

UNITED STATES COAST GUARD

ADDRESS REPLY TO:
COMMANDANT
U. S. COAST GUARD
HEADQUARTERS
WASHINGTON 25, D. C.



20 April, 1950

FILE GH5-2/4

(CONSTANCE a-1)

From: Chief, Merchant Vessel Inspection Division
To: Commandant
Via: Chief, Office of Merchant Marine Safety
Chief, Office of Operations
Subj: Marine Board of Investigation; foundering of Motorboat 4M579 (CONSTANCE)
in Nantucket Sound on 9 September, 1949, with resultant loss of life.

1. Pursuant to the provisions of Title 46 C.F.R. Part 156, the record of the Marine Board convened to investigate subject casualty, together with its Findings of Fact, Conclusions and Recommendations has been reviewed and is herewith forwarded.

2. The Motorboat 4M579 (CONSTANCE), approximately 7 gross tons, 38 feet length, 9 foot beam, built in 1934, usually employed in the carriage of passengers for hire on party fishing excursions and commercial fishing, departed from Nantucket Harbor at about 1615 with 11 passengers and 1 operator on board, bound for Falmouth, Mass. At the time of departure the sea and weather conditions were favorable but threatening. Shortly after departure a head wind increased in intensity and created a dangerously rough sea for the vessel. Approximately 45 minutes after departure a boarding sea flooded the forward cockpit, causing the vessel to become bow heavy, and shortly thereafter additional seas boarded the vessel causing her to founder. The 11 persons on board, equipped with adequate life preservers, abandoned the vessel and remained in the water until the next morning. While immersed in the water 9 passengers perished from exposure, exhaustion, and drowning.

3. As the result of this casualty the following 9 persons aboard the Motorboat 4M579 (CONSTANCE) lost their lives.

Leighton B. Allenby
Mabel Marie Allenby
Hubert A. Allenby
Emily Foster
Jane M. Munge

John K. Hadley
Patricia Dickinson
Robert M. Hairs
Millicent M. Hairs

4. The Board made the following Findings of Facts:

"(1) The motorboat CONSTANCE and nine persons out of a total of eleven persons on board were lost in Nantucket Sound between 8:00 P.M., 9 September and 10 September, 1949, at 10:00 A.M.

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(2) The motorboat CONSTANCE was a numbered vessel of trunk cabin design, 38' long, 9' broad, 3' draft; built in 1934 of wood by American Car and Foundry Company, Wilmington, Delaware. It was owned and operated in the business of "party fishing for hire" by Carl Palmer of Palmouth, Mass., who had recently repowered her with twin Mercury engines of 100 H.P. each.

(3) The Certificate of Award of Number to the undocumented vessel, 42579, permitted the vessel to engage in Commercial Fishing.

(4) The testimony of all witnesses indicates that the weather at the time and on the scene of the casualty was equally with intermittent rain and powerful gusts of wind and that the inclemency of the weather with consequent poor visibility was the case throughout the hours of darkness on September 9 and 10.

(5) Hubert Alfred Allenby in an uninterrupted narrative account of the casualty testified that the CONSTANCE left Bartucket at about 4:15 P.M. on the 9th of September, 1949 in a moderate sea and fair weather broken by occasional rain squalls. He said that at about 5:00 P.M. the sea was quickly whipped up by a sudden violent wind; that at that time he noticed a small sail boat on the port bow, possibly in distress, and the CONSTANCE with Russell Palmer at the helm altered course to the left toward the said sail boat. He said that the sea continued to get rougher and although considerable spray was whipped across the boat he felt no concern; that the starboard engine stopped as a result of wetting of the ignition system, and the intention of giving aid to the sail boat was abandoned for the more pressing need of attention to their own craft. He testified that thereafter the situation became increasingly more dangerous and the vessel made water fast; that the forward cockpit was pretty well filled, and with the port engine running the boat was held more or less to the sea; that so much water was being shipped the boat was swamped; that the occupants took to the water at about 5:05 P.M. with two life preservers each and were bound together with a mooring line; that the anchor had been dropped and the party held onto the unused, bitter end of the anchor line trailing in the water; that preparations were made for a possibly sustained period of immersion before rescue; that in the course of time he, Hubert Alfred Allenby, lost his grip on the trailing line and never recovered it; that he had been holding this line so that the party in the water might retain contact with and in the shelter of the wreck. He said Russell Palmer, the operator swam to the wreck and that he saw him attempting to get out another line to pass to the party in the water; that darkness enveloped the sea and the boat and Palmer became lost to the party's view. Continuing his testimony, Hubert Alfred Allenby said that his father, Hubert Alphense Allenby, died of

