



# THE MERCHANT SHIPPING ACT, 1894

## REPORT OF COURT (No. 7957)

### m.y. "Aarla" (UNREGISTERED) FORMER O.N. 115785

In the matter of a Formal Investigation held at the Sheriff Court, Glasgow, on the 21st, 22nd, 23rd, 24th and 28th days of February, 1949, before J. Wellwood Johnston, Esq., Advocate, Sheriff-Substitute of Lanarkshire, Scotland, assisted by Commander William Askin Williamson, R.D., R.N.R., John Wallace, Esq., C.B.E., and William Joseph Nutton, Esq., M.I.N.A., into the circumstances attending the total loss of the Motor Yacht "Aarla" on the 17th June, 1947, off the Ayrshire coast near Ailsa Craig.

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 loss was due to the foundering of the vessel, which was unseaworthy, possibly after an explosion.

Dated this 28th day of February, 1949.

J. Wellwood Johnston, *Judge*

We concur in the above Report.

William Askin Williamson }  
J. Wallace } *Assessors*  
W. J. Nutton }

#### QUESTIONS AND ANSWERS.

The Court's answers to the questions submitted by the Ministry of Transport are as follows:—

- Q. 1. By whom was the motor yacht "Aarla" owned at the time of her loss?
- A. Park Lane Court, Limited, whose registered office was then at 34 South Molton Street, London, W.1., and is now at 2 Field Court, Gray's Inn, London, W.C.
- Q. 2. How long had she been so owned?
- A. Since 24th April, 1947, but certificate of purchase was not issued until 4th June, 1947.
- Q. 3. By whom was the motor yacht "Aarla" built, and when was she built?
- A. Messrs. D. & W. Henderson & Company, Limited, Partick, Glasgow—1903.
- Q. 4. Was the yacht "Aarla" built as a steam yacht?
- A. Yes.
- Q. 5. When and where was the yacht "Aarla" converted to a motor yacht?
- A. In a German port in 1931.

- Q. 6. Who was the last private owner of the motor yacht "Aarla" prior to the owner at the time of her loss?
- A. The late Mr. W. G. Hetherington of Glasgow.
- Q. 7. Was the motor yacht "Aarla" requisitioned by the Admiralty shortly after the outbreak of war in 1939?
- A. Yes.
- Q. 8. Was the motor yacht "Aarla" in the service of the Admiralty from the time she was requisitioned until February, 1942?
- A. Yes.
- Q. 9. Was the motor yacht "Aarla" drydocked, repaired and surveyed during the period February to June, 1942, prior to a voyage to Freetown, West Africa?
- A. Yes, at Port Talbot in the Bristol Channel.
- Q. 10. Did the motor yacht "Aarla" arrive at Freetown, West Africa, in July, 1942?
- A. Yes.
- Q. 11. Who managed the motor yacht "Aarla" during her service off the West African Coast?
- A. Messrs. Elder Dempster Lines, Limited.
- Q. 12. Was the motor yacht "Aarla" drydocked at Dakar in December, 1944, and January, 1945?
- A. Yes.
- Q. 13. What was the nature of the repairs carried out at Dakar?
- A. P. & S. ABC plates No. 1 fitted with patches electrically welded. Pit holes in scattered places in hull under water filled with electric welding. Stem bar from keel to water level built up with plates and electrically welded. Minor repairs to port propeller and rudder pintles.
- Q. 14. Did the motor yacht "Aarla" return to Freetown and continue her war service there until June, 1945?
- A. Yes.
- Q. 15. Did the motor yacht "Aarla" sail from Freetown on the 8th July, 1945, for the Clyde, calling at Dakar, Casablanca, Leixoes and Falmouth?
- A. Yes.

