

(No. 285.)

“IDA.”

The Merchant Shipping Acts, 1854 to 1876.

In the matter of the formal investigation held at the Sessions Court, Guildhall, Plymouth, on the 7th and 8th days of June 1878, before H. C. ROTHERY, Esq., Wreck Commissioner, assisted by Commander KNOX, R.N., and Captain JONES, as Assessors, into the circumstances attending the abandonment and loss of the sailing ship “IDA,” of Plymouth, whilst on a voyage from Gloucester to Quebec, on the 5th of May 1878.

The Court, having carefully inquired into the circumstances of the above-mentioned shipping casualty, finds, for the reasons stated in the annexed judgment, that the loss of the said ship was probably due to a leak in the forward part at the keel seam, caused by her having grounded on a shoal in the St. Lawrence River, during a former voyage, and which, not having been thoroughly repaired at the time, broke out afresh, and caused her to fill with water; but the Court is of opinion that the owners are not to blame for this, and are not guilty of having knowingly sent this vessel to sea in an unseaworthy condition.

The Court is also of opinion that Thomas Morris, the master, did all he could to save his vessel, when he found that the water was gaining upon her; and that he and the crew were fully justified in abandoning her as and when they did. It therefore returns to him his certificate.

The Court makes no order as to costs.

Dated this 8th day of June 1878.

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

We concur in the above report.

(Signed) HENRY KNOX, Commander R.N., } Assessors.  
HENRY JONES, }

Judgment.

The Commissioner.—The “Ida” was a barque of 1,009 tons register, built at Portland, New Brunswick, in the year 1852, and at the time of her abandonment and loss which forms the subject of the present inquiry she was the property of Mr. James Moore, of East Stonehouse Devon, and four other gentlemen, Mr. James Moore being the managing owner.

She left Gloucester on the 20th April last in ballast bound for Quebec, having a crew of 22 hands all told, and having brought up in Penarth Roads, there remained for two days, and then proceeded on her voyage. At first she experienced favourable weather, making only the usual quantity of water, which we are told by the captain and the officers was such as could be pumped out in a spell of from 10 minutes to a quarter of an hour in each watch. On Friday, the 3rd of May, however, she encountered a severe gale, and the ship thereupon began to labour very much, and to make an unusual quantity of water; and all hands were accordingly set to work at the pumps. The gale continued through that and the following days, and at noon of the 4th it was found that she had 3 feet 6 inches of water in her hold, and at 7 p.m. she had 4 feet 6 inches. On that day the men came aft to the captain and asked him what he intended to do with the ship. He answered that it was his intention to take her to Quebec, if he could; that he was doing his best to save the ship, but that if anybody could suggest a better plan he should be very ready to adopt it, and he advised them to return to the pumps, which they did.

In the meantime the master had ordered the carpenter and the second mate to go down into the hold to ascertain, if possible, where the leak was. They told us they went carefully round the vessel from stem to stern on both sides, but could discover no place at which the water appeared to be coming in. Still the vessel continued to make more water, and at daylight of Sunday, the 5th, she was found to have 6 feet 4 inches in her hold. The men at that time had been continually at the pumps for at least 22 hours, if not for a longer period, they were all thoroughly exhausted; and, on a sail being seen to leeward, they again came aft to the master, and asked him to bear down towards her. The

captain, feeling that the time had at length arrived when it was necessary to abandon the ship, bore down towards the strange sail. On approaching her two boats were lowered from the “Ida,” and the master, officers, and crew having got into them, pulled to the stranger, which proved to be the Austrian barque “Ezio,” and were taken on board. At that time we are told that the “Ida” had 7 feet of water in her hold, and that she had a strong list to starboard. They continued to watch her for some hours afterwards, during which time she remained afloat; nothing more, however, was heard of her, and there can be little doubt that in the course of the following night she foundered.

After the evidence from the ship had been taken, and some surveyors and others, who had not been on board, had, by consent of Mr. Brian, the counsel for the owners and master, been examined, Mr. Wolferstan, who appeared for the Board of Trade, preferred charges against the master and owners. And, first, I propose to deal with the charges against the master.

The charges against the master are, that he abandoned this vessel prematurely, and that he failed to take proper measures for the preservation of the vessel, in not personally inspecting the hold to ascertain where the leak was, and in delegating that duty to the second mate and the carpenter.

Now, however the witnesses in this case may differ on other matters, there is one point upon which they all agree, and it is this: that the vessel was not abandoned one moment too soon. The master, mates, and men, all concur in saying that, had they not left her when they did, had they remained by her during the ensuing night, they would, without doubt, have gone down with her, and in that opinion the Court is quite disposed to concur.

