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IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN GRAND CAYMAN
CASE NO. 684-685 of 1983
APPEAL NO. 34/83

BEFORE THE HON. SIR JOHN SUMMERFIELD CBE QC JP
CHIEF JUSTICE

17th October 1983

BETWEEN	SANTIAGO J. FRANCO	FIRST APPELLANT
	ROBERTO BENITEZ	SECOND APPELLANT
	FELIPE TORRES	THIRD APPELLANT
	ESTEVEZ -BISONO VICTOR DE JESUS	FOURTH APPELLANT
AND	REGINA	RESPONDENT

Mr. W. K. Chinsee (with hin Mr. Levy) for second and third appellants.
Mr. H. Hamilton (with him Mr. Levy) for first and fourth appellants.
Mr. Smellie and Mr. Scarborough for the respondent.

JUDGMENT

The four appellants were convicted before the court of summary jurisdiction of the offence of possession, without lawful excuse, of a controlled drug, namely, ganja contrary to section 3 (1) (i) (k) of the Misuse of Drugs Law and of the offence of importing that controlled drug without lawful excuse contrary to section 3 (1) (i) (a) of that Law. The appellants were the captain and crew of a sea going motor boat, Cow Boy 111, which came to Grand Cayman with a concealed cargo of ganja. About 5000 lbs of ganja was involved. The appellants were sentenced to substantial terms of imprisonment and heavy fines were imposed. The vessel in which the ganja was concealed was ordered forfeit to the Crown and deportation orders were recommended.

The memorandum of appeal purports to appeal against both conviction and sentence but no arguments were addressed to the question of sentence in respect of any of the appellants. It is not clear if this aspect has been abandoned.

The grounds of appeal can be considered under two broad heads.

One is that the verdicts are unreasonable and cannot be supported having regard to the evidence or, in the alternative, that the verdicts are unsafe. Under this head a number of findings of fact and inferences drawn by the learned Magistrate were attacked on the grounds, inter alia, that the evidence did not support the finding or inference, that the finding or inference was based on a misinterpretation of the evidence or that there was no evidence to justify the finding or inference. It was further contended that inferences relied on were not the only reasonable inference to draw from the facts from which they were drawn, that wrong inferences were drawn and that the learned Magistrate supplied from his own specialised knowledge opinions on matters requiring expert evidence, being opinions which could not be challenged by the defence and which should not have been acted upon to supplement the prosecution case. This broad head covered a number of specific grounds; indeed, all the grounds specified except one other broad head.

The other broad head was a complaint that parts of a statement by the fourth appellant to a police officer under caution was used against his co-accused and, accordingly, that the learned Magistrate misdirected himself on one of the crucial aspects of the case against the first three appellants.

The main issue at the trial, and on this appeal, was whether the appellants or any of them had knowledge of the presence of the ganja concealed in the vessel. Knowledge alone would not have made any one guilty of either of these offences but knowledge went to the root of whether any of the appellants participated in either or both of these offences. The captain, the first appellant, had in his capacity as captain, possession of the vessel. He had control and dominion over the vessel itself and everything in it of which he was aware. He would, therefore, have been in possession of the ganja concealed in the vessel if he knew it was so concealed or even if he knew that something illicit was concealed in the vessel or if he turned a blind eye to the obvious in terms of the classic phrase used in R v Cyrus Livingston 1952 6

J. L. R. 95. If he had that knowledge, actual or constructive, he would also have imported the ganja as he was responsible for bringing the vessel to these Islands with the ganja concealed in it.

As I understand the position, the crew do not possess the vessel in the same way that the captain does. They do not have control and dominion over the vessel or its contents of which they are aware as the captain does by virtue of being captain and taking command of his vessel. For example, if the pastry chef on the Queen Elizabeth is reliably informed that the captain of the ship has secreted a jar of cocaine under his bed, can the pastry chef be said to be guilty of possession of that cocaine? Could he be charged jointly with the captain with possession of it? I would have thought not. Knowledge of the presence of ganja in the vessel on the part of a crew member in the circumstances of this case would mean that the crew member took an active part, by playing his part as a crew member on the voyage, in bringing the ganja of which he was aware to these Islands. He would be aiding and abetting its importation. Further, if the carriage of the ganja on that voyage was its main purpose, any crew member aware of that main purpose and of the presence of the ganja would be taking part in a joint venture to carry that ganja to its intended destination. Thus he would be aiding and abetting not only its importation but the possession of it. A joint venture can be inferred from all the circumstances of the case.