- Q. 16. Were certain repairs necessary at Leixoes and, if so, what were they and were they carried out?
- A. Yes. Leakage due to fractured soil pipe below water; cement box fitted as temporary repair. Extensive repairs made to starboard main engine which had seized owing to failure of lubricating oil pumps.
- Q. 17. Did the motor yacht "Aarla" leave Leixoes for Falmouth on the 6th September, 1945?
- A. Yes.
- Q. 18. Did the motor yacht "Aarla" reach the Clyde on the 17th September, 1945, after a call at Falmouth?
- A. Yes.
- Q. 19. When the motor yacht "Aarla" put into Falmouth was she seen by a Surveyor to Lloyd's Register of Shipping?
- A. Yes.
- Q. 20. Was a survey afloat made at Greenock by Mr. Duffy, Sea Transport Inspecting Officer, on the 24th September, 1945?
- A. Yes. Mr. Duffy's report is dated 24th September; his inspection was made on 20th September, 1945.
- Q. 21. Was the motor yacht "Aarla" moored at Tighnabruaich shortly after her arrival in the Clyde, and was she placed in the care of Messrs. Smith Brothers of Tighnabruaich.
- A. Yes.
- Q. 22. What personnel were placed on board at this time?
- A. The Sea Transport Department retained the services on board of Mr. Underwood who had been 2nd Engineer on the homeward voyage. The ship was visited two or three times weekly by two of Messrs. Smith Brothers' shipkeepers.
- Q. 23. Was a survey of the motor yacht "Aarla" afloat at Tighnabruaich made on the 5th and 6th October, 1945, by Mr. D. W. McGuffie on behalf of the previous owner?
- A. Yes.
- Q. 24. Was the arrangement with Messrs. Smith Brothers to provide two watchmen on board the motor yacht "Aarla" cancelled in November, 1946, and did such arrangements cease as from about the 8th December, 1946?
- A. The arrangement for care and maintenance by Messrs. Smith Brothers which had been carried out by frequent visits and not by placing watchmen on board terminated completely in November, 1946.
- Q. 25. Thereafter did Mr. Underwood, the 2nd Engineer, continue to perform maintenance duties?
- A. Yes, on behalf of the Director of Small Craft Disposals, Admiralty, who had become responsible.
- Q. 26. Was the motor yacht "Aarla" declared for disposal by the Director of Small Craft Disposals, Admiralty, in April, 1946?
- A. Yes.
- Q. 27. Did the Park Lane Court Limited, of London, offer to purchase the motor yacht "Aarla" unconditionally for £6,000 on the 23rd April, 1947?
- A. Yes.
- Q. 28. Was such offer accepted on the 24th April, 1947?
- A. Yes.
- Q. 29. Was the purchase completed on the 4th June, 1947?
- A. The certificate of purchase was issued on 4th June, 1947.
- Q. 30. On whom did the Park Lane Court Limited rely for advice as to the motor yacht "Aarla's" condition?
- A. Before making their offer Park Lane Court Limited took no advice but consulted Lloyd's Yacht Register of Yachts, 1939, and saw an old photograph of the ship.
- Q. 31. Was the motor yacht "Aarla" overdue for survey at the time she was purchased by the Park Lane Court Limited?
- A. Yes.
- Q. 32. Did the Park Lane Court Limited rely in part on the last hull survey, viz. the one carried out at Dakar in January, 1945?
- A. Not before purchasing. The report of the survey mentioned became available to Park Lane Court Limited thereafter and was relied on.
- Q. 33. To what use did the Park Lane Court Limited intend to put the "Aarla"?
- A. After refit and conversion for use as a pleasure steamer for fare-paying passengers on the East coast of England.
- Q. 34. Was a master appointed for the "Aarla"?
- A. Yes; Captain R. D. Young.
- Q. 35. What crew were engaged and by whom?
- A. A chief officer, chief and second engineers, cook-steward, boy, and three seamen were engaged by the master.
- Q. 36. Did the motor yacht "Aarla" sail from Tighnabruaich at 7.30 a.m. on the 16th June, 1947, and from Ardrossan at about 8.55 p.m. the same day bound for Lowestoft?
- A. Yes; it was intended to call at Torquay.
- Q. 37. Did the motor yacht "Aarla" sail as a yacht and thus not require a Load Line Certificate or clearance papers?
- A. Yes.
- Q. 38. Was the motor yacht "Aarla" seaworthy when she sailed from Tighnabruaich and Ardrossan on the 16th June, 1947?
- A. No.
- Q. 39. Was the motor yacht "Aarla" properly manned when she sailed from Ardrossan on the 16th June, 1947?
- A. The "Aarla" had a sufficient crew for the intended run if she had been in fair shape.
- Q. 40. Was the motor yacht "Aarla" properly equipped with life-saving appliances and were such life-saving appliances maintained in serviceable condition when she sailed from Ardrossan on the 16th June, 1947?
- A. Of two wooden lifeboats the port one was admittedly damaged to the extent of being useless; the condition of the starboard lifeboat which was large enough for all on board has not been established. There was an ample quantity of other life-saving appliances but their condition is unknown.
- Q. 41. On the evidence before the Court was the motor yacht "Aarla" lost at approximately 3 a.m. on the 17th June, 1947, off Ailsa Craig with all hands?
- A. Yes.

