



THE MERCHANT SHIPPING ACT 1894

REPORT OF COURT

No. S477

m.v. JUNIPER (ON 302245)

In the matter of a Formal Investigation held at the Sheriff Court House, Aberdeen on the 12th and 13th days of October 1967 before Archibald Hamilton, Sheriff-Substitute assisted by Captain F. E. Jackson, OBE, Captain K. A. H. Cummins and A. R. Elder, Esq., into the circumstances attending the grounding and subsequent loss of the motor trawler *Juniper* of Aberdeen (Official Number 302245).

The Court having carefully inquired into the circumstances attending the above-mentioned shipping casualty, finds for the reasons stated in the Annex hereto, that the grounding and subsequent loss of the vessel was due to the fault of her skipper in (1) failing to clear her decks of fish when off Esha Ness before proceeding further, and thereafter knowing of deteriorating conditions to the southward proceeding through an unlit narrow channel at full speed in poor visibility when his Decca navigator and radar were out of order and he was not able to fix her position accurately as a result of which she went too far to the east and grounded on Fogla Skerry at the north west end of Papa Stour. He should have taken the vessel to the westward of the V. E. Skerries and (2) being in the wheelhouse alone from 2.30 when she left the fishing grounds navigating, steering her, keeping a lookout at the same time and thereby failing to keep a proper lookout which he was not able to do. The Court suspends his certificate of competency, no. 29615, for two years from this date.

Dated this 13th day of October 1967.

ARCH. HAMILTON, *Judge*

We concur in the above Report.

K. A. H. CUMMINS }
F. E. JACKSON } *Assessors*
A. R. ELDER }

Annex to the Report

The motor trawler *Juniper* left Aberdeen on Sunday, 12th February on a fishing voyage to Shetland waters. She was a modern diesel driven trawler built in 1961 and was 115 feet long; 25 feet in breadth; 235 tons gross and 66 tons net. She was manned by a crew of twelve hands all told, her skipper being Terence Taylor, a young man of 25 years who had held a full skipper's certificate for five years and had been a skipper for three.

When the vessel sailed from Aberdeen she was seaworthy in every respect and in particular her navigational aids, mentioning specifically her Decca navigator and radar, were in good working order these having been inspected in January and February 1967 respectively. Her life saving appliances were also in good order.

The vessel made her last haul off the west coast of the Shetland Isles early on the morning of Sunday 19th February, after which she prepared to return to Aberdeen. She was then about 11 miles NNE. from Esha Ness. She sailed at 0230 on a course of SSW. to bring her up to Esha Ness about a mile off. The wind was from the SE., force 4; visibility was poor, some 2-3 miles with drizzling rain and the sea was choppy. The tide was flood running southerly. The skipper was on the bridge alone.

She came up to Esha Ness about 0330 about a mile off. This distance was estimated by taking one bearing forward and one bearing abaft the beam and can be taken as approximate. The skipper had decided to take the vessel through the channel between the V.E. Skerries on his starboard hand and Papa Stour on his port hand.

He could have brought the vessel off to starboard and passed the V.E. Skerries to the westward. It would have added only a few miles to the voyage but there was still much fish on the deck and in deciding to take the course he did, he did so because he would be in more sheltered waters and would allow the deck to be cleared substantially before coming into the open sea.

On the course he proposed to follow the point for which he was navigating after Esha Ness was Fogla Skerry. This channel is a narrow channel being about 2½ miles wide and is unlit. The Decca navigator and the radar had broken down some days before though in good order on leaving Aberdeen. The vessel therefore when she entered the channel had not these aids to navigation to assist her and fix her exact position at any time.

When abeam of Esha Ness the course was altered to SW. by S. to bring the vessel up to Fogla Skerry about a mile off. After passing the Esha Ness, when the vessel was coming out of the lee of the land about a mile further South the wind increased to force 6-7 with heavy rain and visibility remained poor. About this time he switched on the radar. At short range it was very bad so he switched it on at 24 mile range. In its condition he only got a full circle and no more but he saw Papa Stour and Fogla Skerry in a position which he says confirmed that his course was right.

When the wind increased the course was also altered $\frac{1}{2}$ point to port to allow for leeway, the wind being broad on the port bow.

The skipper was in the wheelhouse himself at the wheel from the beginning of the voyage. Apart from calling the mate to tell him to clear the deck as soon as possible and stow the gear just after he proceeded on the voyage, there was no one else on the bridge either steering or on the lookout before the vessel subsequently stranded. The reason was that there was a great deal of fish to be gutted and boxed and all the crew were engaged in so doing up to the time she stranded. During this time, because of the work being done on deck, the deck lights were burning as well as her navigation lights.