Knowledge of the presence of ganja in the vessel or, at least, that the vessel was carrying something illicit concealed in it was, therefore, crucial to the case against each appellant. Like any other element in these offences, knowledge had to be proved beyond all reasonable doubt. The onus was, of course, on the prosecution. And as was stressed by learned counsel for the appellants, the case against each appellant had to be assessed quite separately and distinctly. Because one might be guilty it does not follow that another is also guilty. And so the crucial question of knowledge has to be examined in relation to each appellant. Unless knowledge can be imputed to an appellant, beyond all reasonable doubt, then that appellant cannot be guilty of either of these offences.

The salient facts can now be set out.

Cowboy III is a 49 foot fibre glass diesel powered fishing boat. It was well equipped for blue water fishing (hydraulic reels and lines) and with navigational and other equipment (Loran S.S.B. radio etc). It was registered in Florida, home port, Miami. It is interesting to note that the certificate of documentation specifies the use as coastwise fishery. And so, while obviously capable of fairly long distance voyages over open sea in appropriate conditions, that does not appear to be its prime purpose according to its certificate of documentation.

The vessel was owned by Mr. Juan Jose Calvo. At the relevant time it was on charter to Mr. Ramon Cortez who telephoned the first appellant on the 18th May and arranged a meeting. The first appellant did not know Cortez before this. They met on 19th May and on that day the first appellant was hired as captain and navigator of the vessel for a sea going assignment (to use a neutral term at this stage). The first appellant took over the vessel on the morning of 20th May. He had nothing to do with the selection of the crew. The crew were on board when he took command. They had been provided by Cortez. They consisted of the other three appellants. The vessel was already provisioned for its sea going assignment, presumably by Cortez. It was apparently docked at the Marina. The intention was that the assignment would last about 10 - 14 days. The vessel set sail at about mid-day on 20th May. Cortez did not accompany them but was apparently in radio contact with the captain from time to time.

The foregoing is taken from the first appellant's evidence at the trial and constitute admissions on his part.

What happened between the time when the vessel left Miami and its arrival in Grand Cayman is, to a large extent, in dispute.

In the afternoon of Sunday 29th May, the vessel came into

Goerge Town and tied up at the Government Dock. On board were the four appellants. On their arrival they were processed by both Customs and Immigration before going ashore.

Later that evening the Acting Deputy Commissioner of Police, acting on information received, boarded the vessel and had it searched. Nothing was found. The following morning a further search was conducted by several police officers.

There was a green carpet on the deck. This was rolled back. Detective Inspector Connor said in evidence that he noticed that the deck was freshly painted. (It was light blue in colour and there were several tins of paint on board of a corresponding colour). He said he then checked abreast the fuel tanks (presumably meaning the fuel intakes) and noticed that they were patched. With a hammer and chisel he removed the patch on the starboard side and observed that there was a manhole cover. The patch concealing the manhole cover was made of fibreglass. (Unused fibreglass matting similar in appearance to that constituting the patch was found in a cabin occupied by the appellants). Lifting up the manhole cover he saw a quantity of bales in the secret compartment. A similar operation was conducted on the port side with similar results. In all 99 bales were recovered from the secret compartments the contents of which, on analysis, were found to be ganja, over 5000 lbs in weight. Following the discovery of the bales the appellants were told in English that they were under arrest for the importation and possession of vegetable matter resembling ganja. The first appellant who spoke some English thereupon said "I don't know anything about this." The other three appellants did not understand English and so the first appellant explained to them in Spanish what the police officer had said.

This must be said of the secret compartments containing the bales of ganja. They were ingeniously concealed. The area comprising those compartments would ordinarily have been part of the fuel tanks on either side of the vessel. It would appear that the fuel tanks had been tailored to make room for the compartments. In the engine room the inside of the fuel tanks reached down to the floor boards completely

concealing the compartments from view. No ordinary inspection would reveal them. From above, on deck, the manhole covers were concealed by fibre glass patch work. It should also be stated that despite the concealing patch work the blue painted deck was level. It was, therefore, a fair observation in the memorandum of appeal that the ganja discovered was hidden in such a way that an innocent occupier could not have known of its presence and could not have discovered it by the exercise of ordinary care and prudence. And it was the case that the first police search on the Sunday evening did not result in discovery of the secret compartments.

