

(No. 352.)

“GEM” (S.S.), and Sailing Ship  
“BOWFELL.”

The Merchant Shipping Acts, 1854 to 1876.

In the matter of the formal investigation held at the Civil Court, St. George's Hall, Liverpool, on the 10th, 11th, 12th, 13th, and 14th days of December 1878, before H. C. ROTHERY, Esquire, Wreck Commissioner, assisted by Rear-Admiral APLIN, R.N., and Captain JONES, as Assessors, into the circumstances attending the collision between the British steam-ship “GEM,” of Liverpool, and the British sailing ship “BOWFELL,” of Liverpool, in the River Mersey, on the 26th day of November 1878, whereby loss of life ensued.

The Court having carefully inquired into the circumstances of the above-mentioned shipping casualty, finds, for the Reasons annexed—

(1.) That William Cartwright, the master of the ferry steamer “Gem,” was not justified in attempting to cross the River Mersey on the morning of the 26th November, in so dense a fog, and with the flood tide running at the rate of between five and six knots.

(2.) That the master of the “Gem” did not take the proper measures to avoid a collision, seeing that after he had been told that a bell had been heard to the southward of the lightship, but where exactly the ship was to which it belonged was not known, his proper course under those circumstances would be to go to the north and not to the south of the lightship.

(3.) That the “Bowfell” was not anchored in such a position as to be a cause of danger to the ferry steamers crossing between Seacombe and Liverpool.

(4.) That the pilot of the “Bowfell” was justified in anchoring in the place in which he did, having regard to the fact that he saw a fog setting towards him from the S.E., which would prevent his getting up beyond the Woodside Ferry track.

(5.) That the bell of the “Bowfell” was a good bell, and was rung with sufficient frequency on the morning in question.

(6.) That the casualty was due partly to the neglect and default of the Wallasey Local Board, the owners of the ferry steamer “Gem,” in giving no discretionary power either to their manager or to their captains to stop the Seacombe Ferry boats when it was dangerous for them to run, and in compelling them to run, however dense the fog might be; and partly to the wrongful acts and defaults of the said William Cartwright, the master of the “Gem,” in attempting to pass between the lightship and the “Bowfell,” without knowing the exact position of the latter vessel, and with such a strong flood tide as was then running, instead of taking a course to the north of the lightship.

(7.) That the casualty was not due to the “Bowfell” or to any neglect or default on the part of her master, pilot, or owners.

The Court accordingly returns to the master of the “Bowfell” his certificate. The master of the “Gem” being an uncertificated officer the Court has no power over him.

The Court makes no order as to costs.

Dated the 14th day of December 1878.

H. C. ROTHERY,  
Wreck Commissioner.

We concur in the above Report.

ELPHINSTONE APLIN,  
Rear-Admiral, } Assessor.

HENRY JONES, Assessor.

Reasons.

The Commissioner.—The object of the present inquiry is to ascertain the circumstances under which a collision occurred on Tuesday the 26th day of November last, in the River Mersey, between the steam ferry boat “Gem” and the ship “Bowfell,” attended, I regret to say, with very great loss of life.

The case has attracted a great deal of attention, owing partly to the fact that the “Gem” had at the time on board as passengers from 200 to 250 professional gentle-

men going to their places of business at Liverpool; partly also to the fact that the “Bowfell” was said to have been anchored in the track of the ferry boats. It seems that this question of the ferry track has given rise to a great deal of discussion between the gentlemen who reside on the Cheshire side, the ferry boat owners, and the authorities; and the learned counsel for the Board of Trade, in his opening address, stated that that would be one of the questions to which the attention of the Court would have to be directed. He said that regulations had from time to time been issued by the pilotage authorities of the River Mersey in regard to the anchorage of ships within the ferry tracks; that our attention would be called to those regulations; and that we should be asked to say whether they had been infringed in this case, and, if so, why? Accordingly, when an application was made to me on the part of the Mersey Docks and Harbour Board, who are the pilotage authorities for this port, and by the Birkenhead Improvement Commissioners, the owners of the Woodside Ferry, and who have a special interest in the question of the ferry tracks, I felt that I had no option but to allow them to appear. The result has been that we have had before us no less than seven different parties; namely, (1.) the Board of Trade; (2.) the Wallasey Local Board, the owners, and the master and officers of the ferry steam-boat “Gem;” (3.) the Messrs. Brocklebank, the owners, and the master and officers of the “Bowfell;” (4.) the pilot of the “Bowfell;” (5.) the next of kin of some of the passengers who have lost their lives in the collision; (6.) the Mersey Docks and Harbour Board; (7.) the Birkenhead Improvement Commissioners.