The vessel proceeded at full speed—about 11 knots—on her voyage in the same conditions of poor visibility. The view of the Court is that she was travelling too fast in the weather conditions and was in contravention of rule 16(c) of the rules and regulations for preventing collisions at sea. She continued until 0430 when a knock was felt followed by another and she was then aground. She was close to the face of the cliff and when she swung round later was lying with her port side against it. She became a total loss. Until she grounded the skipper had not seen the cliffs.

On grounding she sent out a call to Wick radio station but receiving no reply she sent out a 'May Day' call on that wave band. Another vessel not far away picked it up and transmitted the call to Wick. The vessel began to make water seriously and the crew were all brought to the boat deck with their lifejackets on and two rafts were launched but kept attached to the vessel. The Aith lifeboat arrived later and the crew were all taken off by her. The lifeboat acted in very difficult and dangerous conditions because of the position of the vessel and the swell on the sea and she herself was substantially damaged in coming alongside as she had to do. When one listens to the evidence in this case and sees the photograph of the vessel lying hard against the cliffs it is another example of the hazards of navigation without great caution and the danger to life which can follow.

These are the facts and upon them lies the question of whether any fault attached to the skipper as he is the only one who can be involved, there being no fault on the owners, and the skipper having been the only person on the bridge navigating the vessel, alone all the time.

Mr. Milne for the Board of Trade submitted various grounds of fault, six in all, including those found by the Court. Mr. Farquharson submitted that on the evidence, this was not the case of a skipper not attending to the vessel; that the skipper was in fact devoting his whole attention to the navigation of the vessel and that if he had done wrongly it was no more than an error of judgment. He said this in discussing the skipper having taken her the way he did rather than by the alternative route of going south to the westward of the V.E. Skerries. He also referred to the fact that the commercial aspect of the running of a vessel was one which the skipper probably had in mind in bringing the ship home as he did, but he said that the safety of the ship and those on board came first. It is not an attractive view to say that the commercial aspect of a ship entered into her voyage. This Court is well aware it does, particularly in ships running to a schedule, but it must never be allowed consideration or any influence with regard to the safety of the ship and crew which come first in all events. In this case the Court does not proceed on the view that the skipper took a shorter route from a commercial point of view though it thinks he had the catching of the market much in mind.

The question for consideration is whether the submissions of the Board of Trade or those for the skipper are to be accepted. Notwithstanding what has been said for the skipper the Court is of opinion, and so are the Assessors, that the submissions for the skipper cannot be accepted.

When the skipper came down to Esha Ness, and set the course for Fogla Skerry, the weather conditions were deteriorating. The rain, which had been a drizzle, became heavy, and the wind, until then light, became very strong from the south east requiring him in his judgment, when about a mile south of the light, to alter her to port $\frac{1}{2}$ point to allow for leeway. His Decca navigator and radar were out of order—two valuable aids—when he was going to enter a narrow and unlit channel which he had not navigated before. He was therefore in the position in such conditions that he was dependent on what he had done off Esha Ness in fixing the ship and in the course he set thereafter as being accurate. He had run about $9\frac{1}{2}$ miles from Esha Ness before entering the channel and in such circumstances as he was he could not be certain of the precise position of the ship. She should have been fixed in any event before she entered the channel and when she in fact did so there was no means whereby the skipper could check that she was on a safe course. He was therefore entirely dependent on his position as fixed at Esha Ness being accurate and the course he had set and the allowance for leeway being accurate also. This he could not be. While the sight he got on the radar at 24 mile range at Esha Ness showed him Fogla Skerry and Papa Stour and he said confirmed him on his course, that was only a flash because the radar could only give one round in its condition and could not give him an accurate bearing as the skipper admitted. The fact that he did not maintain his course is shown by the fact that the vessel grounded. He made good the course he steered but not the course he was trying to make, either because he overestimated the leeway or underestimated the tide on his starboard side.

There was an alternative route open to him, viz. by going on his voyage southward, well outside the V.E. Skerries. This would not have added materially to her voyage. The skipper said that to have taken this course would have put him in more exposed water and rendered the clearing of the deck very difficult, if not impossible. This may be, but long before he entered the channel the weather conditions were deteriorating—indeed from just after passing Esha Ness. What he should have done was to heave the vessel to when he saw the weather was deteriorating, cleared the decks and taken the course outside the V.E. Skerries.

The Court, therefore, is of opinion that in the circumstances the skipper was at fault in coming through the channel as he did. The Court does not say that in no circumstances should the channel be navigated at night. No objection can be taken to this being done in good weather and with the aids to navigation in order.