Mr. Wolferstan also in his opening address stated that one of the points to which it would be necessary that our attention should be directed, was whether the master had been wrong in continuing his voyage as he did when the men came aft and requested him to put into some port. But the difficulty we have is to know into what port he ought to have put; he was endeavouring to make his way to Quebec, and no doubt hoped to get there, or at any rate to get her into some port in Canada. We certainly are not disposed to blame this master for continuing his course as he did, and for hoping up to the last that he would be able to save his vessel. He seems to have done all in his power to save her from sinking; and although possibly it might have been better had he personally gone down into the hold and ascertained for himself, if possible, where the water was coming in, yet he delegated that duty to officers in whom he had entire confidence, the carpenter and the second mate. And the Court sees no reason to doubt the evidence which they gave, that they made a careful inspection of the hold, and could find no traces of any leak. There is, therefore, no ground in our opinion for charging the master in this case with any neglect of duty, and we shall consequently return to him his certificate.

The charges against the owners are, first, that they sent this vessel to sea in an unseaworthy condition, and secondly, that they ought to have placed her in dry dock for examination and repair on her return from her last voyage to Quebec.

And first, let us endeavour to ascertain what was the condition of this vessel, when she was sent to sea on her last voyage. According to the evidence of some of the men who have been examined before us, the vessel was a rotten old sieve, or, as one of them called it, “a rotten old basket.” her boats were rotten, her pumps were useless and were constantly choked requiring to be cleared every 10 minutes, her bows even were falling out, and the water was coming into her at all parts. Indeed, if the evidence of these men is to be believed, it is a wonder that the vessel remained afloat as long as she did.

On the other hand, the officers tell us that the vessel, although no doubt an old vessel, requiring like all timber ships to be pumped out every watch, was a good solid vessel. They told us that her boats were in good order, and that one of them had been new the previous year. The pumps, too, they told us were in good order, and although the windmill pump broke down on the evening of the 4th, the two main pumps continued to work up to the last, and if they became choked occasionally, as all pumps will do at times, they had no difficulty whatever in at once clearing them.

Here, then, we have a direct conflict of evidence between the officers and the men, and if we had to choose between the two I think that there can be no doubt that we should accept the evidence of the officers in preference to that of

the men as to the condition of the vessel. As Mr. Brian has observed, the statements of the men are of too sweeping a character. They speak of all the boats being rotten, but if the boats were rotten it is strange that they should have been taken on board the "Ezio" and brought to this country. If they were so rotten the best thing would have been to have cast them adrift as soon as the "Ida's" people were on board the "Ezio." But we have the evidence of the master of the "Ezio" that they were very good boats, quite good enough to be taken on deck and brought to England. Again, the men told us that the water was coming into her at all parts, at the bows and sides, and yet not one of these men pretends that he ever went down into the hold, and all that they saw was from looking down the fore hatch. On the other hand, there is the evidence of the officers, of the carpenter, of the first and second mates, of the steward, I think, and of the second boatswain, all of whom went down into the hold and examined her carefully, and all of them say that the bows and bow ports were perfectly tight, and that there was no appearance of a leak anywhere.

Now it happens very unfortunately that of the three men who deposed to the rotten condition of the vessel and her boats two were men-of-war's men, and one of them had never before served on board a merchant vessel. To such men, accustomed as they were to the most perfect equipments, an old ship engaged in the timber trade, and which it was necessary to pump out every watch, would appear to be a rotten old sieve. These men therefore might very well think the vessel much worse than she really was, and say so without at all intending to commit perjury. If then the case rested here, and we had to choose between them, we should have been disposed to accept the evidence of the officers in preference to that of the men. But to-day a mass of evidence has been given which in our opinion settles the question, and removes all doubt from our minds on the subject.

It may be well that I should here give a slight account of the past history of this vessel. It seems, as I have said, that she was a New Brunswick vessel, built originally in the year 1852, and that she was consequently at the time of her loss 26 years old; and whatever some of the witnesses may say, a New Brunswick vessel 26 years old is essentially an old vessel. For several years past she had been employed as a timber ship, going out in ballast, or sometimes with coals, and returning with timber, sometimes from Quebec, sometimes from Pensacola, and sometimes from Rangoon. Her regular employment was that of a timber ship, and during the whole time that Captain Morris has commanded her she never seems to have carried a dry or perishable cargo. We were not told in what condition she was kept previous to 1872, but in the years 1872, 1873, and 1875 she underwent very extensive repairs; and we have had to-day the evidence of gentlemen who did the repairs and who surveyed her at those times, as well as in April last, and who can therefore give us the best information as to what her condition was at those periods.