All these parties were separately represented, either by counsel or solicitor, and all claimed the right to cross-examine the witnesses. This has of course tended to lengthen the proceedings; at the same time, looking at the great importance of the question to the inhabitants on the Cheshire shore, and, I may say, to the inhabitants of Liverpool itself, looking also to the number of witnesses who have been examined, I do not think that the four days during which this case has lasted can be said to have been unprofitably spent. A less full and less thorough investigation would certainly not have satisfied either the public or the parties. I now come to the facts of the case.

The “Gem” was a paddle-wheel steamer of 118 tons gross, and 36 tons net register, and was fitted with engines of 50 horse-power. She was built at Govan in the year 1858, and at the time of the casualty was the property of the Wallasey Local Board. A short time since she had been extensively repaired; she had been lengthened 10 feet; two water-tight bulkheads, in addition to the five which she already had, had been put into her, as well as new engines and boilers. There can be no doubt that at the time of the casualty she was, as the result has shown, a thoroughly good and substantial vessel.

At 9.30 a.m. of Tuesday the 26th of November last she left Seacombe Ferry for Liverpool, under the command of Captain Cartwright, and having a crew of seven hands, and one extra hand to attend to the whistle. The tide at the time was half flood, running, we are told, from five to six knots an hour; the wind was light from the south, and there was an intensely thick fog. As I have already said, she had from 200 to 250 passengers on board, chiefly professional men, going to their places of business in Liverpool. On leaving, the master and mate were on the bridge, the mate being at the helm. There was a man named Cropper, the extra man, at the whistle, which was on the bridge, and there were two men forward on the lookout, one on each bow.

I should state that on the previous Sunday, the 24th, a vessel called the “Maggie Townson” had been sunk a little to the south of a line drawn between Seacombe Stage and the embayment of the St. George and Prince's Stages on the Liverpool side. On the next day, Monday the 25th, a lightship had been moored a little distance to the north of her, for the purpose of marking the place of the wreck, and to warn vessels against running on to it. The wreck and the lightship bore from the Seacombe Stage about S.E. and by E.; and they were, as I have said, nearly in a direct line between the Seacombe Stage and the St. George's Stage. Boats therefore leaving the Seacombe Stage had to elect either to pass to the southward or to the northward of those vessels. Captain Cartwright determined to pass to the southward of those vessels; and as the “Gem” lay alongside the stage with her head down the river, the helm was put hard-a-port for the purpose of turning her round with her head up stream. At the same time a long whistle was sounded, as a signal that the vessel was about to start, and the engines were set on half speed ahead. The practice on

board these vessels was to sound the whistle three times in quick succession, and that, we are told, was done from the moment of leaving the stage, the three whistles being repeated about three times in a minute or a minute and a half.

The vessel rounded to under her port helm until her head was brought to about south-east, when, finding from the sound of the lightship's bell that they had passed her, the helm was ordered to be put hard-a-starboard to bring her head to the tide, intending thus to cross the river, the vessel at the same time drifting down with the tide, so as to fetch the St. George's Stage. In a minute and a half or two minutes after passing the lightship, and within three or four minutes of leaving the Seacombe Stage, at which time the vessel's head had, as we are told, been brought to about east-north-east, the bowsprit of a vessel, which afterwards proved to be the "Bowfell," was observed by the master just forward of the starboard paddle-box. The master, finding that the tide was setting him directly down on to the "Bowfell," and that, if he fell across her stem, the vessel would probably be disabled and great loss of life ensue, ordered the engines to be set full speed ahead, and the helm to be put hard-a-port to cant her stern off. The result of this manœuvre was to throw the "Gem" clear off the "Bowfell's" stem. Her funnel, however, was caught by the "Bowfell's" bowsprit, and was carried away, and her starboard quarter came into collision with the "Bowfell's" starboard bow. The vessel herself, however, passed clear, scraping down the "Bowfell's" starboard side. As soon as the captain of the "Gem" perceived that he was clear of the "Bowfell's" stem he ordered the engines to be put full speed astern, and succeeded in bringing her up.