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exhaustion sometime after 9:00 P.M. on the 9th; that between midnight and dawn four more of the party, Leighton Allenby, Jack Hadley, Patricia Dickinson and Jane Minge, succumbed to the elements and exhaustion; that by daylight five persons were left alive. He said his mother, Mabel Marie Allenby, died soon after daylight; that later the four surviving persons, Hubert Alfred Allenby, Emily Foster, Robert Haina and Millicent Haina, made out the land and attempted more or less to swim the distance estimated to be two miles; that while the attempt to make shore was underway and the four persons were still alive they were buzzed by a plane and the swimming was abandoned; that soon afterward and while the four persons were still alive but weakening rapidly an approaching boat was observed (Coast Guard Surf Boat). He said the boat circled them, came alongside and drew Emily Foster apparently lifeless from the water first, himself, Allenby, second; that attempts to pick up Millicent and Robert Haina were defeated by the violence of the sea; that both appeared to be lifeless at the time these attempts were made; that the boat was rowed ashore and that he, Allenby, was hospitalized. Upon further questioning Allenby testified that the CONSTANCE had been hired for the day, his father arranging details; that the sea filled the boat with water so fast that it was useless to attempt to pump it out; that no pumping was done; that no previous trouble with the engine was experienced; that in his opinion the boat was seaworthy.

(6) Russell Palmer testified in a narrative account that he held a motorboat operator's license (87447), issued at Providence, R.I., 22 November, 1946; that his father, Carl Palmer, was owner of the CONSTANCE; that he, Russell C. Palmer, was in charge as operator of the CONSTANCE on the fateful excursion from Falmouth to Nantucket and return; that the trip from Falmouth to Nantucket was made without incident; that he had departed from Nantucket at about 4:15 P.M., 9 September on a return course of 510° toward Falmouth; that the sea was calm on departure but that it had built up as they proceeded; that shortly before the casualty the wind suddenly increased in intensity and whipped up a dangerously rough sea; that the CONSTANCE was at the time heading into it. He said that he turned the CONSTANCE to the left to go to the aid of a sail boat that might have been in trouble; that this resulted in the shipping of heavy spray over the side; that he then altered course back to the right so that the vessel was again heading into the sea; that the starboard engine failed from wetting; that he relinquished the wheel to Leighton Allenby while he attempted to restart the engine; that he failed to get it started; that he then resumed the wheel; that a heavy sea was shipped which flooded the forward cockpit; that the weight of the water in the forward cockpit trimmed the vessel so much by the head that it could not properly lift to the oncoming seas and that within five minutes the boat was swamped. He testified that all ten passengers went over the side equipped with life preservers and hung onto the bitter end of the anchor line trailing over the side; that he anchored the swamped boat in about 50' of water

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using about 80' of line; that the tide was running to the westward; the wind to the eastward and that the resultant sea was very broken. He said that the party in the water was formed and held by a line in a loose ring and that contact was maintained with the wreck by holding to the bitter end of the trailing anchor line; that their grasp on this line was broken after a time and the party drifted away; that he thereafter swam back to the boat with difficulty, getting there in about a half hour; that the party by this time had drifted about 200 yards away; that he got out a 300-foot line, pulled up the anchor and went over the side again, attempting to get the end of this line to the group in the water; that his efforts failed and darkness enveloped the sea; that he then lost contact with the rest of the party and never regained it. He said that he hung onto this line in the darkness perhaps until about 9:30 P.M., 9 September, when he saw and felt evidence of the breaking up of the CONSTANCE; and that he finally abandoned the line for a piece of drifting wreckage; that he held onto this wreckage until daybreak 10 September, when he found himself off Madaket Channel; that thereafter he appeared to drift to the eastward. He said that he made out the beach west of Nantuxet and tried swimming toward land, pushing the driftwood ahead and finally made the beach at about 9:00 A.M., 10 September; that he made his way to a house from which he contacted the Coast Guard. Upon further questioning by the Board Russell Palmer testified that the boat had thirty-five life preservers on board; that the water entered the engine compartment through cracks in the covering hatch, wetting the ignition system; that the forward cockpit was protected by a wind shield; but was uncovered at the top; that each of the two engines was equipped with a bilge pump; that a portable hand pump was the only means of pumping out the forward bilges; that he had operated the boat intermittently for about five years; that he had never before experienced any difficulty in keeping it dry; that the approximate location of the boat when disaster struck was two miles to the eastward of Cross Rip Light Vessel; that the boat was really in trouble only after the forward cockpit had flooded; that this occurred about two minutes after turning to aid the sail boat and after the starboard engine had stopped. He said that the party of ten passengers was to have paid \$25.00 to defray the expenses of the excursion; that it had been the practice of Carl Palmer and his four sons to use the CONSTANCE for fishing excursions for hire, for the pleasure of themselves and friends, and for fishing for profit and pleasure; that this trip was a pleasure jaunt for their friends, the Allenby, who insisted upon defraying the expenses of the trip; that a collapsed, inflatable raft that would hold two persons was stowed in the flooded cabin, but attempts to get it out for launching were abandoned as being too dangerous.