Now the first witness produced was Mr. Schilston, a shipbuilder residing in Plymouth, who told us that he had known the vessel for a great many years; that in 1872 and 1873 he retalled her and did other repairs to her; and that in 1875 the repairs which he did to her were very extensive. On that occasion she had new stringers both in the 'tween decks and in the lower hold; she had new sister keelsons; she had between 2,000 and 3,000 trenails put into her; and she was caulked and retalled over felt. The cost of the repairs which he did to her in 1875 amounted, he told us, to above 1,000*l.*, and it was after these repairs that she was classed *Æ 1* at Lloyd's for four years. The next witness produced by the Board of Trade was Mr. Johnson, foreman to Mr. Levison, a shipbuilder of Gloucester, who did certain repairs to her in April last shortly before she left. I think he told us that she was in their hands from the 6th to the 18th of April, and that during that time three strakes between the fore and the main chains, the butts and hood ends, and the fore-castle deck were caulked; the metal was patched where it was necessary; and they took out and bored the pumps, and put new suckers to them; they also put in a new chain locker. The repairs do not appear to have been very extensive, but they were of such a nature as would enable him to judge of the vessel's condition at that time. Then there was Mr. Francillon, Lloyd's surveyor at Gloucester, who surveyed her on the 16th of April last, on the occasion of what he called an "annual survey," a term to which Mr. Grey has taken exception, but I hardly know why; he used the term, I presume, in contradistinction to a special survey. He did not have the vessel opened out on this occasion but he was on board her for about two hours, looked all round, and as he has told us could see nothing amiss, and he reported that she might be continued on her

class *Æ 1*. Now all these witnesses were produced by the Board of Trade, and all speak of the vessel as being a thoroughly good strong ship, more especially for a timber ship.

After the charges had been preferred other witnesses were produced by Mr. Brian, and their evidence is in our opinion equally important. First we had Mr. Cunning, formerly Lloyd's surveyor at Plymouth, and who surveyed her in 1875. Then there was Mr. Prigg, the managing foreman to Mr. Schilston, who, in company with Mr. Cunning, surveyed her in 1875 and superintended the repairs. Captain Philip also told us that he had surveyed her a great many years ago. And, lastly, we have Mr. Henry David Grey, the principal Board of Trade officer for the south and south-west coasts of England, residing at Stonehouse, who has lived here for upwards of 11 years, and who has given most important evidence in the case. He told us that in the year 1875, being at Bristol, his attention was called to the "Ida," which was at that time in the graving dock, and he gave special instructions to his officer there to watch her closely, and to the best of his belief that was done. Shortly afterwards, to Mr. Grey's astonishment, he found her at Plymouth, having encountered bad weather on her way out and been obliged to put back. He told us that he received special orders from the Board of Trade to keep an eye upon her and that he did so, and he said that he did not think there was a single timber or a single plank in that vessel which had not been personally inspected by himself. He told us that one reason for observing her so closely was that he found the metal wrinkled in a peculiar way as though she had had a severe strain. He told us that during the whole of the repairs, which were undertaken at that time he examined her sometimes as often as two and three-times a day, and he says that no expense whatever was spared in the repair, and that she was in his opinion put into a thoroughly good and efficient condition. He told us also that although he had inspected every timber and every plank on board, he did not find a single rotten one in her. Now the evidence of a gentleman like Mr. Grey, holding the high position he does, is entitled to the greatest weight, and shows us that in 1875 at any rate this vessel was in a thoroughly good and efficient condition, a good strong vessel. In addition to this we have the evidence of Lloyd's surveyor at Gloucester, and of Mr. Johnson, the foreman of Mr. Levison, of Gloucester, who repaired her immediately before her departure upon her last voyage. With such a mass of evidence before us, and from gentlemen so well qualified to judge of her state and condition, it is quite impossible for us to find that the owners knowingly and wilfully sent this vessel to sea in an unseaworthy condition, and the charge against them must therefore fall, the charge of having sent her to sea in an unseaworthy condition.

But the question still remains, how was it that this vessel, without any extraordinarily bad weather, and after being at sea for so short a time, should have been found in such a condition that it was absolutely necessary to abandon her? And I think that we shall find an answer to this question in a fact which has come out in the course of the inquiry. It seems that in June of last year the vessel, on her outward voyage to Quebec, grounded in the St. Lawrence. She took the ground forward, having at the same time deep water astern; and although she remained for only about an hour on the shoal she was all the time in a position of great danger, not being upon an even keel, the fore part being aground, whilst the after part was afloat, and the vessel at the time having a cargo of coals on board. On getting off she proceeded to Quebec, and was there surveyed by Mr. John Dick, the port warden, a gentleman of high authority at Quebec, and whose report I now have before me. He tells us that on being called upon to survey her on the 19th of June he found that she was making a large quantity of water, and he accordingly recommended her to be put into dock for examination. This was accordingly done, and on the 25th of the same month he again went on board, and his report is as follows:—"Again resumed my examination. Aft on the starboard side, at about 14 feet forward of the stern post, water was found issuing out of the upper seams of the garboard strake. On the same side forward, at 15 feet aft from the stem, the water was also found issuing out from the keel seam." Accordingly Mr. Dick recommends "that both the above places be caulked, covered with felt, and metalled as before, and that the caulking above the copper line should be examined;" and he adds, "This having been done with no apparent damage to her hull from grounding, &c., I am of opinion that she is fit to receive a cargo of timber, and to proceed on her voyage to Britain." Accordingly, the vessel returns to this country, and is then despatched for a cargo of timber to Pensacola. After her return to this country in March last she receives the trifling repairs of