In the meantime a panic had seized the passengers; some threw themselves into the water; from 20 to 24 clambered up on board the "Bowfell"; others threw the boat which was on the bridge into the water; and although no time seems to have been lost by the captain or mate and seamen in endeavouring to calm the fears of the passengers, I regret to say that during the short time that elapsed before the vessel was brought to, four passengers had been drowned; one had sustained such injuries from the collision that he afterwards died in hospital, and 14 are still missing. The "Gem" was ultimately brought alongside the Wallasey Stage, and there landed the remainder of her passengers.

Such are the facts so far as they concern the "Gem;" and now for the "Bowfell."

It seems that the "Bowfell" is a vessel of 1001 tons register, built at Whitehaven, in the county of Cumberland, in the year 1864, and at the time of the casualty was the property of Messrs. Brocklebank, of this town. She left Calcutta in July last, having a crew of 28 hands, all told, and a light cargo. At 4.30 p.m. of the 25th of November last, she was off the Middle Mouse, about two miles to the west of Point Lynas, when she was boarded by a first-class pilot, named Richard Williams, who took charge of her for the purpose of piloting her up the Mersey, and into the Prince's Dock for which she was bound. Off the Great Orme's Head she was taken in tow by a steam tug, and at about 1.30 or 2 a.m. the following morning she was off the Rock, the tide at the time being ebb. Richard Williams has told us that it was his intention, if possible, to anchor the ship between the Rock and Egremont, but owing to the number of vessels that he found there, owing also to two wrecks, namely, the "Hercules" and "Alice Davies," which took up a considerable portion of the anchorage ground, he found it impossible to obtain a clear berth, and he therefore determined to proceed up the river above the Woodside Ferry. At first he kept rather to the Cheshire side, but afterwards went over towards the Liverpool side; and when nearly up to the Prince's Stage he observed a bank of thick fog coming down the river from the south-east. Fearing to be caught in this fog, he ported the vessel's helm, and at the same time signalled to the tug to port her helm, so as to bring his vessel more over to the Cheshire side, and cut of the way of the small craft on the Liverpool side, and the ferry boats and tugs which would be making for the Liverpool Stage. Observing to the south what ultimately turned out to be the lightship, but which he took to be simply a vessel riding at anchor, for he was quite ignorant that there was any wreck there, having been at sea during the previous week, and seeing a clear berth, as he thought, above the lightship, he dropped his anchor and brought up on the ebb tide, paying out at the same time 45 fathoms of chain to the water's edge. By this time, according to the pilot's evidence, the fog was upon them, and an anchor watch was then set, consisting of an officer and two men, in addition to the pilot, who remained on deck and in charge. At 8 o'clock, the weather being still intensely foggy, the mate took it upon himself to set a sea watch, and one of the hands was then

put at the helm; another was set to ring the bell, which, I may observe, had, according to the evidence from the "Bowfell," been rung continually from the time when she was brought to anchor, namely, from about 20 minutes to 5 o'clock. Soon afterwards 15 more fathoms of chain were paid out, so that the vessel then rode with 60 fathoms of chain out.

