

(No. 170.)

“DUESBERY,” (S.S.)

The Merchant Shipping Acts, 1854 to 1876.

IN the matter of the formal investigation held at the Sheriff's Court, St. George's Hall, Liverpool, on the 13th and 14th December 1877, before H. C. ROTHBERRY, Esquire, Wreck Commissioner, assisted by Captain GRANT, R.N., and Captain JONES, as Assessors, into the circumstances attending the stranding of the sailing ship “DUESBERY,” of London, on the rocks off Arcas Bay, in the Gulf of Mexico, and the subsequent abandonment of the said ship on the 18th August 1877.

The Court, having carefully inquired into the circumstances of the above-mentioned shipping casualty, reports as follows :

*Report.*

*The Commissioner.*—On the 21st of July last the “Duesbery” left Demerara in ballast for Frontera de Tabasco. She was a barque of 334 tons, built in 1867, at Deptford, in the county of Durham, and was at the time of her abandonment and loss the property of various persons, Mr. William Henry Turner, of 15, Great St. Helen's London, being the managing owner, and his partner, Mr. Brightman, the owner of 28 shares.

When she left Demerara the vessel had a crew of 11 hands all told, she had three boats, a longboat, a jolly boat, and a gig, three bower anchors, a stream anchor, and a kedge, and she appears to have been in all respects well and sufficiently equipped for the voyage. We were told to-day that she had a 10 years' class and that that class expired either in the eight or tenth month of the present year.

Nothing particular occurred until the 17th of August following, when the vessel had arrived off the West Coast of Yucatan, and from an entry in the ship's log-book I find that at 8 a.m. of that morning the ship was put about, and stood to south and by west, and that a cast of the lead was taken and 25 fathoms obtained. She continued on that course until noon, when an observation was obtained, and she was then found to be in latitude 20° 32' north, and he told us that her longitude at that time by dead reckoning was 91° 30' west, but that from an observation taken between 8 and 9 o'clock that morning he computed the ship's position to be in 91° 38'. At noon the vessel was steered a south-south-west course, the wind being from the south-east, and that course was continued until 4 o'clock, when we are told that another cast of the lead was taken, but there is no entry of it in the log-book, and we are obliged therefore to rely on the somewhat treacherous memory of the master and the officers for the depth of water that was then found. At 4 the master told us that, thinking he had got too far to the westward, he laid the vessel on a north-east by north course, and continued that course till 8 o'clock. The second mate, on the contrary, said that from 4 to 6 o'clock, when he was officer of the watch, the vessel's course was south-south-west. But be this as it may, from 8 p.m. the vessel was steered a south and by east course, and was continued on that course until she took the ground.

At half-past 10 another cast of the lead was taken, and 25 fathoms were found. The master, however, who was on deck during the whole of the watch, continued her on a south and by east course, and at a quarter-past 12 o'clock he and the second mate went below and turned in, and the first officer took the watch. The first officer, who had been given a course south and by east, continued her on that course until 2 a.m., when the vessel, without any notice, suddenly came to the ground. On the master coming on deck orders were at once given to sound round the ship, when it was found that there were about 9 feet of water under both bows, and that there was also about 9 feet of water along the starboard side, but on the port side 11 feet, and aft the water was somewhat deeper. The yards were also put aback. What else was done from that time until daylight is a matter which has been a good deal discussed, but if we are to trust to the entries in the log-book, and to the evidence of the seamen who have been examined, nothing at all was done until daylight,

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except putting the yards aback and sounding round the ship. In the morning the longboat was put out, the log-book says, at 5 a.m., but it was not until between 7 and 8 a.m., according to the log-book, that the stream anchor was laid out with a Manilla hawser attached to it. That it should have required something like three hours to put the longboat over the side and to lay out the stream anchor, seems inconceivable, and goes far to support the statement of the seamen, that it was not until sometime after daylight that any attempt was made to carry out the stream anchor; the hawser had been taken on board, it was hove taut, but as the tide had then fallen considerably, it was found impossible to move her. Soon afterwards, on its being discovered that there were 2 feet of water in the hold, it was pumped out, and the men were then told to go to breakfast, and to take a rest. In about a couple of hours afterwards, which would be about 10 o'clock, all hands were called aft, and were then told that the vessel had begun to make water very rapidly, and thereupon orders were given to get up the provisions, and to prepare the boats for abandoning the vessel. When exactly the boats were ready is a matter of very considerable dispute, some saying that they were ready by 12 o'clock, others that they were not ready until 3 o'clock. But however this may be, it was not until 6.30 p.m. that they ultimately left the vessel in the long and jolly boats. Before leaving her, however, the port bower anchor was let go to keep her from drifting out to sea, but of which there seems to have been little chance, seeing that soon after the report that the water was coming in fast it was found to be on a level inside and outside, and that in fact she was badly bilged.