Q. 42. On the evidence before the Court was the loss of the motor yacht "Aarla" due wholly or in part to an explosion?

A. This has not been established, but the possibility cannot be excluded.

Q. 43. On the evidence before the Court was the loss of the motor yacht "Aarla" due wholly or in part to the condition of her hull?

A. If there was no explosion the loss was probably due wholly to the condition of the hull. If there was an explosion the loss may have been in part due to the condition of the hull.

Q. 44. On the evidence before the Court was the loss of all the crew of the motor yacht "Aarla" due in part to the condition of the life saving appliances on board?

A. If all life saving appliances had been in good order the chances are that some lives at least might have been saved.

Q. 45. Who was responsible for sending the motor yacht "Aarla" to sea from Tighnabruaich and Ardrossan on the 16th June, 1947?

A. The owners were responsible for the decision to move the "Aarla" from Tighnabruaich to Lowestoft. The master was responsible for actually sailing from Tighnabruaich and Ardrossan.

Q. 46. Was the loss of the motor yacht "Aarla" caused by or contributed to by the wrongful act or default of her owners?

A. Yes. The owners were at fault in deciding to take the "Aarla" to Lowestoft without inspection by a qualified surveyor and report by him that the ship was fit and sufficient for the intended voyage.

Q. 47. Was the loss of the motor yacht "Aarla" caused by or contributed to by the wrongful act or default of her late master?

A. Yes. There is no evidence of fault in the master's handling or navigation of the ship, but he was at fault in taking the ship to sea in her existing condition.

#### ANNEX TO THE REPORT.

At this Inquiry Mr. T. W. Donald appeared for the Minister of Transport, Mr. David Murray (Messrs. Maclay, Murray & Spens) for the widow of Captain R. D. Young, master of the "Aarla"; Mr. James R. Hendry (Messrs. Wilson, Chalmers & Hendry) for the representatives of F. C. Fane, chief officer; Robert Monteith, Steward; and Joseph Jeffers, chief engineer; and Mr. Alex. B. McLetchie (Messrs. L. M. Stuart, Macneil & Young) for the owners, Park Lane Court Limited.

The m.y. "Aarla" was originally a twin-screw steam yacht built of steel in 1903 by Messrs. D. & W. Henderson, of Partick. Her original name was "Hecate," and her registered dimensions 161.3 feet by 25.55 feet by 12.6 feet. Her tonnage was 438 gross and 265 net. The only circumstances in her career until 1939 which required mention is that she passed for a time into German ownership and was re-named "Aar." While in German ownership twin 6-cylinder Diesel engines by Blohm & Voss, of Hamburg, were substituted in 1931 for the steam engines. The "Aar" returned to British ownership in 1933 and was renamed "Aarla." She was again used, as formerly, as a private pleasure yacht and was maintained in first-class condition until 1939, having a No. 3 Survey at Genoa in 1933, and a No. 1 Survey at Southampton in 1937.

In October, 1939, the "Aarla" was requisitioned and, at some later date, purchased outright by the Admiralty. Until 1942 she was employed in home waters under Admiralty care and supervision. In

February, 1942, the "Aarla" was sent to Port Talbot in the Bristol Channel to be prepared for service on the West African Coast. A load line survey was carried out and a load line certificate granted by the Ministry of War Transport for one voyage. The vessel was dry-docked and the hull was found to be in good condition, no repairs to the shell plating being necessary. Certain minor alterations were made above water level. Either at this time or earlier in the war the displacement of the "Aarla" was increased by some 150 tons, mainly by the addition of pig-iron ballast.