(7) Carl F. Palmer testified that he bought the CONSTANCE from Madaket in Falmouth about 1945; that he had operated her for pleasure and in the business of carrying people on fishing excursions for hire. He testified that he had clearly stated the business he intended to place the boat in

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when he applied for a certificate, but his testimony was confused in the matter of how he had obtained the Certificate of Award of Number to an Unlicensed vessel and to whom he had made application. He insisted that he was under the impression that the service Commercial Fishing as entered on the certificate was a correct description of his business of carrying fishing parties for hire. He said that the boat had been hauled out in the Spring of 1949 and \$1000.00 worth of restoration repairs had been made on her; that she had recently been repowered with new engines; that she was in a seaworthy condition and that he knew her to be an able vessel. He said that he was a close friend of the Allens and that each year in the past he had taken them on a sail; that this year he had agreed to take Mr. Hubert Alphonse Allouly and his family party of ten on a trip to Nantucket and return to Falmouth on 9 September; that the consideration was to have been \$25.00 to reimburse him for his expense and that the payment had been insisted on by Mr. Allouly after his (Palmer's) offer to take them gratis. He said his son Russell went as operator; that when the CONSTANCE did not arrive back in Falmouth by dusk on 9 September, and after calling Nantucket to ascertain that she had departed Nantucket at about 6:30 P.M. and allowing two hours and fifteen minutes running time, he considered her overdue after 8:45 P.M., 9 September and became apprehensive of her safety. He said that he called Oak Bluffs at about 8:00 P.M. and concluded that she had not put back to any of the island harbors; that he called the Coast Guard at Woods Hole at about 8:45 P.M. stating his fears and gave them what information he had on her whereabouts; that he understood an SS-faster would be dispatched and Search and Rescue, Boston, notified. He said that he took off from Falmouth himself in a borrowed SS-faster, the motorboat ESTELLE, at 11:00 P.M. on the 9th and ran out over the course he assumed the CONSTANCE had taken; that this course took him off Cape Fague and thence toward Cross Hip Light Vessel; that he spoke the Coast Guard 83888, also on search, and that they exchanged information. Making extremely heavy going of it, Palmer testified, he put into Oak Bluffs for shelter without having sighted anything of the CONSTANCE; that at 6:00 A.M., 10 September he left Oak Bluffs in the ESTELLE, arriving at Falmouth at about 8:30 A.M.; that enroute he saw a PH plane evidently in the search; that on arrival he was notified of a fruitless search by two civilian planes that had started at dawn. At about 8:00 A.M. on the 10th, he said, he took off from Falmouth in one of the civilian planes to guide the pilot after having received word of Russell's making the beach at Nantucket and reporting the others still in the water; that after cruising the area off the beach they found the ship wrecked party and by signal indicated their location to an approaching small boat (Coast Guard Surf Boat) and other craft in the vicinity. He said that after seeing the Surf Boat and others engaged in the recovery of the party he landed in the plane at Nantucket.

(7) The admasurer of vessels for the Port of Boston, after examining official available data on the vessel, estimated the tonnage of CONSTANCE to have been "less than fifteen and more than five gross tons."

