

(No. S. 375)

STEAM TRAWLER "OSPRAY II"

AND

STEAM TRAWLER "CALDEW."

MERCHANT SHIPPING ACT, 1894.

REPORT OF COURT.

In the matter of a Formal Investigation held in the Magistrates' Room, Liverpool Police Court, Dale Street, Liverpool, on the 3rd, 4th and 7th days of December, 1935, before Stuart Deacon, Esquire, Stipendiary Magistrate, assisted by Captain A. E. Dodd, Captain T. W. Hanney and W. Addy, Esquire, into the circumstances attending the collision between the British steamship "Caldeu" of Fleetwood and the British steamship "Ospray II" of Fleetwood, on the 6th April, 1935, which resulted in the total loss of the s.s. "Ospray II" on that day.

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 collision between the s.s. "Ospray II" and the s.s. "Caldeu" on the 6th April, 1935, was due to the default of Edward Harris, the skipper of the "Caldeu," in not keeping a proper lookout forward after 7.35 a.m. and thus allowing his vessel during such period to run with the wheel free and unattended, and also to the default of Robert Kelly, the skipper of the "Ospray II," in not keeping a proper lookout after 7.40 a.m. The Court, in these circumstances, finds both of these skippers equally to blame for the collision.

The Court accordingly finds the skipper of the "Caldeu," Edward Harris, in default, and suspends his certificate of competency as skipper for twelve months from this day, and also finds the skipper of the "Ospray II," Robert Kelly, in default, and also suspends his certificate of competency as skipper for twelve months from this day.

The Court refuses applications to recommend the issue of a certificate of a lower grade during the period of suspension to either skipper.

Dated this 7th day of December, 1935.

STUART DEACON, *Judge.*

We concur in the above Report.

A. E. DODD,	} Assessors.
T. W. HANNEY,	
W. ADDY,	

Annex to the Report.

This Inquiry was held in the Magistrates' Room, Liverpool Police Court, Dale Street, Liverpool, on the 3rd, 4th and 7th days of December, 1935.

Mr. H. A. Thew, of Messrs. Avison, Morton and Company, Solicitors, appeared for the Board of Trade; Mr. J. B. B. Lightbound, of Messrs. Lightbound, Jones and Company, Solicitors, represented Robert Kelly, the skipper of the "Ospray II," and Mr. W. C. Cafferata, of Messrs. Weightman, Pedder and Company, Solicitors, represented Edward Harris, the skipper of the "Caldeu." Mr. W. Goffey, of Messrs. Hill, Dickinson and Company, Solicitors, watched the proceedings on behalf of the owners and underwriters of both vessels, who were not parties to the Inquiry.

The "Ospray II," official number 132404, was a steel built steam trawler, ketch-rigged, built by Smith's Dock Company, Limited, of Middlesbrough, in the year 1911. Her gross tonnage was 294.60 and her net register tonnage was 113.94. She was fitted with one triple expansion direct acting vertical engine of 85.3 nominal horse power and 470 indicated horse power, with one steel multitubular boiler of 180 lbs. loaded pressure. The engine was built by the Shields Engineering and Dry Dock Company, Limited, of North Shields, and the boiler was built by Messrs. Richardsons, Westgarth and Company,

Limited, of Middlesbrough, in the year 1911. The designed speed of the vessel was 10 knots. Her registered dimensions were: length 130 feet, main breadth 23 feet, and depth of hold 13.2 feet. She was constructed with four watertight bulkheads and presumably was equipped with the boat and life-saving appliances usual in vessels of her class.

On the voyage in respect of which the present Inquiry arose, she carried a crew of eleven hands, including the skipper, Robert Kelly, who held a certificate of competency as skipper, number 18467, dated the 8th November, 1929.

The vessel left Fleetwood on the 5th April, 1935, for the West Scottish fishing grounds, and arrived S.S.W. of Gigha Island on the following morning at about 7.40 a.m. when the vessel was stopped preparatory to shooting her trawl.

The Court, at this point, thinks it convenient to state that it is of the opinion that the "Ospray II" at this time had, so far as regards the "Caldeu," ceased to be an overtaking ship as she was then finally past and clear of the "Caldeu."

