

## **CASE SUMMARY - EATING THE CABIN BOY: R v DUDLEY AND STEPHENS (1884)**

### **Facts**

In May 1884, four men set sail for Australia from England in a medium-sized yacht called the *Mignonette*. Their names were Tom Dudley, aged 31, Edwin Stephens, aged 37, Edmund Brooks, aged 49 and Richard Parker, a 17-year old orphan and cabin boy. On July 5, the *Mignonette* was struck by a large wave and capsized. The four men managed to escape in a small lifeboat with nothing but two small tins of turnips to eat, and no drinking water.

They spent nearly a month in the lifeboat. The turnips were quickly consumed, and they had only the small amount of fresh water that they were able to catch in their oilskin coats to drink. As their hunger and thirst grew, so did their desperation. Richard Parker's thirst was so great that he drank seawater, which quickly made him very ill, and he became unconscious.

It was a widely accepted custom of sailors that if a crew was shipwrecked, the survivors could draw lots to select which of them would be killed and eaten. On the 18<sup>th</sup> day, Dudley, Stephens and Brooks began to talk about sacrificing one man to save the others. At first they discussed drawing lots to decide who it should be.

Later though, Dudley and Stephens said it should be Parker, because he was closest to death from drinking the seawater and he alone had no wife or children. Parker was unconscious and was not included in the conversation.

The next day, Dudley killed Parker by stabbing him in the throat while Stephens held his legs. Brooks did not participate in the killing, but all three drank his blood and ate his flesh. Four days after the killing of Parker, they were rescued by a passing German ship, the *Montezuma*. They were returned to England early in September.

### **Trial**

It is likely that without Parker's blood, all would have died of dehydration. The men believed that their actions were permitted under the custom of the sea, and made no attempt to conceal what they had done. It would have been easy to simply pretend that Parker had died of natural causes before being eaten. They were arrested as a formality, and even the arresting officials expected that they would be freed on the grounds that they had followed an established custom and acted only in order to save their own lives.

As news of the case spread around England, public opinion was very strongly in support of the three surviving sailors. It caught the attention of Sir William Vernon Harcourt, Secretary (leader) of the Home Office, the agency responsible for policing

in England. Harcourt's personal view was that the sailors' actions were reprehensible, and in a move that surprised many, he decided to prosecute them.

The charges were dropped against Brooks and the murder trial of Dudley and Stephens began on November 3, 1884. They attempted to defend themselves on the grounds of necessity – that they had a legal right to preserve their own lives, even though that had meant killing Parker. This meant that something other than their own futures was at stake: depending on the outcome of the trial, the court would set a precedent that would influence future cases. This case would establish whether necessity would become an accepted legal defence for murder in similar situations.

As part of the defence strategy, Dudley and Stephens' lawyer pointed to the long-standing custom of sacrificing one person to save others, suggesting that since this was an historically accepted practice, it should also be legally accepted. In support of this, the defence was able to offer examples of cases involving the sacrifice of some people to save others in the face of disaster, in which the accused were not found guilty. However in these cases, those who were killed had been consulted and given their consent to the practice.

## Outcome

The case was sent to a panel of judges, who found Dudley and Stephens guilty of murder. They reasoned that necessity could not be used as a defence for murder unless the victim posed an urgent threat to the accused. Since Parker never consented to be sacrificed, and never represented an immediate danger to the others, Dudley and Stephens' defence was rejected and they were sentenced to death by hanging. Later, however, this sentence was commuted to six months imprisonment.