(8) From the testimony of Coast Guard personnel it is alleged that word of the overdue CONSTANCE was reported to Woods Hole Report by Palmer at about 9:00 P.M., 9 September, 1969. Calls for information were sent out to Cross Bay Light Vessel and Brant Point Lifeboat Station at about 9:00 P.M. on the 9th. It was determined that the CONSTANCE had left Nantucket, but a check on harbors and anchorages failed to disclose her presence. A beach lookout was posted by Brant Point Lifeboat Station. Search and Rescue, Boston, was notified by Woods Hole at 10:55 P.M. on the 9th. Coast Guard 83388 was dispatched from Woods Hole at 11:15 P.M. on the 9th. Coast Guard 83388 searched the area between Falmouth and Nantucket and off Cape Poge without finding anything and put into Edgartown at 2:00 A.M. on the 10th. It left again at 5:00 A.M. on the 10th to continue the search. Air search was requested by Woods Hole at 12:15 A.M. on the 10th. Salem Air Base was alerted at 1:00 A.M. on the 10th. CG LEGANE, on another mission at sea, was contacted by Search and Rescue, Boston, and at 3:00 A.M., 10 September, was ordered to proceed to search for the CONSTANCE. The LEGANE started search in Nantucket Channel at 7:30 A.M., 10 September. A Coast Guard plane which took off at 7:03 A.M., 10 September, arrived off Falmouth at 7:40 A.M. and searched the harbors and Coasts and the area off Cape Poge progressively to the eastward. CG 83388 moored at Nantucket at 9:00 A.M., 10 September. Brant Point Lifeboat Station dispatched an amphibious dory at 7:00 A.M. on the 10th to search the waters west of Nantucket. At about 9:00 A.M. Mr. Pitch phoned from Dennis Beach to report that Russell Palmer had come ashore and reported the foundering of the CONSTANCE and ten persons in the water off Dennis Beach.

(9) It was determined that at about dawn September 10 two civilian planes started a search of the waters off Nantucket Sound and those adjacent thereto, reporting negative results to Carl Palmer at Falmouth at about 8:30 A.M. on the 10th.

(10) Testimony of Coast Guard personnel established that Brant Point motor lifeboat was dispatched at 9:15 A.M. on the 10th to search off Dennis Beach. Boatman James Baumert interviewed Russell Palmer about that time to get information that would be of aid in finding the ship-wrecked party. CG 83388 in Nantucket received word of Russell Palmer's landing and his report at 9:30 A.M., 10 September and immediately left for the area off Dennis Beach. The Brant Point motor surf boat left its mooring at Madaket Harbor at an undetermined time, but probably about 9:45 A.M., 10 September, manned by two men out of the four who had been searching in the amphibious dory. It left for the area off Dennis Beach.

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The private boat WHISTLER left Nantucket at about 10:30 A.M., 10 September, to aid in the search. The Brant Point motor surf boat approaching the scene from the westward was directed by signal from a civilian plane containing Carl Palmer to the area about one or two miles off Dixie Beach where the ship-wrecked party was. This surf boat was first to arrive on the scene, at about 10:15 A.M., 10 September. Operating in the surf of the bar, this boat picked up the body of Emily Foster, apparently lifeless, and survivor Robert Alfred Allenby. In the immediate vicinity were Robert and Millicent Bairn. The surf boat attempted to draw these two from the water. They appeared to be lifeless while these attempts were being made. The motor of the surf boat failed due to sand choking the cooling system and this combined with the violent sea defeated attempts to recover these latter two. As other vessels arrived at the scene the surf boat abandoned efforts to recover any other bodies and was rowed to the beach with the two they had picked up. Between 10:00 A.M. and 11:00 A.M. the bodies of the other victims were recovered by various craft and landed at Nantucket."

6. The Board made the following Conclusions:

- "(1) The motorboat CONSTANCE was accidentally swamped and foundered in the shoal waters of Nantucket Sound, resulting in the total loss of the vessel and the loss of nine persons out of a total of eleven on board.
- (2) The tragedy, for purposes of analysis, may be considered in the light of two separate phases, (a) The casualty to the vessel, (b) the loss of nine persons out of eleven who successfully abandoned the wreck.
- (3) The Casualty to the CONSTANCE was caused primarily and in part by the stress of heavy weather suddenly and unexpectedly encountered by the vessel, and in part by the manner in which she was handled. The violence of the wind and sea has been clearly established. Since the seaworthiness of the boat was subject to the limitations of all small craft in general and to the limitations of her own fair-weather design in particular, an element of questionable judgment on the part of the operator enters into the cause for following a course that would take the vessel over shoal areas that were locally known to be dangerous. Again, questionable judgment and seamanship must be included as a factor in the cause since there is no indication of proper allowance having been made and proper preparations taken for the risk involved in continuing without modification of action in the face of the threatening violence of wind and sea. Although the vessel was equipped with a canvas hood designed as a cover for the forward cockpit, such protection was never rigged. The fault lies primarily with the Providence which controls the elements. Contributory fault attaches to the operator, Russell Palmer who was in command of the CONSTANCE and who caused her to be navigated in a manner tending to discount the hazards of heavy weather. It appears

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that others in the party who might have been expected to have some knowledge of seamanship tended to disregard the indications of and need for precautions.

