question did not discover “agony in victory”, but it may have salvaged some small measure of “thrill in defeat” by being spared a DNF (“Did Not Finish”) by the decisions of the Race and Appeals Committees.

*Lee Benedict*

## **Back To the Mid-Atlantic**

Hi! Hope this update finds you all in good shape. Well, we've finally made it back to the mid-Atlantic...rain and all!!! Today has been the first full day of rain we've had since we arrived in Marathon March 20. We've had a great trip so far. We just can't get over how beautiful the low country of Georgia and South Carolina is; and the beautiful Waccamaw River in South Carolina is overwhelmingly beautiful. As we rounded each turn in the river, the scenery was more and more beautiful. We've made it to Little River, South Carolina, and stopped at the North Myrtle Beach Yacht Club, where we usually stop on the trips up and down the ICW. The facility is really nice and they have a computer for the boaters' use (free!). Plus we really enjoy Umbertos, the restaurant, which is next door. Tomorrow we'll be in Southport (despite the rain) and the next day when the weather changes back to sunshine we'll stop in Wrightsville Beach to see our friends Lou and Jeanne Ashley.

We made a trip to Maryland from Savannah April 22 to attend the funeral of my aunt Piggy, whom I'm really going to miss. She had a great and long life and, luckily for us, she resided at Fairhaven, which is a retirement community about 20 minutes from our home. Many of my Dozier relatives gathered to celebrate Piggy's life, which was really nice. Although the reason for being home was not a happy one, we caught up on our first-class mail and were there to enjoy the beautiful spring in Maryland — so many trees in bloom etc. And we were able to spend time with Cindy and family, Jud and family, and Ned, who officiated at the funeral. We decided to stay home for six days, hoping that the Causton Bluff Bridge just south of the Savannah River would be repaired so we could get through it. The bridge was broken when an older man driving a dump truck must have had some kind of spell and drove through the barriers as the bridge was raising and ran into one side of the bridge just as it was lifting. Well, the bridge isn't fixed yet and probably won't be for 6-8 months. We had a good window Friday a week ago after we returned to Savannah to go from the Wilmington River to Callibouge Sound, via the Atlantic, to Hilton Head. We did spend two nights there and

were able to visit with our friends the Goods, whom we hadn't seen since September.

We're still hoping to be home shortly after the middle of May (depending on the weather). We're looking forward to seeing folks there and then our next two forays will be to the Outer Banks (by car) in June with the Cindys, Juds, and Neds, and then to China in August (17-Sept. 13).

*P.S.* We forgot the most important news of all and that is that Ned and Ellen had a little girl on April 12. Her name is Lillian Stewart. She's adorable (at least pictures are, so must be even more). Our 16th grandchild! We're spending another day here at Little River due to really high winds.

*Fondly, Art & Sue Grotz*

***THANKS TO ALL OF YOU WHO HAVE CONTRIBUTED TO THIS AND PAST ISSUES OF THE HORNPIPE. WE HAVE FOUND THESE STORIES MOST ENTERTAINING. WITHOUT YOUR STORIES AND INFORMATIVE ARTICLES, HOWEVER, WE WILL HAVE VERY LITTLE TO REPORT IN OUR UPCOMING NEWSLETTERS; SO PLEASE KEEP SENDING IN YOUR ARTICLES.***

*Judy Foland*

## 2005 CCSC CRUISING SCHEDULE

DATE	WHAT	WHERE	CAPTAIN
4/23	Spring Picnic	Hammock Isl.	
5/14-15	Shakedown Cruise	Eagles Nest	Sabins
5/28-30	Memorial Day	Wye River	Alberts
6/18-19	Best Wine <\$10	Rhode River	Shippeys
7/2-17	July 4 <sup>th</sup> Cruise	So. to Rappahannock (see details below)	Callis
7/23-24	Captain's Choice	??	
8/13-14	VJ Day Cruise	Langford Cr.	
8/27-28	Captain's Choice	Tilghman Creek	MacDonalds
9/3-5	Labor Day	Chestertown	Zerhusens??
9/10	Regatta	Hammock Isl.	Foland/Monjan
9/24-25	Annapolis Cruise	Mooring Buoy	
10/15-16	Baltimore	Inner Harbor	Shellabarger
10/29	Land Cruise	Baltimore	
11/14	Year-End Meeting	Hawthorn Ctr.	Monjans

### Two-Week Cruise to Rappahannock

DATE	PLACE	DISTANCE
Sat., 7/2	Dun Cove	28 mi.
Sun., 7/3	Solomons Is.	29 mi.
Mon., 7/4	Solomons Is. Fireworks	0 mi.
Tues., 7/5	Patuxent R./St. Leonards Sotterly	6 mi.
Wed., 7/6	Coan River	37 m.
Thur., 7/7	Reedville	27 mi.
Fri.-Sat. 7/8-9	Corrotoman R./Bells Cr.	32 mi.
Sun., 7/10	Indian Cr./Fleets Bay	24 mi.
Mon.-Tues. 7/11-12	Crisfield Somers Cove Marina	33 mi.
Wed., 7/13	Solomons/Mill Cr.	41 mi.
Thur., 7/14	Little Choptank/Hudson Cr.	23 mi.
Fri.-Sat., 7/15-16	Oxford	15 mi.
Sun., 7/17	Cambridge	10 mi.
Mon. 7/18	Home	39 mi.