I can now turn to the passages in the learned Magistrate's reasons for decision relating to the crucial issue before him and the criticisms of them. He said,

> "Having weighed and evaluated the evidence and the demeanour of each witness, I found that the prosecution had discharged its burden of proof having proved much more than mere occupancy. The prosecution had adduced numerous facts from which could reasonably be inferred that all the accused were knowingly in control of the drug. I list below some of proven facts and inferences drawn therefrom:
> (1) Five thousand pounds of ganja loaded in the aft section of a relatively small boat, 50 ft in length. Reasonable inferences drawn, that the Captain knew of its presence aboard.
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> (2) The minor fault with the sticking injector was not sufficient to necessitate a trip from the Mysterosa Banks to Grand Cayman. Having accepted Captain James Ebanks' evidence that they could have made it without coming in, the reasonable inference, the vessel came into Cayman for some other reason.
> (3) The absence of any brush or rollers on board for painting purposes, although so much paint was provided and apparently some was used. Reasonable inference drawn, that the wet brushes or rollers had been discarded.
> (4) The absence of any bait on board for the purpose of catching fish, the large amount of rotten fish aboard as testified to by Captain Ebanks who dumped over 100 lbs and Alzee Walton who dumped over 800 lbs. The run down condition of all the fishing equipment which the court viewed. Reasonable inference, the fish aboard was a camouflage, a cover up for their main activity.
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> (5) The two large plastic containers placed on deck directly above the concealed manholes. Reasonable inference that they were there to conceal any visible traces of the manhole covers.
>
> (6) The fact that four men had been together on this boat from their departure from Miami, a relatively small vessel under the circumstances, reasonable inference, that they all knew of the ganja aboard and had control over it.
>
> (7) I applied the principle of Law stated in Archbold's 39th Ed. Paras 1399 and again at Para 4077. I quote: "The acts and declarations also of any of the conspirators in

> furtherance of a common design may be given in evidence against any other conspirator. R. V. Blake 6 Q. B. 126 and this principle applies when the charge is one of a crime committed in pursuance of a conspiracy whether the indictment contains a count for conspiracy or not, and it makes no difference as to the admissibility of the act or declaration against the defendant whether the former be indicted or not, as tried or not." Reasonable inference drawn, that the boat with all four defendants stopped at an island immediately before coming to Cayman.
>
> (8) The presence of four tins of blue paint, one already partly used and similar to the paint on deck with wet traces, the pieces of fibreglass similar to that laid on deck, the sheers with traces of fibreglass on it's blades, all found lying in a berth in the cabin occupied by the four defendants. Also the container of resin on deck similar to that used on the fibreglass in lying down the covering of the deck to conceal the secret compartment. Reasonable inferences (1) That all four were involved in, or had personal knowledge of the concealment of the ganja. (2) That it was done during the stop at the island.".

Point (7) must be read in conjunction with an earlier passage:

> "Later in a caution statement, Exh. 23 Estevez Bisono stated inter alia "We went to an island, I don't know where it is or what the name of the island. We reached there about 6:30 the evening. We tied up to a dock in a medium sized port. We left the boat until we returned. When we returned on board we went out to sea until we reached here" Enquote.".

Dealing first with point 7, I accept the contention of learned counsel for the defence that this was a misdirection. The statement given under caution by the fourth appellant after the conspiracy had been thwarted - assuming a conspiracy to have been established - cannot be said to be an act or declaration of a conspirator in furtherance of a common design. It could not be evidence against any of the other three appellants. It was, therefore, a misdirection. The main question to decide is what effect that misdirection has on the verdits.

Learned counsel for the respondent put forward an ingenious argument in support of the direction. It was urged that it was not the statement that had been used in evidence against the co-accused. The statement had admitted an act, namely, that the boat had stopped at an Island immediately before coming to Cayman. That act, and not the statement, in furtherance of the conspiracy could be used in evidence against the co-accused. Ingenious as that might be, in the end one cannot get away from the fact that it

was the statement itself which supplied the evidence which was taken into account against the co-accused.