At 9.30 a.m. the pilot was walking the quarter deck, the master and chief mate being below; there was a man at the wheel, the eldest apprentice was at the bell, and the vessel had a slight sheer to the westward, heading, as we are told, north half west, or north by west, on the flood tide, when a vessel, which afterwards proved to be the "Gem," was observed crossing her bows, and at the same time drifting rapidly down upon them. According to the pilot the greater part of her was then on their starboard side, the funnel being just a little on the port bow; and the "Gem" herself seemed to be heading about south-east and by east. Before he could run forward the steamer was foul of her, their cutwater taking her after sponson on the starboard side; and the "Gem" then scraped down along their starboard side. No time seems to have been lost by the "Bowfell" in lowering her boat, which was hanging from the davits, and some seven or eight people were thereby rescued; and I am happy to say that in this case no charge has been brought against the masters or officers of either vessel that they neglected to take all proper measures to save the lives of the unfortunate people who were drowning.

Such being the facts of the case, the questions on which the Board of Trade have requested the opinion of the Court are as follows:—

1. Was the master of the "Gem" justified in attempting to cross the river on the morning in question?
2. Did the master of the "Gem" take proper precautions to avoid a collision?
3. Was the "Bowfell" anchored in such a position as to be a cause of danger to the ferry steamers crossing between Seacombe and Liverpool?
4. Was the pilot of the "Bowfell" justified in anchoring the "Bowfell" in the position in which she was on the morning in question?
5. Did the "Bowfell" carry, and did her master and crew use, proper fog signals on the morning in question?
6. Was the casualty due to any neglect or default on the part of the owners or master of the "Gem"?
7. Was the casualty due to any neglect or default on the part of the master, pilot, or owners of the "Bowfell"?

And, lastly, the Board of Trade say that in their opinion the certificate of the master of the "Bowfell" should be dealt with. Mr. Mackenzie added, that had the master of the "Gem" held a certificate a similar application would have been made to the Court in respect to him.

Now it will be observed that in these questions the propriety or legality of anchoring in the ferry track has not been raised, except inferentially in questions 3 and 4. We are not asked to say whether it would be proper to prohibit the anchoring of vessels in the river tracks, or to express any opinion as to the propriety of the orders which have been issued by the pilotage authorities on the subject. This arises, as I understand, from a remark which fell from the Court in the course of the proceedings, that the Court would most certainly not pronounce any opinion upon so large a question without much fuller information than was at present before it, and without having given those parties, whose interests might be directly or indirectly affected thereby, an opportunity of being heard thereon. It is upon this ground, I understand, that Mr. Mackenzie has framed the questions in the form in which they now stand; and I must say that they are a model for inquiries of this nature, as they are calculated to elicit the opinion of the Court upon all the essential points in this case.

The first question upon which our opinion has been asked is, was the master of the "Gem" justified in attempting to cross the river on the morning in question? We are told that the fog was so intense on that morning that it was not possible to see further than half the "Gem's" length, that is to say, some 60 or 70 feet off. We were also told that during the last 20 years so dense a fog had not been seen more than once or twice, and that a denser fog had perhaps never been seen before. We can then have no hesitation in saying that, under such circumstances, a master would not be justified in attempting to cross the river, at all events when the tide was running at the rate of from five to six knots an hour. I adhere to what I said in a recent case, that a vessel is not at liberty in a fog to proceed through a crowded channel at such a rate of speed; that it is not possible for her to see an object, at anchor too, at a sufficient distance to avoid colliding with it. We are told that at half speed the "Gem" made five knots an hour; the tide too was running at the rate

of between five and six knots an hour. When, therefore, her head was to the south-east, or nearly up the river, she must have been going over the ground at the rate of nearly 10 knots an hour. What chance then would she have of escaping collision with a vessel at anchor, if perchance she should find herself bearing down upon her?