The "Aarla" arrived at Freetown, West Africa, in July, 1942, and, based on that port, was in service in the area on pilotage and examination duties until July, 1945. During this period she was managed on behalf of the Ministry of War Transport by Messrs. Elder Dempster Lines, Limited. In December, 1944, and January, 1945, the ship was dry-docked at Dakar. An external examination was made and certain repairs to the hull were carried out. In particular, a number of plates at the fore end were patched by electrical welding and a large number of pit holes throughout filled by the same method. This work was carried out to the satisfaction of the surveyor in charge, who gave in writing the opinion that the hull under water, etc., "should remain as now classed." The surveyor in question was not a surveyor to Lloyd's Register, but his report was made on paper with the printed heading "Lloyd's Register of Shipping."

The "Aarla" sailed from Freetown for the Clyde on 8th July, 1945, calling at Dakar, Casablanca, Leixoes and Falmouth. There was considerable delay at Leixoes for repairs necessitated firstly by leakage owing to a fractured soil pipe below the water-line, and secondly by engine damage owing to a fault in the lubricating system. These have little bearing on the general condition of the hull. During the homeward voyage, however, both before and after Leixoes, very heavy weather was encountered. The ship stood up well to this, but on occasion made water in considerable quantity from a source which was not discovered. The "Aarla" finally moored at Tighnabruaich about 22nd September, 1945, and was put in the care of Messrs. Smith Brothers there for care and maintenance on behalf of the Sea Transport Department of the Ministry of War Transport who had become responsible. The Sea Transport Department, however, retained the services on board of Mr. Underwood, who had been second engineer during the voyage home. Immediately on arrival in the Clyde the vessel was inspected—in the water—by a surveyor on behalf of the Department, who reported that it would cost upwards of £16,000 to restore her to pre-war condition. Later, at Tighnabruaich she was examined by a surveyor on behalf of her pre-war owner to whom the Department offered, in vain, to resell her. This surveyor put the cost of restoration even higher. Both surveyors relied to some extent on information supplied to them, and explained that the condition of the hull under water could only be ascertained definitely in dry-dock. Both, in evidence, expressed the opinion that they would not have gone to sea in the ship as they saw her, but these opinions may to an extent represent wisdom after the event.

From September, 1945, until November, 1946, the "Aarla" was visited regularly by ship-keepers of Messrs. Smith Brothers and Mr. Underwood lived on board. During this period Mr. Underwood started up the main engines from time to time, and, whenever this was done, as also in rough weather, the vessel made a considerable quantity of water which required to be pumped out. In November, 1946, the arrangement with Messrs. Smith Brothers for care and maintenance was cancelled and the vessel came under the control of the Director of Small Craft Disposals

who retained the services on board of Mr. Underwood, but otherwise carried out inspections of the moorings only from time to time. While lying at Tighnabruaich deterioration in the condition of the hull must have occurred, and the vessel had acquired a very heavy growth of tangle.

In April, 1947, the "Aarla" was offered for sale, and after some negotiation an unconditional offer of £6,000 was made by Park Lane Court Limited on 23rd April, 1947. This offer was accepted on the following day but the certificate of purchase was not issued until 4th June, 1947. Before offering for the ship Park Lane Court Limited had no information about her beyond what could be ascertained from Lloyds Yacht Register of 1939 and, possibly, the particulars of sale; no inspection was made on their behalf. The director of the company principally concerned was under the erroneous impression that the vessel was constructed of iron, not steel, plates. On 13th May, 1947, Captain R. D. Young, on behalf of the new owners, submitted a report to them on the state of the vessel after an inspection lasting two or three days. At this time also the report of the survey at Dakar in 1944/45 already mentioned became available to the owners and was regarded by them, not without justification, as a report by a surveyor to Lloyd's Register.

In his report of 13th May, Captain Young evidently contemplated that the vessel would be dry-docked in a Clyde yard. Following this, however, various meetings took place in London between Captain Young and two of the directors of the owning company. The latter preferred that the "Aarla" should refit in a port nearer London, preferably Lowestoft. Captain Young advised that the vessel was fit to steam to Lowestoft and that he was willing to take her. On the strength of this and of such information as was available, in particular the Dakar report, the owners decided to send the "Aarla" to Lowestoft.