Of course, one recognises that the application of the principle can lead to absurd consequences in terms of logic. If the admission that the boat went to an Island can be used against the maker of the admission, it seems illogical to so use it and disregard the consequences in relation to the other co-accused. If he went on the boat to an Island in the course of the voyage then presumably the other three must have done so in the course of the same voyage as well. Be that as it may, the principle is clear from a line of cases, R. v. Blake 6 Q. B. 126 being one. How it is to be applied is well established and the illogicalities must be ignored. The strictness with which the principle must be applied becomes more understandable when one recalls that the principle itself is an exception to a general rule. As it is, point 7 amounts to a misdirection.

I turn now to the other points in the passage quoted. I need not go through them seriatim. The short answer is that I accept that the criticisms made by learned counsel for the appellants with regard to those facts and inferences are valid ones. In particular, some of the inferences were not justified on the facts from which they were purportedly drawn and others were not the only reasonable inferences to draw from the facts relied on. There were also some inaccuracies in the evidence relied on.

The important question is: what is the consequence of this court taking that view? Is that, in itself, the end of the matter? Does it follow inevitably that the appeals must be allowed?

An appellate tribunal cannot allow itself the luxury of taking the easy course of throwing in the sponge when several misdirections are brought to notice. It must examine the case as a whole and determine whether any miscarriage of justice has

resulted; whether in consequence of the misdirection the verdict should not be allowed to stand because the basis for it has been undermined or because it is unreasonable or because it would be unsafe to allow it to stand.

In this regard it is important to distinguish between an appeal from the verdict of a jury and an appeal from the verdict of a magistrate who is judge of both fact and law. In the case of a jury, its verdict is either guilty or not guilty. An appellate court cannot say what specific facts the jury found on the several issues before it. If there is a misdirection in law or a serious misdirection in fact an appellate court may not be able to assess its effect on the verdict or whether a correct direction would have resulted in the same verdict. In the case of a magistrate his reasons will usually detail a number of specific facts found by him. Even if some of them are not justified, an appellate court can examine the remainder and determine whether they support the verdict and, if so, whether they should be allowed to in the light of any error.

One must also bear in mind that a magistrate is not required to, and normally would not have time to, set out the basis for his fact finding, his reasoning and the law with the detail and precision one would expect from a Court of Appeal judgment. His fact finding is usually abbreviated and so, often, in his reasoning. He does not spell out all the principles guiding him. It is often unnecessary, also, to spell out the law on any particular matter. An appellate court can assume that on a guilty verdict the magistrate has found all disputed facts which go to the root of the verdict in favour of the prosecution. While R. v. Connell 1971 1 J.L.R. 578 relates to a case where a magistrate did not record his findings of fact, similar principles must apply when a magistrate does so. He may only record the salient facts. Other disputed facts which would undermine the verdict if found in favour of an accused person must be assumed to have been found in favour of the prosecution by reason of the verdict.

Appeals from a magistrate can be brought to this court in

one of two ways - by motion on matters of law or fact or by way of case stated on a point of law alone; section 156 of the Criminal Procedure Code. This is not an appeal by way of case stated. It must be treated as an appeal by motion.

Section 170 of the Criminal Procedure Code provides, inter alia, that on an appeal by motion this court may draw inferences of fact from the evidence given before a summary court. It also provides that this court may decide the appeal with reference both to matters of fact and matters of law.

Section 176 provides:

> "176. In any case of appeal the court may hear and determine the case upon the merits, notwithstanding any defect in form or otherwise in the conviction, order or judgment, and if the appellant is found guilty the conviction, order or judgment shall be confirmed and, if necessary, amended.".

This court is entitled to use its common sense. It is entitled to draw proper inferences. It is entitled to take judicial notice of matters of common knowledge.

It is entitled to take judicial notice of the fact that a soundly built boat floats on water; the heavier the cargo in it the lower into the water it sinks. It is entitled to take judicial notice of, say, the approximate population of this Island which means that one can dismiss the possibility that that ganja was destined for Grand Cayman. It was enough for nearly a third of a pound for every man, woman and child on this Island. We are not all pushers. This Court can also take judicial notice of the fact that that quantity of the ganja does not get concealed in a boat in the way it was by accident.

Without intending any disrespect to anyone I think that some errors have crept into this case because of a certain amount of straining at gnats and swallowing camels - and I do not exclude the prosecution from that observation. Some important factors have

have become clouded over with minutae.

