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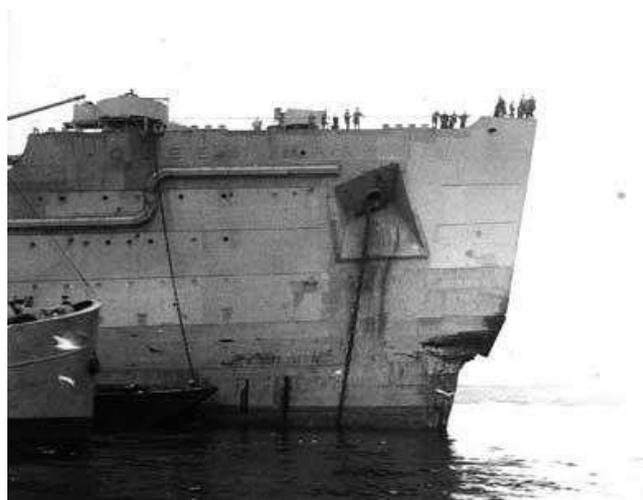
## **THE COLLISION BETWEEN H.M.S. CURACOA AND R.M.S. QUEEN MARY**

This tragic accident occurred on the afternoon of 2nd October, 1942, and for obvious reasons was for many years a closely guarded secret. Even now it is probable that there are many who are not familiar with the details of the case, which apart from the magnitude of the disaster, deserves study by N.D. Officers, who must always bear in mind their far-reaching responsibilities as advisers to their Captains on the text and interpretation of the Regulations for Preventing Collisions at Sea.

It is intended to divide this account into three parts, the first to give a brief narrative of events leading up to the collision, the second to record certain incidents on the bridges of the two ships that are considered to have had a bearing on the accident, and the third to give a precis of the legal arguments by which Lord Justice Porter reached his final judgment in the House of Lords.

In the various Courts there was disagreement on certain points of evidence; in this account only the facts as finally accepted by the Judges will be stated.

### **I—NARRATIVE**



R.M.S Queen Mary's bows after the collision

The collision took place at a position about 40 miles northward of Tory Island, off the north coast of Ireland, shortly after two o'clock on the afternoon of 2nd October, 1942, in broad daylight. The weather was very fine and clear with a moderate north-westerly wind and heavy swell from the west. The Queen Mary was on a voyage from the United States to the Clyde carrying 11,000 American soldiers; Curacoa had met her at 9 o'clock that forenoon to act as anti-aircraft escort over the last part of her voyage.

At this time Queen Mary's maximum speed was 28.5 knots and Curacoa's about 25 knots. Their tonnages were 81,235 gross and 4,290 displacement respectively. The former was carrying out Zigzag No. 8, giving her a speed made good of 26.5 knots on an intended Mean Line of Advance of 108°. Soon after the vessels were in sight and some 10 miles apart. Curacoa turned to the eastward and worked up to full speed. It was her intention to steer a steady course and allow Queen Mary gradually to overtake her (which she would do at a relative speed of about 14 knots) in order to remain in close touch for as long as possible and so fulfil the function of A.A. escort without the Queen Mary having to reduce speed, her chief protection against submarine attack.