The steam trawler "Caldeu," official number 128769, is steel built, ketch-rigged, built by Smiths Dock Company Limited, South Bank, Middlesbrough, in the year 1914. Her gross tonnage is 286.76 and her registered tonnage is 114.57. She is fitted with one reciprocating triple expansion surface condensing engine of 97.25 nominal horse power and 545 indicated horse power, with one steel single-ended marine multitubular boiler of 180 lbs. loaded pressure. The engine was built by Smith's Dock Company, Limited, South Bank, Middlesbrough, and the boiler was built by Messrs. Blair and Company, Limited, of Stockton-on-Tees. The designed speed of the vessel was 10½ knots. Her registered dimensions were: length 129.7 feet, main breadth 23.5 feet, and depth of hold 12.7 feet. She was constructed with three watertight bulkheads and was presumably equipped with the boat and life-saving appliances usual in vessels of her class.

On the voyage in respect of which the present Inquiry arose, she carried a crew of twelve hands, including Edward Harris, the skipper, whose certificate of competency as skipper is number 16207 and dated the 11th June, 1926.

The "Caldeu" left Fleetwood on the 25th March, 1935, and, after fishing S.W. of St. Kilda and off the Butt of Lewis, arrived off Gigha Island at 9.30 p.m. on the 5th April, 1935, with 5 tons of fish on board. At 7.25 a.m. on the next day, the 6th April, the "Caldeu" shot her port trawl about E.N.E. and when her gear was all square her course was altered to N.N.E.

It was the intention of the skipper of the "Caldeu" to keep this latter course at a speed of about 3 knots while trawling. The "Ospray II" was observed by the skipper of the "Caldeu" first at about 7.20 a.m. when she was abaft his beam steering a similar course to the "Caldeu" and she subsequently overtook and passed the "Caldeu" on the latter's port beam at about 7.30 a.m. at a distance of approximately 500 feet. After about 7.35 a.m. the skipper of the "Caldeu" does not appear to have taken any further notice of the "Ospray II." He left the bridge at that time, with no one in charge or on the lookout, and with the wheel swinging free, to inspect the trawl warps. Later at 7.39 a.m. he returned to the bridge but stood on the after end looking aft watching the steam trawler "Normandy" which he thought was going to haul her trawl. Thus it came about that the first knowledge which the skipper of the "Caldeu" had, at about 7.54 a.m., of the close proximity of the "Ospray II," was the sound of the whistle of the "Ospray II," when he immediately ran to the fore side of the bridge of his vessel and saw the "Ospray II" right ahead at a distance of about 40 yards. When he thus caught sight of the "Ospray II" he stopped and reversed his engines but it was too late to avoid the collision between the two ships, which took place at 7.55 a.m.

The skipper of the "Ospray II" stated in his evidence, that he was keeping a lookout all the time after stopping his vessel on the fishing ground and that he had had the "Caldew" under observation all the time, but he also stated that his attention was taken up with other matters as well.

The Court does not accept the evidence of the skipper of the "Ospray II" that he was keeping a good and proper lookout, and is satisfied that he was, as a fact, so engaged with other duties that he was not aware of and did not see the close approach of the "Caldew" until too late; otherwise he would and ought to have taken some action to avoid the danger of collision before the "Caldew" got so near to his own vessel.

The skipper of the "Ospray II," in his evidence, explained his apparent neglect in this respect by stating that he thought that the "Caldew" was coming up to speak to him, although he was aware that this would be contrary to the warning which he had received regarding such a practice. When he did look around and saw the "Caldew" approaching straight for his starboard beam at a distance of about 40 yards, he gave a long blast on his whistle and rang full speed ahead on the engines, but before this order could take effect the "Caldew" struck the "Ospray II" on the starboard side just abaft the bridge at right angles.

The engines of the "Ospray II" were then stopped with the object of ascertaining the extent of the damage to that vessel. After realising that the damage was serious, the skipper of the "Ospray II" rang the engines ahead with the object of making for the land to try to beach the vessel. The engineer of the "Ospray II," however, reported that water was rapidly coming into the engine room and stokehold and was putting the fires out. It was then decided to abandon the ship, so the engines were stopped. All hands safely got away in the ship's boat and pulled off a short distance. They laid to until the "Ospray II" sank at 8.35 a.m. They were then taken on board the "Caldew" which had then hauled in her trawl and was standing by. They were subsequently taken to Fleetwood by the "Caldew" and landed there.

The Court desires to add that it is of the opinion that the light N.W. wind on the port side of the "Ospray II" and a slight tide setting south helped to make the impact between the vessels a severe one.

The Court considers that the circumstances disclosed at this Inquiry by the evidence indicated a serious lack of lookout on the part of the skippers of both ships, and that the collision was directly attributable in equal degree to the default of both skippers in this respect.