In the longboat was the master, the second mate, the steward, two able seamen, and the apprentice; the chief mate and the rest of the crew were in the jolly boat. The master, it appears, reached Frontera de Tabasco on the 21st; the mate, however, was not so fortunate; he only made Xicalango Point on the 21st, and did not reach Frontera de Tabasco till the 24th.

Such briefly are the facts of this case, and Mr. Tyndall, on behalf of the Board of Trade, has made charges against the master and the chief mate, which we will proceed to consider.

In the course of the inquiry questions were asked tending to charge the master with having been guilty of a crime which if proved against him would have subjected him to the most severe punishment. It seems that the master had, in the hearing of some of the crew, when approaching the Gulf of Mexico, and in conversation with the mate, made use of certain expressions implying that the ship would never reach her destination. The master would not deny it, but stated that if he had said anything of the kind he must have been speaking in joke. I confess that at one stage of the proceedings there was perhaps some ground for suspicion, but after the full inquiry which the case has undergone I am bound in justice to the master to say that I think there is no foundation whatever for the charge. There is no doubt that the master was in some alarm going to a port to which neither he nor any of the mates had ever before been, he was not acquainted with these waters, and he might not unnaturally have expressed some doubt as to their reaching the destination in safety, without having had any intention of wilfully casting this ship away.

I come then to the next head of an inquiry, whether the master has not been guilty of great negligence in the navigation of this vessel, and whether he has not thus concurred to her loss.

It will be remembered that on the morning of the 17th the vessel was off the West Coast of Yucatan. The master has admitted that he had good sailing directions for this part of the coast, and I presume, therefore, that he must have been fully cognizant of the nature of the waters in that neighbourhood. In the sailing directions which I have before me I find it stated that “Off the West Coast from Palmas Point to Campeché, the 5 fathoms line is from 8 to 18 miles off, the 10 fathoms 20 to 35 miles, the 20 fathoms is 60 miles W.N.W. of Palmas Point, and thence runs along at about the same distance.” And it is also to be observed that all the sands and outer dangers lie on the outer edge of and between the 20th and 30th fathom lines. A glance at the chart is sufficient to show that this is so, for we find between the 20th and 30th fathom soundings first the West and East Triangles, then the Pear Bank, and Placer Nurvo, or New Bank, then the North and South Obispos or Bishops Reefs, and lastly the

Arcas Cays. All these lie between the 20th and 30th fathom lines of soundings; but between the 10th and 20th fathoms soundings there are no dangers, none at all events in the waters of which we are speaking. It was, therefore, clearly the duty of the master as a careful navigator, when he arrived on the West Coast of Yucatan to take care that on the one hand he did not approach nearer to the coast than 10 fathoms, and that on the other hand he did not go further off than 20 fathoms. It is a good broad channel wholly free from danger, and averaging from 25 to 40 miles in width, and is well and clearly defined on the chart which the master had on board, and which he has produced before us. His sailing directions, too, would have told him, if he had consulted them, that the lead alone properly attended to would ensure the safe navigation of these waters.