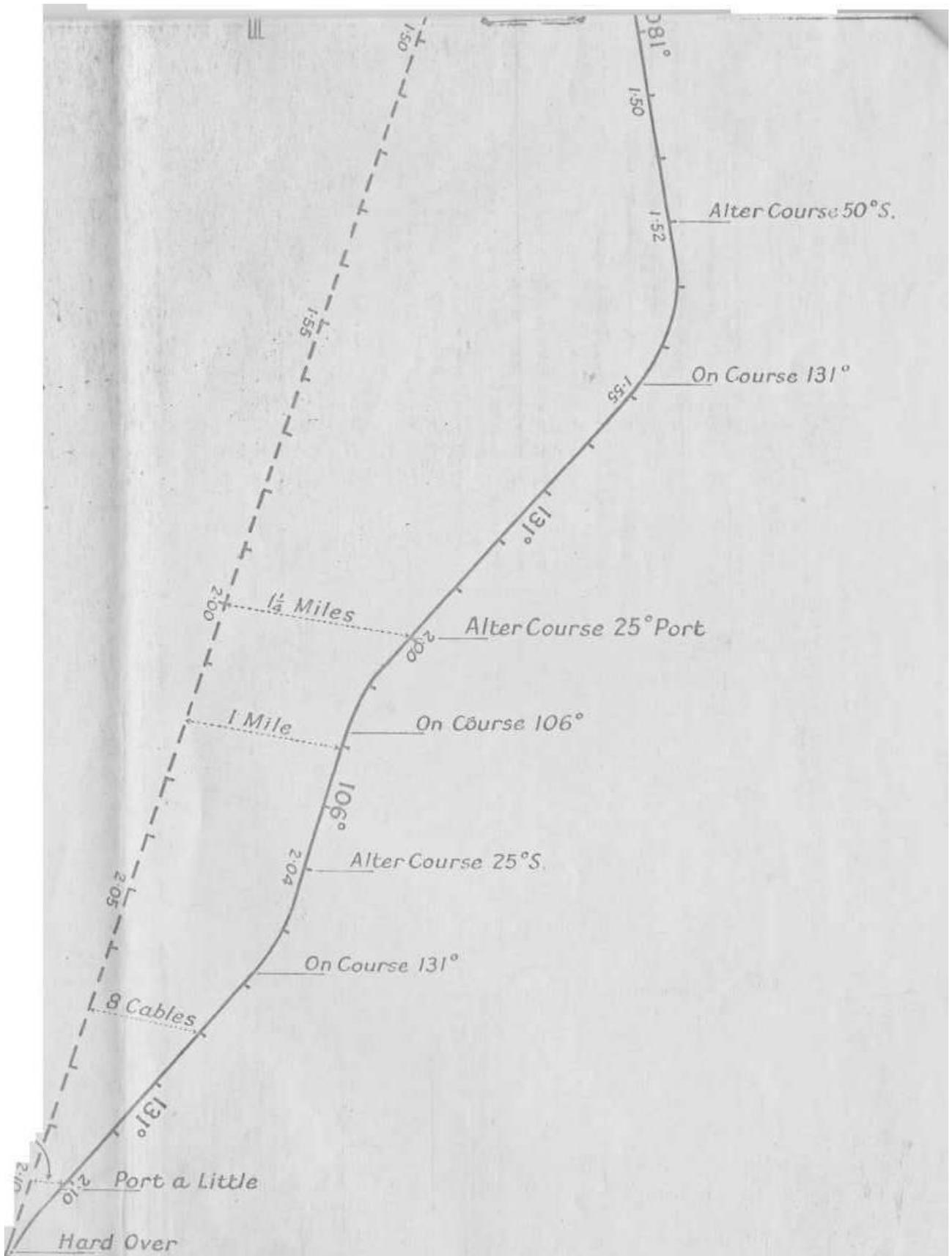
In accordance with the zigzag diagram Queen Mary turned to the mean course at 1400, at which time Curacoa was approximately 1 mile on her starboard side steering a parallel course but yawing about 7° either side in the heavy following swell. At 1404 the Queen Mary commenced altering 25° to starboard, steadying on her new leg (131°) at 1407. The ships were then converging at an angle of 23', and approaching each other at a rate of 2 cables a minute. Neither appears to have appreciated the danger until between 1410 and 1411, when the order "Starboard 15°" was given in Curacoa, and "Port a little" followed a few moments later by "Hard-a-Port" in Queen Mary. Shortly before 1412 Queen Mary struck the port side of Curacoa some 150 feet forward of her stern, at an angle of about 30 degrees. Curacoa, thrown round and cut in two, sank almost at once with the loss of three hundred and thirty-one of her crew of four hundred and thirty.

## **II—SOME RELEVANT INCIDENTS**

The orders issued by the Operational Authority in New York to the Captain of the Queen Mary were to follow a given route at full speed and to zigzag. The zigzag was not stipulated, but this was not the first occasion on which Curacoa had escorted Queen Mary, and it had previously been agreed by their Commanding Officers that No. 8 was the most suitable.

Having effected the rendezvous at 0900 on 2nd October Curacoa asked Queen Mary her course and speed made good, the reply being 108° 26.5 knots.





In fact Queen Mary's compass was 2° high so that throughout the relevant period, from 0900 to 1412, her true M.L.A. was 106°, and is shown as such on the track chart. The result of this was that the courses of the ships tended to diverge, and Curacoa twice made a small temporary alteration to the northward, but the error is not considered to have had any direct bearing on the subsequent events.