(4) The Board considers the actions of the said operator, Russell Palmer, to be at worst errors in judgment in a situation that might tax the ability of the most competent of seamen and do not include the basic elements of negligence. It feels that no disciplinary action is justified by the circumstances.

(5) The Cause of the Loss of Life incidental to the loss of the vessel itself lies in a set of unfortunate and untimely circumstances. The loss of nine lives after successful abandonment of the wreck by eleven persons was caused by drowning after exhaustion and a prolonged exposure to the elements. No individual or organized group, their methods or equipment can be rightly held at fault for the extraordinary length of time (approximately seventeen hours) between the loss of the vessel itself and the final recovery of the persons. The Board is of the opinion that Russell Palmer and members of the party may be commended for having made the most of a difficult situation after the vessel was swamped and that no adverse criticism of their conduct is justified.

(6) The rigorous weather with attendant poor visibility, together with at least nine hours of darkness, was perhaps the greatest single handicap to the search.

(7) The Board also feels that Carl F. Palmer acted sensibly and promptly in his steps to aid what he presumed to be a boat in trouble. Since the casualty to the vessel occurred about 8:00 P.M., on 9 September, no apprehension would normally be felt about her safety until 8:00 P.M., when Palmer's efforts were begun. An hour or so for routine check on possible safe whereabouts is reasonable. His notification of the Coast Guard was a correct and logical step, and his departure in the borrowed motorboat ESTELLE and his resulting search over Nantucket Sound was a courageous and timely action.

(8) The search and rescue efforts of the Coast Guard and private individuals were carried out in accordance with the dictates of proper procedure and common sense. Action of the Coast Guard was at Woods Hole in first calling stations at points of vantage, their dispatching of the S3333 and alerting Search and Rescue Headquarters at Boston with subsequent dispatch of orders to Grant Point, Salem Air Station and the Cutter LEGARE were in accordance with the time-tested routine in matters of this sort. It appears that all these search efforts both by surface and air craft had been concentrated more or less on the coast lines and harbors and on the waters of Nantucket Sound westward of Green Hill Light Vessel in accordance with what Carl Palmer thought and indicated to be the most probable locale of the boat. The meagre information available

When the beginning reported that observations made by the officers of all concerned were more or less directed toward the sighting of a boat rather than persons, when, as a matter of fact, the boat had early ceased to exist as such. In the interval between dawn at 6:15 A.M. and rescue at about 10:00 A.M. on the 10th when the hampering darkness had been eliminated but a choppy sea remained the search efforts were more or less concentrated to the westward of what later proved to be the locale of the ship wrecked party. The Board notes with significance that the information given by Russell Palmer upon reaching a telephone after landing near Niantic Beach, Nantucket, was the first definite and narrowing data obtained and upon being broadcast through available means to all persons and craft engaged in the search led to discovery of the ship wrecked party within, perhaps, an hour.

(9) The CONSTANCE was illegally carrying passengers for hire when she met with disaster. The Board is of the opinion that the legality of the vessel's service was not a factor in the cause of the casualty; that the illegality was technical rather than real; that the owner, Carl Palmer, correctly described the intended service of the boat to a person whom he believed to be acting in an official capacity in the process of registration; that that person was instrumental in causing the type of service to be erroneously entered on the certificate; that the error involved a technical misinterpretation of descriptive terms; that the vessel was more than five, but less than fifteen gross tons, and that she was found and fitted in accordance with the requirements of law for a vessel of that tonnage carrying passengers for hire.

5. The Board made the following Recommendations:

"(1) The Board has taken no action other than to investigate this tragedy and has no recommendations other than to close the case. It feels that the importance of Search and Rescue and the need for a continuous and progressive improvement in the means and methods of Search and Rescue will continue to receive the attention of the general public and the official agencies concerned."

REMARKS

7. This Division does not concur with the Board's Conclusion No. 1 that the motorboat 42579 (CONSTANCE) swamped and foundered in the shoal waters of Nantucket Sound since there is no evidentiary basis in the record which fixes the exact location of the disaster.

8. A supplementary Board of Investigation was convened to inquire into the operations of the Coast Guard in connection with this disaster which Board has submitted a separate report.

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9. Subject to the foregoing remarks, it is recommended that the report of the Marine Board of Investigation be approved.

EDW. G. CLEAVE

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From Chief, Office of Merchant Marine Safety
To Commandant

Forwarded, recommending approval.

EDW. G. CLEAVE

APPROVED