About 9th June, 1947, Captain Young returned to the "Aarla" to prepare for the voyage. In particular he collected a crew consisting, with himself as master, of a chief officer who was a personal friend of the directors of the owning company, a chief engineer who was a friend of his own and had accompanied him on his first inspection, a second engineer, the Mr. Underwood who had served in the ship on her last voyage and had been on her ever since, a cook-steward, a galley-boy, and three seamen. We are now satisfied that when the "Aarla" sailed from Tighnabruaich and Ardrossan there were nine persons on board. It is also almost certain that the ninth, in addition to these already identified, was Hector Johnson of Lochcarnan, Lochboisdale, South Uist.

With this crew the "Aarla" sailed from Tighnabruaich about 7.30 a.m. on 16th June, 1947, and docked at Ardrossan about 12.30 p.m. with the assistance of a pilot who had no complaint to make of the way she handled. Fuel and lubricating oil were taken on board at Ardrossan and the ship sailed from there about 8.55 p.m. on the same day. It should perhaps be mentioned that while Lowestoft was the destination it was intended to call at Torquay. Captain Young advised the owners by telephone from Ardrossan that he expected to reach Torquay late on 19th or early on 20th, and one of the directors arranged to meet him there.

It is now necessary to take up the story from the s.s. "Lairdsdale" which sailed from Ardrossan for Belfast about midnight on 16th/17th June. At 2.29 a.m. on 17th June this vessel had the Ailsa Craig light abeam to port about  $3\frac{1}{2}$  miles distant and a course of S.W. by S. magnetic was set. The "Lairdsdale" was making about 12 knots. There was a strong S.W. wind about force 7 and a rough sea with a short,

heavy south-westerly swell. It was raining but visibility was fairly good. At 2.45 a.m. the helmsman saw a flash of light fine on the starboard bow and reported this to the second officer who was on watch. The latter thought this must be the Maidens Light, but on reference to the chart saw that it could not be. At 2.50 a.m. the second officer saw the masthead light and two deck lights of a ship about 5 miles away fine on the port bow. At 2.55 a.m. these lights were almost dead ahead and course was altered to S.W. by S.  $\frac{3}{4}$  S. At 3.5 a.m. in addition to the masthead and deck lights the starboard light of the vessel was seen then bearing about 2 points on the starboard bow and  $1\frac{1}{2}$  to 2 miles away. Immediately afterwards these lights disappeared. About ten minutes later the second officer heard shouts from the water about 4 points on the starboard bow. He immediately called the captain and stopped the ship. Shouts were heard for about ten minutes. Something like a ship's lifeboat was seen about a cable's length away. No lights of any sort were seen from the water. The "Lairdsdale" remained searching in the area until after 7 a.m., using her searchlight. During this period a large quantity of oil, various wreckage and two bodies were seen in the water. One body was recovered and was later identified as that of Torquil Mackenzie who sailed as a seaman in the "Aarla." Death was later, after post-mortem examination, medically certified as due to asphyxia from drowning. Other wreckage seen by the "Lairdsdale" included a Carley float, a door, 2 oil drums, a red tin, pieces of wood, a ladder, an officer's cap and a lifebuoy with Holmes' electric light attached but not lit. The last three items were picked up by the "Lairdsdale."

The body of Joseph Jeffers, chief engineer on the "Aarla," clad in a lifejacket, was washed ashore near Carradale, in Kintyre, on 20th June, 1947, and the body of F. C. Fane, chief officer, was washed ashore near Lenimore, Arran, on 20th August, 1947. Without detailing other pieces of wreckage recovered by the Portpatrick lifeboat and elsewhere there is no room for doubt that the vessel whose lights were seen from the "Lairdsdale" was the "Aarla," that she sank at the place in question and that all on board lost their lives.

With regard to our finding that the "Aarla" was not seaworthy when she sailed from Tighnabruaich, the age of the vessel, the fact that she had not had a fully opened-out survey (No. 3) since 1933, and her war service must be borne in mind. There is further a history of unremedied and untraced leakage going back at least to her last voyage in 1945. This is established as regards the voyage by the evidence of Captain Williams and the deposition of chief engineer Owens, and as regards the time at Tighnabruaich by the evidence of the two ship-keepers. We are also influenced by their evidence as to her general condition. We have naturally had regard also to the reports of two surveyors, Messrs. Duffy and McGuffie, while realising that their examinations were made afloat. Our finding on this matter, therefore, does not rest on inference from the fact that the vessel sank.