About 1220 Curacoa signalled "I am doing my best speed 25 knots on course 108°. When you are ahead I will edge in astern of you". By 1330 Queen Mary was close Astern of Curacoa and approaching the end of the southern leg of her zigzag on a course of 131° (true), and due to alter to 081° at 1332. The Officer of the Watch in the Queen Mary at this time, the Senior First Officer, considered he was too close to Curacoa to carry out the full swing of 50° and steadied on 101°. At this moment he was relieved by the Junior First Officer in order to get his lunch. This officer commenced to turn to port to complete the leg of the zigzag but then decided that he also did not like the look of things and ordered "Hard-a-Starboard", hearing which the Captain of the Queen Mary came on the bridge. Having taken stock of the situation he ordered the zigzag to be continued with the words "Carry on with the zigzag. These chaps are used to escorting. They will keep out of the way and won't interfere with you". The Queen Mary was thereupon turned to 081° and passed safely under Curacoa's stern - about 4 to 5 cables distant.

The Senior First Officer of the Queen Mary returned to the bridge at about 1409 and took over the watch. Even at this stage neither he nor his temporary relief appears to have appreciated that a dangerous situation was rapidly developing, and the only remark made by the Junior First Officer before he left the bridge was "Course 131, same speed". It was not until about a minute after he took over that the Officer of the Watch of the Queen Mary took any action, by which time the ships must have been about 2 cables apart. He then gave the order "Port a little", partly because he thought the ships were getting rather close and partly to ease the ship into her next turn (50° to port) due at 1412. A few moments after this initial order he realised the full danger and gave the order "Hard-a-port," but Queen Mary's head had only swung about 10° before the ships struck.

Meanwhile on the bridge of Curacoa a similar conviction that the other ship would give way had prevailed. So firm was this belief in fact, that no attempt had been made to confirm which zigzag diagram Queen Mary was carrying out. To a certain extent this was done in order to avoid giving the impression that Curacoa would keep clear. Nor was any close watch kept on the liner's movements. Consequently when at about 1409 the Captain of the Curacoa noticed Queen Mary had swung towards him, he and his officers considered it was merely a yaw. Later it became apparent that this was not so, and the Captain took charge and ordered "Starboard 15°". Unfortunately at this moment his ship was yawing and was 7° to port of her course, and there is no evidence that this order ever had any effect. As far as is known this was the last order given in Curacoa except that it is possible that when collision became inevitable her wheel was put to port.

As Lord Justice Porter vividly put it “if this was so, the Captain of the Curacoa cannot be blamed for attempting, in the agony of collision, to swing his stern clear of the Queen Mary by port wheel action”.

### **III - THE LEGAL ASPECT**

The case was first heard in the Admiralty Probate and Divorce Court in January 1947, when the Admiralty brought an action for damages against the Cunard White Star Company. In this court Mr. Justice Pilcher found the Curacoa alone to blame. The Admiralty appealed against this decision and in July 1947 the Court of Appeal altered the finding of the lower court to the extent that two-thirds of the blame was attributed to Curacoa and one-third to Queen Mary. Still convinced that there was a good case, the Admiralty took it to the highest tribunal, the House of Lords. Here on the 8th February, 1949, the Appellate Committee of five Law Lords dismissed the appeal and upheld the finding of the Court of Appeal. The principal judgment was given by Lord Justice Porter who argued the case with great clarity but also at great length, and this is an attempt to present in brief the reasoning by which he reached his decision.

The case must be considered not only from the point of view of the Regulations for Preventing Collisions at Sea but also of the particular circumstances of the operation of war that the two ships were carrying out at the time. Queen Mary's orders were to steer certain courses and to zigzag, Curacoa's to provide anti-aircraft protection.

At this stage of the war there were no definite instructions laid down governing the conduct of escorts and convoy but the Nautical Assessors at the hearing (a body of senior naval and merchant service officers available to advise the Law Lords on technical questions), when asked if it was the recognised practice in multiple convoys for the escorts to keep clear of the ships they were escorting, stated categorically that this was so. To the further question of whether this applied to the escort of a single ship by a single ship, they replied they had no experience and were unable to answer.

If, however, Curacoa was to give as great protection as possible to Queen Mary she must maintain a position within the limits of the liner's zigzag in order to be near at hand in the event of air attack. To overtake the cruiser safely under those conditions it was inevitable that at some time Queen Mary would have to interrupt her zigzag. The Captain of the Curacoa, while maintaining that it was not his duty to give way, admitted that it was incumbent on him to avoid embarrassing Queen Mary. The Captain of the Queen Mary on the other hand was quite clear in his own mind that Curacoa would keep clear of him, and although the officers in charge of Queen Mary at 1332 were prepared to give way when they considered there was danger of collision, no deduction can be made from this as she was altering course at the time.