Now let us see what it was that this master did. At 8 a.m. on the 17th he finds himself in 25 fathoms of water, and yet, although as Mr. Tyndall has said he must or ought to have been aware that he was in dangerous waters; that is to say, beyond the 20th fathom line of soundings, he continued his course south and by west, running still further into danger. But not content with this, at noon he alters his course to south-south-west, getting still further to the westward, feeling quite satisfied because he had got 17 fathoms at noon. Now if the master had thought at all about the matter, and had examined his chart and sailing directions, he would have known that to get 17 fathoms of water four hours after he had found 25 fathoms, and after he had been running all that time in a south and by west direction, was a certain indication, not of safety, but of extreme danger, as I will presently show. The master, however, seems not to have troubled himself much on the point, but steers a S.S.W. course still further to the westward, without even taking a cast of the lead until 4 p.m., and then, too, it is a matter of so little importance that he does not even put it down in the log-book. The master then told us that from recollection he believes that the cast taken at 4 o'clock gave 19 fathoms, but we have great reason to doubt this, and we think that if any cast at all was taken it must have shown much more than 19 fathoms.

The master then lays his course, as he has told us, north-east and by north, believing, as he has said, that he had got too far to the westward, but if he had, as he says, got 19 fathoms, and was therefore within the 20 fathoms soundings, we cannot understand why he should have thought himself too far to the westward, seeing that when he got 25 fathoms at 8 a.m. he did not then think himself too far to the westward, but continued a course at first S. by W. and then S.S.W. However, from 4 p.m. till half-past 10, he does not trouble himself to take any more soundings, and when he does do so, and at half-past 10 obtains 25 fathoms, he feels no alarm, but continues his course, which was then south and by east, and finds himself landed on the north-west point of Arcas Cays.

Assuming that the master has given us correctly the soundings and courses which he took, it will not be difficult to see how he got on the Arcas Cays. At noon of the 17th he tells us that from an observation which he obtained he found that he was in latitude  $20^{\circ} 32' N.$ , and we are quite prepared to admit that that observation may have been correctly taken. This would place him at noon in the latitude of New Bank, the centre of New Bank being in latitude  $20^{\circ} 32' N.$  In his longitude we know that he was out, for he has told us that his dead reckoning placed him in longitude  $91^{\circ} 30' W.$ , whereas an observation taken between 8 and 9 that morning placed him in longitude  $91^{\circ} 38' west.$  Moreover, in latitude  $20^{\circ} 32' north,$  longitude  $91^{\circ} 30',$  and still less longitude  $91^{\circ} 38',$  would not give him 17 fathoms water; it would place him outside, and to the westward of the line of the 20 fathoms soundings. He is therefore clearly out of his longitude. Nor could he have been further to the eastward than he appeared, for if at noon he was in the latitude of  $23^{\circ} 32',$  and was so far to the eastward as to be within the 20 fathoms soundings, a line drawn N. and by E., the direction from which he had been coming during the preceding four hours, could never have given him 25 fathoms at 8 a.m. of day; it would never have given him more than 20 fathoms. On the other hand if, owing to the error in his longitude, he was further to the westward than he supposed himself to be, if in fact he was at noon of the 17th over the New Bank, the whole thing becomes clear. Then a line drawn to the N. and by E. would give him at 8 a.m. 25 fathoms, and a line drawn to the S.S.W., and afterwards S. and by E., would give him at 10.30 p.m. 25 fathoms, and at 2 a.m. would land him on the Arcas Cays. It is clear, therefore, to us that the stranding of this vessel is due to the master's want of care in computing his longitude, which led him to place his vessel much further to the east

than she really was, and to the neglect of the ordinary precautions of casting the lead, which would have shown him from time to time the position of his vessel, and the dangers into which he was running.

The charts and sailing directions tell us that the Arcas Cays lie about 18 miles from the 20 fathoms line, and as they are from east to west I think about two miles, and we struck on the north-west point of the cays, he must have been some 20 miles outside the 20 fathoms line of soundings, and therefore out of his course, when he took the ground, a more gross and culpable act of negligence has seldom come before us.

And now let us proceed to inquire what the conduct of the master was after his vessel had taken the ground. She grounded at 2 a.m., and from that time until 5 o'clock he seems to have done literally nothing but sound round the ship and put the yards aback, and according to his own account it was not until between 7 and 8 o'clock that he laid out the stream anchor. Now had this master, immediately he found that the vessel was aground, put the longboat out, and after sounding all round laid the anchor out astern, and hauled upon it, it is very likely that she would have come off into deep water, for although we are told that there were 9 feet under the bows, and on the starboard side, there were 11 feet on the port side, and more astern, and the vessel only drew 9 feet 10 forward and 10 feet 2 aft. Had the anchor been put out almost immediately after the vessel had taken the ground, as it might and ought to have been, the vessel could no doubt have been hauled off without much difficulty, and probably uninjured, for it was not until some eight hours after she had got aground that she began to make water. When, however, the anchor was ultimately put out some six hours after she had taken the ground, it was too late, for the water had fallen, so that no amount of hauling would have dragged her off then.