One thing is certain. This operation was no small time venture to sneak in a few pounds of ganja concealed in the false bottom of a suitcase or in a wooden carving. It must have had big money behind it. It was well organised, cleverly contrived with purpose built secret compartments ingeniously concealed to execute the operation.

One can take judicial knowledge of the fact that the traffic in ganja is not from Miami to this part of the world and places to the south. It is the other way round. Clearly, the boat with the concealed ganja was destined for Miami. The four appellants admit that the boat was destined, next stop, for Miami both in their statements and on their immigration forms (Form 11) where they specify that they are in transit to Miami. Of course, they give a reason for being here on their way to Miami, following a fishing expedition to the Mysteriosa Bank, which will be examined.

As to the fishing expedition part of the prosecution case was that it was camouflage for the main purpose. Points were made about the absence of bait, ineffective fishing gear, rotting fish to be discarded and the economics of the venture. However, the fact remains that a considerable quantity of fish was caught. The absence of bait and some other factors relied on are open to a variety of explanations.

From the point of view of the charterer even a lay person can infer from general knowledge that it was obviously not a very attractive economic venture. The maximum catch would, on the evidence, be about 5000 lbs. The third share said to be the charterer's share would, therefore, be less than 1,700 lbs at best. Presumably that quantity would be sold wholesale and at wholesale prices. Against that, the charterer had fueled the vessel with some 2,100 gallons of dieseline, loaded 6,000 lbs of ice to keep the fish fresh, provisioned the vessel for four men for fourteen days to say nothing of the cost of chartering a 49 footer of this kind for 14 days - which everyone must know is not cheap.

However, to make this point effectively the prosecution should have led evidence of the wholesale price for 1,700 lbs of deep sea fish, the cost of the dieseline and and ice sold wholesale and the average cost of chartering of a boat of the kind involved. That was not done and so very little weight, if any, can be placed on that aspect. Clearly the captain and crew stood to benefit from their share of any catch. Whether they realized that it might not be a viable proposition from the point of view of the charterer is a matter of conjecture.

The important point is whether fishing was the main purpose of the expedition. If not then the fishing was a secondary purpose, either as camouflage or to remunerate captain and crew, or both. If the vessel was chartered to pick up 5,000 lbs of ganja and bring it to Miami then quite clearly that would have been its main purpose. It is a pity that evidence was not led as to the value of that quantity of ganja. This was certainly the type of case where the value (whether wholesale, middle man or street value) was a relevant fact. However, judicial notice can be taken of the fact that ganja is a valuable commodity. From cases which came before the courts and general knowledge one knows that the street value of that quantity of ganja in this area is well in excess of one million dollars. Bearing in mind the quantity, the value and the expert concealment there can be no doubt that the prime purpose of that venture was to carry the concealed ganja to Miami. The fishing was secondary, either as camouflage or additional remuneration - probably the former as it could dispel suspicion if the vessel were to be stopped by the Coast Guard and, on a mission of this nature, it is doubtful if penny pinching measures to remunerate the crew with a proportion of the fish caught is either necessary or credible. Be that as it may, the main purpose of the voyage was the carriage of the concealed ganja to Miami unless, of course, it was for some reason already in the boat when it left Miami.

One can now turn to the Crux of the case. It is inconceivable that that ganja was concealed in the vessel as it was when it left

Miami on 20th May. Ganja in that quantity does not get where it was on the vessel by accident. If it were in Miami on the 20th May then either the owner or the charterer would have known it was where it was. What possible reason could there be for sending the boat on fishing expedition with over a million dollars worth of ganja concealed in secret compartments? If it was in the boat in Miami then it would already have run the gauntlet of the Coast Guard. The boat would have been cleared after its previous voyage. The ganja had arrived; mission accomplished. The next this would be to get ashore somewhere. It would be nonsensical to send the vessel off on afishing venture once more to face the risk of an inquisitive Coast Guard and further clearance on return from outside territorial waters. And to send it on such a mission under a captain not known before to the Charterer would compound the risk to the valuable cargo. The suggestion that the vessel might have been "hot" and was sent out with an innocent crew to get it out of the way for a while does not bear scrutiny. If it were 'hot' it would get no cooler during a fishing voyage. The crew would be returning it in the same condition and, if it were suspect, one would expect additional scrutiny on return.