which I have already spoken ; she is not put into dry dock, no attempt is made to examine her bottom, to see if she has sustained any serious damage in her bottom owing to her having grounded in the St. Lawrence ; but they are content with what was done to her at Quebec, namely, that the two places where she was found to be making water should be caulked, covered with felt, and remetalled ; and she is then sent again to sea on the voyage in which she foundered.

Now it is important to ascertain, if possible, where the water got into the vessel. First, we have the evidence of the officers who went down into the hold, that of the first and second mates, the carpenter, the second boatswain, and the steward, who all say that the water did not come in either at the bows or through the sides, in fact, that they could discover no appearance of any leak. The inference therefore would seem to be that it came in under the ballast ; and that is the opinion to which the master and officers have come. What, then, more probable than that it should have come in at the places where it was found to be coming in after the grounding in the St. Lawrence, and which had only been caulked and remetalled in those places, but without stripping off the metal off the whole length of the garboard strake, to ascertain what was the condition of the keel seam. That the water may have come in there some "15 feet aft from the stem" is also quite consistent with the evidence of one of the men, who told us that in looking down the fore hatchway he saw the water "running aft in a steady stream, on each side of the keelson ;" and that is exactly what would have happened had the water been coming in forward at the place where she was damaged by grounding in the St. Lawrence River. It is also quite consistent with the evidence of the stevedore, who told us that, whilst the vessel remained at Gloucester, she made no water, and that he had no occasion to use the pumps ; for, whilst lying quietly in dock, the parts where she had been injured would probably remain closed, but the instant she got into a seaway they would open and let the water in. The whole of the evidence, in our opinion, shows that the water may, and probably did, come in at the keel seam, where it was found to be coming in after she had grounded in the St. Lawrence.

Now the owners have been charged with having sent this ship on a voyage to Quebec without having placed her in dry dock for examination and repair on her arrival in the Port of Gloucester from the voyage where she grounded in the St. Lawrence. No doubt it would have been better had the owners done so, seeing that Mr. Dick's certificate

showed that there had been no attempt to examine carefully the damaged part by stripping off the metal ; and his certificate merely goes to this, that she was fit to receive a cargo of timber, and to proceed to England with it. It would, I say, have been better had the owners on her arrival in this country placed her in dry dock for the purpose of examining her more thoroughly. Seeing, however, the evidence that has been given before us this day by duly qualified persons, that in their opinion it was not obligatory on the owners to put her into dry dock for that purpose ; seeing also that she had performed the voyage in safety, and apparently without making more water than usual ; that she had gone on another voyage to Pensacola and returned in safety again apparently without making more water than usual ; seeing all this, can we say that the owners have been guilty of knowingly sending this vessel to sea in an unseaworthy condition, even if it were the fact that she had sustained damage at the keel seam or in the garboard strake, which ultimately occasioned her loss ? We think not. It was no doubt unfortunate that when she was surveyed by Lloyd's surveyor at Gloucester, the fact that she had been ashore in the St. Lawrence was not communicated to him ; but the fact as mentioned to us by Mr. Grey, that the owner had informed him that she had been aground in the St. Lawrence River, in our opinion fully acquits him of any intention wilfully to conceal the state of the vessel from those appointed to examine her.

The case was in our opinion a very proper one for an inquiry. At the same time, we are very glad that we are able to come to the conclusion that the charges against both the owners and the master have in our opinion failed. No doubt it would have been better had the master gone down into the hold to ascertain for himself where the vessel was leaking ; but there may be something in what Mr. Brian has said that with such a crew as he had he feared that if he left the deck they might leave the pumps. As regards the owners, we must acquit them of all intention wilfully to send this vessel to sea in an unseaworthy condition ; although, as a fact, we think that it would have been better if she had been docked and her keel carefully examined on her return to this country after having grounded in the St. Lawrence.

Of course, under the circumstances, no costs will be given to either party ; but we shall return to the master and the officers their certificates.

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