The master has also been charged with having allowed his sails to remain on the ship for so long a time after she had struck. But in this respect we do not think that he was to blame. We cannot see that it did any harm to the ship, and it gave him the chance of backing her off the reef, if she floated at all.

No charge has been made against the master for abandoning the ship as and when he did, nor do we think that he is open to any blame on that account, for the water seems to have been level on the outside and inside of the vessel when they left her. At that time she was hopelessly bilged without a chance of saving her.

In the course of the proceedings a good deal was said by the men as to the master's condition during the afternoon of the 18th, before they abandoned the ship. And we are not prepared to say that if that charge had been pressed, we should have decided against the men and in favour of the master. But the charge has not been pressed and it can therefore form no element in the sentence which we are about to pronounce. If, however, this master had been proved to have been affected by liquor at the time when his ship and the lives of those on board were in danger, we should not have hesitated for one moment to cancel his certificate. Any master who so misconducts himself in times of danger will most certainly, so long as I preside in this Court, have his certificate cancelled at once. However, the charge of drunkenness had not been pressed, and I will say therefore no more upon that subject.

Now Mr. Layton has admitted that the master has been guilty I will not say of negligence, but of mismanagement in the navigation of his vessel, and he has urged in mitigation of punishment that he has only been guilty of an error of judgment. But in that I cannot concur. The master seems to me, and to the assessors by whom I am assisted, to have been guilty of gross negligence in the navigation of this vessel. He has said that he was ordered unexpectedly to go into these waters by a telegram from the owners, and that he had no opportunity of furnishing himself with the proper charts, but his own chart was quite sufficient, and showed him a broad channel of from 30 to 40 miles wide, with the lines of the 10th and 20th fathoms soundings clearly and distinctly laid down upon it, and within which if he had kept no harm could possibly have come to him. We cannot therefore think that his offence is that simply of an error of judgment, he has been guilty of gross and culpable negligence.

We have carefully considered the fact that this master has had a certificate since the year 1856, and that this is the first occasion on which he has ever been brought before a Court for misconduct. At the same time his navigation of the vessel has on this occasion been so careless and unskilful that we should not be justified in simply dismissing him with a censure. We think that the justice of

the case will be met if we suspend his certificate for 12 months, at the same time recommending that during the period of the suspension he should have a mate's certificate.

With reference to the mate, the charge against him is that he continued to navigate the vessel from soon after midnight till 2 a.m. without using the lead, and it is said that if he had used the lead it would have shown him the dangerous position in which the ship was with reference to the Arcas Cays. On that point, however, I fear we cannot admit the charge as it is laid. Once beyond the 20 fathoms soundings the lead would not show where she was exactly, it would show that she was between the 20th and 30th fathoms soundings, but it would not show whether she was near the Arcas Cays or not. The mistake was in passing the 20th fathoms sounding at all, but for that the master is alone responsible. In justification of the mate it may be said that he was told by the master that at half-past 10 o'clock he had found 25 fathoms of water, and that the master himself did not consider that

to be any indication of danger, but continued the vessel on a south and by east course. The mate then might very naturally say that if he had taken a cast of the lead it would only have given him about 25 fathoms, and that according to the master was no indication of danger. We think that the mate must be acquitted of the charge which has been preferred against him, and his certificate will, therefore, be returned to him.

The master's certificate will be sent to the Board of Trade, with an intimation that it has been suspended for one year, and a recommendation that he should be allowed a mate's certificate during the period of the suspension.

The Board of Trade not having asked for any costs, there will be no costs to anyone.

Dated this 14th day of December 1877.

(Signed) H. C. ROTHERY,  
Wreck Commissioner.

We concur in the above report.  
(Signed) JOHN M. G. GRANT, } Assessors.  
HENRY JONES, }