It follows that one must discount the possibility of the vessel having left Miami with the ganja concealed in the secret compartment and that is a major finding of the learned Magistrate in his reasons for decision. This court can examine the consequences of that finding in the light of the other evidence.

The only alternatives are that the ganja was loaded on board and concealed while the vessel was on the high seas during the voyage or that the vessel stopped at some place where the ganja was loaded on to it. If the ganja was loaded on board while the vessel was still at sea then that operation could not possibly have been carried out without the knowledge of the captain and all members of the crew; and no doubt they would have assisted Therefore, one need only examine the other alternative.

The vessel would have had to have docked or moored somewhere

for the 99 bales to be loaded on to it. That place need not have been an Island as the learned Magistrate held. It could have been a place on the mainland of South America or in Central America. That is immaterial. However, commonsense dictates that it is unlikely that the loading of 99 bales of ganja would have taken place at one of the main ports or docks of any country with all the attendant risks that that would involve. One would expect some discretion to be exercised. Loading would take time. The secret compartments had to be given fibreglass covers flush with the deck. It would take time for that to dry and harden. The deck and to be painted. That paint had to dry (very little paint got on to the covering green carpet). Those operations take time. The paint corresponded in colour with paint found on board. The plastic matting used corresponded with matting found on board. The evidence of the paint expert called by the defence was rejected and so reliance cannot be placed on it, but it is common knowledge that these operations take time.

Could all that possibility have been done without the knowledge of the captain or members of the crew? So far as the captain is concerned, it would be impossible. He would have had to have been instructed to visit a pre-arranged place. He would then have taken the vessel there. People intending to load such a cargo in concealed compartments could not leave it to chance that the captain might leave his boat for a sufficient length of time for all that to be done. He is, after all, in command of the vessel and would want a convincing reason for leaving it for any such operation to be performed. One need not pursue the question of whether, if that had happened, he would have realised on his return that the boat was some two tons heavier. As to the crew, if this expedition had been held out to them as a fishing venture to the Myteriosa Bank, they would no doubt have made enquiries about an apparent change of plan to stop at some country. Could it have been left to chance that they might leave the boat for a sufficient length of time for the operation to have been carried out in their absence? If that had been the case then one would have expected that to have been the explanation they gave to the court.

Which leads to the final point in relation to the second alternative. Given that the vessel visited some country after it left Miami and before arriving here, if that visit was for an innocent purpose why conceal it? The same question can be asked of all the crew members if the visit to some country was made and they were told to leave the vessel for an extended period of time. The fact that they lied about the mission, saying that no other place was visited, that it was purely a fishing venture, with engine trouble (or lack of fuel) the cause of a diversion here, reveals their guilty knowledge of the venture and the operation which took place at the place visited. There can be no other reason for concealing a stop at some other country. The fourth appellant in his statement under caution did put forward an innocent explanation on these lines, but he resiled from it in his statement from the dock at the trial and fell in with the other explanations which excluded any stop at any other country.

The clear inference is that this was a joint venture to run this ganja into Miami all having knowledge of the main purpose of the venture. At the very lowest one or other member of the crew was turning a blind eye to the obvious. The main facts rule out innocence on the part of any of the appellants. The very explanation they gave in the face of the irresistible inferences fixes them with guilty knowledge. There can be no explanation for the lies except to conceal knowledge of the true purpose of the trip.

Once these firm areas are grasped, based on findings by the learned Magistrate, inferences from them and his rejection of the defence version, then the misdirections complained of are of little significance to the case. The pillars that hold the roof up are sound. It is immaterial that there may be some defects in the brick work between the pillars. One does not have to rely on the fourth appellant's statement under caution to find that the vessel visited another country inthe course of its so-called fishing trip. It is the only

reasonable inference from the facts except the more damaging one that the ganja was loaded on the high seas.

In the face of the obvious inferences one does not have to worry about the reason for the vessel's visit here, the absence of used paint brushes or rollers, the absence of bait or the rotting of fish, where the water containers were lashed on deck and so on.

The case is clear without those minutae. There can be no ground for intervention by this court. There has been no miscarriage of justice.

The appeals against conviction are dismissed in respect of each appellant.

SIR JOHN SUMMERFIELD.

2nd November 1983.

Sentencing

Mayor prior sentence justified Law provides for higher sentence on 2nd offence.

Brandy Fine a bottle, should not operate to increase sentence.

Fine for second offence is about $25 in each, maybe.