Another matter of substance is that the skipper was in the wheelhouse alone the whole time. This Court, in previous cases, has condemned the practice of one man being on the bridge, navigating, steering and keeping a lookout. He cannot do all and the skipper could not do all in this case. The view of the Court is that the skipper in the wheelhouse alone cannot be justified as it thinks is shown by the fact that the skipper did not see the cliffs before the vessel struck. The Assessors advise the Court that had he or someone else been on the lookout with no other duty he would have seen the loom of the land, particularly when it was high and probably in time to have avoided the accident. They further think that had a wheelhouse window been open forward or on the port side a lull in the wind

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would have been noticed by the skipper and indicated to him that he was probably coming near the land. As it was the skipper could not leave the wheel to look ahead outside and the situation was aggravated by the fact that the deck lights were on, making it impossible for him to see ahead. No deck lights should have been burning in such circumstances. The Court again impresses upon masters and owners that the bridge should not be left in charge of one man.

The Court therefore thinks the skipper was in fault in this respect also.

The Court has considered the question of the position of the skipper on the matter of penalty. While the Court recognises he is a very young man with little experience it thinks none the less that as skipper he should have recognised the obvious dangers of taking the route he did in the circumstances. It thinks his certificate must be suspended and that for a period of two years. The Court has taken a more lenient view than it would have done with a similar case at the hands of a more experienced man.

Questions and Answers

1. Q. By whom was the *Juniper* owned at the time of her loss?
A. The Ashley Fishing Company Limited, North Esplanade East, Aberdeen.
2. Q. Where, when and by whom was the *Juniper* built?
A. At Gateshead on Tyne in 1961 by T. Mitchison Limited.
3. Q. (a) With what compasses was the *Juniper* fitted?
(b) When were the compasses last adjusted?
(c) Were the compasses in satisfactory working order when the *Juniper* left Aberdeen on her last voyage?
A. (a) One standard reflector type compass by John Lilley of North Shields and one overhead compass in a binnacle fitted aft of the standard compass.
A spare compass to fit the overhead unit was carried.
(b) On 8th November 1966.
(c) Yes.
4. Q. (a) With what other navigational aids was the *Juniper* fitted?
(b) Were all such navigational aids in satisfactory working order during her last voyage up to the time of stranding?
A. (a) Electronic navigational aids:
Decca marine radar, type R.M. 326
Decca Navigator mark 12 receiver
Decca automatic plotter
Marconi Loran receiver
Marconi Fishgraph
Marconi Graphette
Guardian/Seapilot direction finder
Other navigational equipment:
1 Walker patent log
3 hand lead lines
(b) No. The Decca navigator and the radar both went out of order when the vessel was on the fishing grounds.
5. Q. Did the life-saving appliances in the *Juniper* when she left Aberdeen on her last voyage comply with the regulations in force and had they been properly surveyed and maintained?
A. Yes.
6. Q. Was the *Juniper* supplied with adequate charts and publications for her last voyage?
A. Yes.

7. Q. How many officers and men did the *Juniper* carry on her last voyage?
A. Twelve hands all told.
8. Q. Was the *Juniper* in all respects sea-worthy when she left Aberdeen on her last voyage?
A. Yes.
9. Q. When did the *Juniper* leave Aberdeen on her last fishing trip?
A. About 1100 hours on Sunday 12th February 1967.
10. Q. (a) What was the approximate position of *Juniper* at 0230 19th February 1967.
(b) What course was then steered?
(c) Who was on the bridge at this time?
(d) What was the state of the weather, wind and sea?
A. (a) Approximately 11 miles NNE. from Esha Ness.
(b) SSW.
(c) The skipper, Terence Taylor.
(d) Wind SE. force 4: drizzling rain: visibility 2-3 miles. sea choppy; tide flood.
11. Q. (a) At what time was *Juniper* abeam Esha Ness?
(b) What was the state of the weather, wind and sea?
(c) What alteration of course was made and by whom?
(d) How long did the vessel steer this course before stranding?
A. (a) 0330 on 19th February 1967.
(b) Rain: wind still SE. and sea choppy.
(c) Course altered to SW. by S. to pass about one mile off Fogla Skerry. About a mile after passing Esha Ness $\frac{1}{2}$ point to port for leeway and steered SW. by S. $\frac{1}{2}$ S.
(d) About one hour.
12. Q. Where did *Juniper* strand?
A. On Fogla Skerry at the north west end of Papa Stour, Shetland.
13. Q. After the stranding were all proper steps taken by the skipper for the safety of his vessel and crew?
A. Yes.
14. Q. Were all members of the crew of *Juniper* saved?
A. Yes.
15. Q. What was the cause of the stranding and subsequent loss of *Juniper*?
A. (1) Attempting to navigate her through the narrow and unlit channel between V.E. Skerries and Papa Stour without any navigational aids, the Decca Navigator and the radar having broken down during the fishing, and (2) the skipper being in the wheelhouse alone and thereby failing to keep a proper lookout, all as more fully stated in the formal finding.
16. Q. Was the stranding and subsequent loss of *Juniper* caused or contributed to by the wrongful act or default of:
(a) Her skipper?
(b) Any other person or persons?
A. (a) Yes.
(b) No.

ARCH. HAMILTON, Judge

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