The Court desires to add that it was stated in the course of the evidence during the Inquiry that there is a practice (recognized internationally) amongst fishermen that a vessel engaged in trawling should keep clear of a vessel preparing to shoot her nets, and that the latter vessel is given this protection owing to it being recognized that she is for the time being unable to manoeuvre freely on account of the danger of fouling her propeller. The same practice would seem to apply when a vessel is hauling in the nets. The Court thinks it right to call the attention of the Board of Trade to this alleged practice for its consideration.

At the conclusion of the evidence Mr. Thew, on behalf of the Board of Trade, submitted questions for the opinion of the Court.

The Questions and Answers are as follows:—

1. Q. What was the approximate position of the "Ospray II" at or about 7.40 a.m. on the 6th April, 1935?—A. The approximate position of the "Ospray II" at or about 7.40 a.m. on the 6th April, 1935, was latitude 55° 33' N. longitude 5° 52' W.

2. Q. What was she doing at about this time and how was she heading? If making headway, what was her speed?—A. The "Ospray II" at about 7.40 a.m. on the 6th April, 1935, was on the point of stopping for the purpose of setting her trawl and

was then heading N.N.E. Her speed then was about 9 knots as she was reducing steam prior to stopping.

3. Q. What was the state of (a) the weather, (b) the wind, (c) the sea and (d) the visibility at this time? Did any, and, if so, what alterations occur in either (a), (b), (c) or (d) referred to above, prior to the collision?—A. At 7.40 a.m. on the 6th April, 1935, (a) the weather was fine, (b) the wind was N.W., (c) the sea was calm and (d) the visibility at the time was good. No alterations occurred in either the weather, the wind, the sea, or the visibility in the above conditions prior to the collision.

4. Q. Who was in charge of the "Ospray II" at this time? Was such person in charge up to the time of the collision?—A. At 7.40 a.m. on the 6th April, 1935, Robert Kelly, the skipper, took over charge of the "Ospray II" from Thomas Clarkson, the third hand, and himself remained in charge of the vessel subsequently up to the time of the collision.

5. Q. Did the "Ospray II" at any time alter her position between about 7.40 a.m. and the time of the collision? If so, what was such alteration?—A. No alteration was made intentionally in the position of the "Ospray II" between about 7.40 a.m. and the time of the collision but the position of the vessel must have been altered after she stopped, in fact, by the action of the tide and the wind on her port side and the headway which she had carried after stopping her engines until, in the latter case, such headway exhausted itself. The fact of such alteration would, in the opinion of the Court, place the vessel slightly further to the N.E.

6. Q. At what time did those on board the "Ospray II" first see the "Caldew"?—A. The first person on board the "Ospray II" to see the "Caldew" was Thomas Clarkson, the third hand, who was then in charge of the vessel, and the Court is satisfied from the evidence that he must have seen her some time before 7.30 a.m. when the "Ospray II" was steaming up to her fishing ground.

7. Q. What was the approximate position of the "Caldew" in respect to the "Ospray II" at this time and how far apart were the two vessels?—A. When Thomas Clarkson first saw the "Caldew," as mentioned in the Answer to Question 6, the "Caldew" was bearing on the port side of the "Ospray II" some distance away, although the Court is unable to say from the evidence exactly what distance. The "Ospray II" subsequently passed the "Caldew" on the "Caldew's" port side and had her ahead at about 7.30 a.m. at a distance then of about four ships' lengths, that is to say, approximately 500 feet.

8. Q. What was the "Caldew" doing at this time? What was her course and speed?—A. At 7.30 a.m. the "Caldew" was trawling and she was then on a course N.N.E. and going at a speed of about 3 knots.

9. Q. Did any alterations take place in her course and/or speed between this time and the time of the collision? If so, what were such alterations and when did they occur?—A. No alterations of the course or speed of the "Caldew" after 7.30 a.m. until immediately before the time of the collision were made by any person on board that vessel. Some alterations may have taken place during this period in the course and speed of the "Caldew," due to the action of the wind, the tide and particularly the drag of the trawl which would tend to bring her head more to the westward, but there is no evidence before the Court as to what these alterations, if any, were, or when they occurred.

10. Q. Was the "Caldew" visible to those on board the "Ospray II" from the time when those on board the "Ospray II" first sighted her up to the time of the collision? If not, why not?—A. According to the evidence of Robert Kelly, the skipper of the "Ospray II," the "Caldew" was visible to him all the time after he first went on the bridge of his vessel at 7.40 a.m. up to the time of the collision, but the Court, reviewing the evidence given in the case as a whole, has come to the conclusion and is satisfied that the "Caldew"

was not under the observation of Robert Kelly, the skipper of the "Ospray II," much after 7.40 a.m. because he was not then keeping a good and proper lookout, and, in fact, the Court is satisfied that he did not observe the "Caldew" again after he had first seen her until she was about 40 yards off his vessel immediately before the collision.