But we are not left to our own conjectures on this point, for we have evidence of the most unimpeachable character that it was rash and imprudent on the morning in question, with the tide running as it was between five and six knots an hour, to cross this river. Without going quite the length of the pilot, Mr. Webster, who told us that, in his opinion, whenever there is a fog, professional gentlemen should stay at home,—I do not think he said that pilots ought to do so, or, if he did, his professions would hardly accord with his practice, for if I rightly remember he was going as a passenger in the "Gem" for the purpose of taking charge of a vessel as pilot,—I say, without going quite that length, we have evidence of the great danger of running this vessel on the morning in question from gentlemen whose testimony cannot be questioned. Captain Cartwright indeed said that he thought he could have got safely over, if the "Bowfell's" bell had been kept ringing. No doubt, if there had been no vessel in the way, the "Gem" might, although the tide was running as it did, have arrived safely at the Liverpool side. On the other hand, we have the evidence of Godfrey, the mate, that in his opinion—and his opinion is entitled to considerable weight from the length of time he has served in these boats—it was not prudent to cross the river that morning. But we have the evidence of Mr. Carson, the manager of the vessels belonging to the Wallasey Local Board, a witness who gave his evidence in a manner to call for the approbation of the Court on account of the clear and straightforward way in which it was given. Now what does Mr. Carson say, after an experience, I think, of 20 years, 14 years of the period as manager? He tells us that, in his opinion, it was not prudent to run on that morning; that he would have preferred not to run the boat, and that, if it had been left to his discretion, he should not have done so. According to Mr. Carson it was not possible to run her without the greatest risk. When, then, the Court finds the manager of these boats speaking in such strong terms of the impropriety of running this boat on the morning in question, we can have no doubt that to have crossed the river on that morning, with the tide running at the rate of from five to six knots an hour, was an act of the greatest imprudence.

We were told, however, that these boats had run for about 20 years without any serious casualty ever having occurred to any of them, and that it would have been a matter of extreme inconvenience to the gentlemen who were passengers by her, had they been prevented from going to their offices that morning. It was said that, although they might have gone to the Woodside Ferry, it would have been by the shortest route a journey of about a mile and three quarters, with the risk of falling into some one or other of the docks in the way; and to have gone by the longest and safest route would have involved a journey of five miles, a very important matter to many of the persons who wanted to cross the river on that morning. We were told too by Mr. Kennedy that these boats were not in the hands of private speculators, but that they were public property; that they were run for the benefit of the ratepayers, and that it was the wish of those gentlemen that they should not be stopped.

No doubt those gentlemen, seeing that no accident had happened before, were ready to run the risk of crossing the river that morning, rather than incur the certain inconvenience of either staying at home or going five miles round by land to Woodside Ferry. As I understand Mr. Kennedy, no discretion is given either to the manager or masters of the boats; they always have run, whatever the state of the weather may be. It might therefore to a certain extent be said that these gentlemen were voluntarily exposing themselves to this risk as a lesser evil than having to stay away from their places of business or having to go round by the Woodside Ferry. Now it appears to me that this is a different case from that of a master in charge of a vessel who wilfully incurs a risk to which the passengers are in no way consenting parties. Here the passengers knew the risk before they started, and were willing to encounter it. No doubt the master was not justified in crossing the river that morning, but then the majority of the passengers were willing to incur the risk. What we are rather disposed to say is, that the ratepayers, for whose convenience these boats are run, are not justified in giving no discretion to their captains, and no discretion even to their manager, but insisting that the vessels shall always run, no matter what may be the state of the weather. We cannot, therefore, in considering the conduct of the captain

in this case, altogether lose sight of the fact that no discretion was given to him, that he communicated with the manager before leaving, and that that manager, having himself no discretion in the matter, did not prohibit his running. The blame, therefore, if blame there is, rests more with the ratepayers and the Wallasey Local Board than it does with the captain of this vessel or with the manager.

The second question on which our opinion has been asked is, whether the master of the "Gem" took proper precautions to avoid the collision? And here I must again refer to the evidence of that very intelligent witness, Mr. Carson, to help us on this point. Mr. Carson told us that the Seacombe boats run every day, without interruption, from 5.30 or 6 a.m. until after midnight; and that they have two sets of captains, night and day captains. The night captains go on duty at 5 p.m. and remain on duty until midnight; they then come off duty and resume again at half-past five or six in the morning, continuing until 8 a.m., when they are relieved by the day captains, who remain on duty from that time until 5 p.m. Mr. Carson told us that it is the duty of the masters of the first boats in the morning to look out for any obstructions that may have been placed in the track since the boats had left off running the night before, and to report them either to the manager or to their fellow captains. This seems to be the usual practice on board these ferry boats.