With regard to life-saving appliances, the "Aarla" had two wooden lifeboats. The port lifeboat was damaged to the point of being useless. The starboard lifeboat may have been in fair condition but had probably not been in the water for years. It may well be doubted whether the launching gear was in working order. There was a sufficient supply of lifejackets and lifebuoys. While there is little or no direct evidence that these were not serviceable, their condition is bound to have deteriorated at Tighnabruaich and it is significant, considering the automatic lighting devices with which some were fitted, that no lights in the water were seen from the "Lairdsdale."

In support of the theory that the loss of the "Aarla" was due to an explosion caused by her striking a mine or other explosive object in the water, various arguments were advanced. We think that a drifting sea mine may virtually be ruled out. Unless such a mine exploded at some distance from the "Aarla" it would have blown her to pieces at once, and the detonation of a mine of this sort within seven miles could hardly have failed to be felt in the "Lairdsdale". A very large quantity of surplus explosive ammunition of great variety was dumped in deep water in an area some fourteen miles to the south of the scene of this casualty. There is no doubt that an infinitesimal proportion, but none the less appreciable, quantity of these dumped explosives has since 1946 in some unexplained way been washed ashore on the coast of Wigtown, Ayrshire, Bute and Northern Ireland. We had very full and clear evidence on behalf of the War Department as to the nature of ammunition dumped in this way, the tests made and the precautions taken. No corresponding evidence as to Air Force disposals was available. It is, of course, not clear whether the apparently undoubted movement of some of this ammunition was made along the sea-bed or has resulted from semi-buoyancy. On the evidence before us the possibility of a ship in this area striking an object, not a sea-mine, capable of detonation by the impact and of producing a considerable explosion is not excluded.

It was argued that the first flash of light seen by the "Lairdsdale's" helmsman was consistent, and consistent only, with some such explosion. The sinking of the "Dove" in the same area a month earlier, after almost certainly striking an underwater object, and probably with a resultant explosion, was rightly stressed. Other circumstances relied on in support of explosion were the quantity of small wooden wreckage seen, the fact that the "Aarla" when well on her course was apparently overtaken by disaster somewhat suddenly, and the suggestion, in support of which no evidence was led, that the post-mortem report on the body recovered by the "Lairdsdale" revealed certain internal conditions consistent with exposure to blast.

Upon the most careful consideration of the whole evidence our opinion is that the occurrence of an

explosion is neither established nor negatived. While regretting this indefinite result the matter remains in the realm of conjecture. Even if there was an explosion the condition of the vessel's hull may still have been a contributory cause of the casualty.

It is impossible on the evidence to say whether the loss of all the crew was in fact due to the condition of the life-saving appliances. The captain of the "Lairdsdale" thought that, if guided by lights in the water, he would have been able to pick up some at least of the "Aarla's" crew.

If the owners chose to purchase the "Aarla" on the slenderest information, and without inspection, that was entirely their affair. The decision to risk her and her crew on a voyage to Lowestoft was otherwise. Such a decision should only have been made on the most expert advice, after careful inspection, that the vessel was fit for the voyage. In our opinion the owners were at fault in relying merely on Captain Young's opinion and the Dakar survey report of more than two years earlier. They also failed to take sufficient account of the effect on the vessel and her equipment of her long stay at moorings at Tighnabruaich.

Captain Young was at fault in agreeing to take the vessel to Lowestoft on the strength of his own examination and such other information as he had. He must bear responsibility for the immediate decision to sail from Tighnabruaich and Ardrossan.

We think that the particulars of sale of the "Aarla" were hardly calculated to convey to an intending purchaser how bad her condition was. It may be that steps should be taken, by regulation or otherwise, to secure that unseaworthy vessels, sold to possibly inexperienced or irresponsible owners, should be prevented from putting to sea until rendered seaworthy. We propose to order that the owners of the vessel, Park Lane Court, Limited, should pay the sum of £300 towards the cost of the Inquiry.

Dated this 28th day of February, 1949.

J. Wellwood Johnston, *Judge*.

William Askin Williamson }  
John Wallace } *Assessors*.  
W. J. Nutton }

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