11. Q. Was a good and proper lookout kept on board the "Ospray II"?—A. A good and proper lookout was not kept on board the "Ospray II" after 7.40 a.m. up to the time of the collision.

12. Q. When did the skipper of the "Caldew" first notice the "Ospray II"?—A. How far apart were the vessels at this time?—A. The skipper of the "Caldew" first noticed the "Ospray II" at about 7.20 a.m. The vessels were then approximately two miles apart.

13. Q. Did the skipper of the "Caldew" keep the "Ospray II" under observation between this time and the time of the collision? If not, why not?—A. The skipper of the "Caldew" did not keep the "Ospray II" under observation all the time between the time when he first saw the vessel and the time of the collision. The reason for this was that the skipper left the bridge at 7.35 a.m. and did not, after his return to the bridge four minutes later, keep any lookout forward at all.

14. Q. At about 7.35 a.m. on the 6th April, 1935, did the skipper of the "Caldew" leave the bridge in order to inspect the trawl warps? If so, for how long did he remain off the bridge and did he leave anyone in charge during his absence from the bridge?—A. The skipper of the "Caldew" left the bridge at about 7.35 a.m. to inspect the trawl warps. He returned four minutes later but did not leave anyone in charge during his absence from the bridge.

15. Q. Was a good and proper lookout kept on board the "Caldew"?—A. A good and proper lookout was not kept on board the "Caldew," and especially so, because after the skipper returned to the bridge at about 7.39 a.m. he was looking aft all the time.

16. Q. Was the "Caldew" using any, and, if so, what signal indicating that she was engaged in fishing operations? If not, should a signal have been exhibited?—A. The "Caldew" was not using any signal indicating that she was engaged in fishing operations. A trawling signal should have been displayed by her in the circumstances.

17. Q. Where and at what time did the collision occur between the "Ospray II" and the "Caldew"?—A. The collision between the "Ospray II" and the "Caldew" took place approximately in latitude 55° 33' N. longitude 5° 52' W. at 7.55 a.m. on the 6th April, 1935.

18. Q. Was anything, and, if so, what, done by those on board (a) the "Ospray II" and (b) the "Caldew" shortly before the collision in order to attract attention to their respective vessels?—A. (a) The skipper of the "Ospray II" blew a long blast on his whistle when the "Caldew" was about 40 yards distant from him, immediately before the collision; (b) nothing was done on board the "Caldew" to attract the attention of those on board the "Ospray II."

19. Q. Were any, and, if so, what steps taken to avoid the collision by those on board (a) the "Caldew" and (b) the "Ospray II"?—A. In order to avoid the collision (a) the skipper of the "Caldew" stopped and reversed his engines and (b) the skipper of the "Ospray II" put his engines full ahead, but neither of these operations was of any avail in the circumstances to avoid the collision.

20. Q. What was the cause of the collision?—A. The cause of the collision was primarily the lack of a good and proper lookout both on board the "Caldew" and on board the "Ospray II," and a contributory cause was the fact that the skipper of the "Caldew" allowed his vessel to run with the wheel free without any lookout being kept after 7.35 a.m.

21. Q. As the result of the collision did the "Ospray II" sink shortly afterwards?—A. The result of the collision was that the "Ospray II" sank forty minutes after the collision took place, the crew having previously been obliged to leave the vessel.

22. Q. Was the collision between the "Ospray II" and the "Caldew," and the subsequent sinking of the "Ospray II" caused or contributed to by the wrongful act or default of Edward Harris, the skipper of the "Caldew," and Robert Kelly, the skipper of the "Ospray II," or either of them, and, if so, which of them?—A. The collision between the "Ospray II" and the "Caldew" and the subsequent sinking of the "Ospray II" was caused equally by the default of Edward Harris, the skipper of the "Caldew," in not keeping a proper lookout forward after 7.35 a.m. and thus allowing his vessel during such period to run with the wheel free and unattended, and by the default of Robert Kelly, the skipper of the "Ospray II," in not keeping a proper lookout after 7.40 a.m.

STUART DEACON, *Judge.*

We concur,

A. E. DODD,	} Assessors.
T. W. HANNEY,	
W. ADDY,	

(Issued by the Board of Trade in London
on Thursday, the 23rd day of January, 1936)

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