From the operational viewpoint therefore, Lord Porter considered it was the safety of the Queen Mary that had to be provided for and if necessary Curacoa must sacrifice herself in this cause.

As far as the Regulations for Preventing Collisions were concerned there were four that could be considered relevant, Nos. 21, 24, 27 and 29. They run as follows :—

- Rule 21: Where by any of these rules one of two vessels is to keep out of the way, the other shall keep her course and speed.
- Rule 24: Notwithstanding anything contained in these rules, every vessel, overtaking any other, shall keep out of the way of the overtaken vessel.
- Rule 27: In obeying and construing these rules, due regard shall be had to all dangers of navigation and collision, and to any special circumstances which may render departure from the above rules necessary to avoid immediate danger.
- Rule 29: Nothing in these rules shall exonerate any vessel, or the owner, or master, or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep, a proper lookout, or of the neglect, of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

Lord Porter argued that Queen Mary was clearly an overtaking ship within the meaning of Rule 24, but held that both Rule 24 and Rule 21 were overridden by the special orders given to Queen Mary by an authority acting under powers conferred by the Emergency Powers (Defence) Act of 1939. At the same time he did not consider there were such impelling reasons for this divergence from the rules as to demand that they should apply "in reverse", i.e. that as Curacoa could not be treated as the stand-on ship she must therefore be the "give-way" ship and so devolve on Queen Mary the duty to stand on.

If then, Rules 21 and 24 are set aside Rules 27 and 29 must be applied. The "special circumstances" mentioned in Rule 29 need not be limited to those immediately connected with a collision, but were ruled to be sufficiently wide to cover the relationship between convoy and escort. The issue, then, is reduced to one of what action was required by "the ordinary practice of seamen"

To determine the mutual obligation and liabilities dependent on good seamanship, coupled with the fact that Curacoa should primarily be prepared to give way, the Law Lords posed a series of questions to the Nautical Assessors. These dealt with such considerations as the latest time at which each ship should have taken positive avoiding action and the precise nature of that action.

The following verbatim remarks of Lord Justice Porter are the conclusions he arrived at after considering the answers to these questions.

“On the answers given by the Assessors it is plain that both ships were to blame. The look-out in Curacoa was obviously faulty. She ought to have realised immediately the Queen Mary steadied on her course of 131° that the vessels were converging at an angle of not less than 2 points, and ought to have taken steps to alter to starboard not less than 2 points. So far from following this course she took no step until the vessels were at the most 4 cables, and possibly no more than 2 cables apart. Moreover it is apparent that she failed to realise the ships were converging until they were no more than 4 cables apart. On the other hand Queen Mary in these circumstances ought to have acted, when at a distance of not less than 5 cables, and should then have altered her helm hard-a-port.

But indeed, I doubt, so far as Curacoa is concerned, if she could be held free from blame even though she were the stand-on ship. It is plain that the Queen Mary, owing to her length, would be slow to turn, and that owing to her speed it would be almost impossible to take any appreciable way off her for a considerable time. The Curacoa on the other hand was very much shorter and more handy to manoeuvre. Some time after it would be impossible for Queen Mary by her own unaided action to avoid collision, the Curacoa alone could have done so. Therefore, even if she were the stand-on ship, she ought to have recognised long before she took action that the Queen Mary's unaided action could not have avoided a collision. So far as the Queen Mary is concerned reasons have been given for the view that she was under no duty to keep her course and speed, and, even though in my opinion good seamanship and the circumstances of the case required Curacoa to be under the primary duty to give way, I do not think Queen Mary can be excused from all blame. She ought to have acted at not less than 5 cables instead of waiting until within a minute of the collision. In these circumstances Curacoa was plainly at fault in failing to recognise the change in bearing of Queen Mary at or soon after it occurred, in failing to take action until long after the moment at which risk of collision had begun, and in taking insufficient action when she finally altered her course. Queen Mary is also to blame for failing to recognise that an imminent risk had arisen 1.5 minutes before she ported at all, in failing to port sufficiently and in the failure of the Officer of the Watch to call the Captain at a time when he ought to have realised that to continue the zigzag in accordance with what he believed to be the Captain's instructions was involving the ship in the immediate risk of collision.

I suggest therefore that your Lordships hold, as did the Court of Appeal, that the Queen Mary is one-third and the Curacoa two-thirds to blame.”

C.P.Y.