Now on the morning in question Evans and Potter were the night captains, Maxwell and Oxley the day captains. Mr. Carson told us that Evans and Potter, or one or both of them, told him that morning that they had discovered a steamer, which afterwards proved to be the "Glaucus," away to the eastward, off the embayment of the landing stage; that they had been alongside of her and asked her captain to keep his bell going, and to show a signal aft; that they had also told him that to the southward of the lightship and off the Alfred Dock they had heard another bell, but that they did not know what it was, as they had not been so far to the southward. They had, it would seem, up to that time been running on the ebb tide. It further appears that, when Maxwell and Oxley came on duty at 8 o'clock, Mr. Carson enquired of them what course they intended to take, the flood tide having by that time begun to make. Oxley said that he intended to go to the southward of everything, meaning by "everything" not only the lightship and the wreck, but also the vessel whose bell had been heard by the captains to the southward of the lightship. Mr. Carson objected, as it seemed to him to involve a risk of collision with the Woodside boats; but he said that he did not forbid that course being taken. Maxwell said that he should go to the southward of the lightship and the wreck, and across the bows of the vessel, whose bell had been heard by the captains, but without their knowing what it was; and Mr. Carson thought that that was the safer course. These two captains appear to have performed the journey to and from Liverpool in safety, but at that time the tide was not running at its full strength.

At 9.30 Cartwright was put on with the "Gem," for the purpose of relieving the other two captains. Mr. Carson told us that, when Cartwright was about to start, he asked him if he had had any communication with the other captains as to what was in the track, and he said that he had. With the view of making sure that Cartwright was well informed as to the dangers which he was likely to meet with on the journey, Mr. Carson asked him if he was aware that a bell had been heard to the southward of the lightship and the wreck off the Alfred Dock, and that a steamer had been seen to the eastward, to which Cartwright answered that he was aware of it. When therefore Cartwright started to cross from the Seacombe to the Liverpool side this was the position of affairs: he knew that the "Glaucus" lay off the embayment on the Liverpool side; he knew also that a bell had been heard to the southward of the lightship, but no one knew to what vessel that bell belonged, nor what was her exact position. He nevertheless determined to pass between the lightship and this vessel, although he did not know with any certainty at what distance they were apart.

It was stated by Mr. Mackenzie that it appeared to him strange that the master had not, knowing that there was a vessel to the southward of the lightship, elected to pass to the northward of the lightship. To this no answer has been given. The only suggestion that has been offered in reply is that there might have been a risk of the ferry boat being driven by the flood tide across the bows of the lightship. But it surely would have been easier to have avoided the bows of the lightship, whose position was accurately known, than a vessel of which all that was known was that she was somewhere to the south of the lightship. That, at any rate, is the opinion of the two

assessors who sit with me, gentlemen of very great experience, and one of them now holding high rank in Her Majesty's Navy, and having at one time been stationed in this port.

The master then having elected to pass to the southward of the lightship, and between it and the unknown vessel, it becomes important to ascertain where the lightship, as well as the "Bowfell," were anchored, for on this point we have had a great deal of very contradictory evidence. The position indeed of the lightship and the wreck have been very accurately defined for us by Captain Hills, the Marine Surveyor of the Mersey Docks and Harbour Board, under whose management the lightship was moored. He told us that the wreck, being that of an iron ship laden with pig iron, could not certainly have shifted her position, which he stated was immediately opposite to the south entrance to the Alfred Dock, and about 500 yards from the Cheshire shore, and 600 from the Liverpool shore. She was consequently nearly in mid-stream, but a little over to the Cheshire side. He told us that the lightship was thus stationed: an anchor was dropped 30 fathoms to the westward of the wreck, and 60 fathoms of chain having been paid out, another anchor with 60 fathoms of chain was carried out to the north; that the two chains were then connected with a swivel, to which the lightship rode with two bridles; so that her position, on the ebb and flow of the tide, would be very slightly altered, by merely the length of the vessel, some 90 feet. Captain Hills also told us that the distance of the lightship from the south end of the Seacombe Stage was, as nearly as possible, 450 yards; and as she was nearly in a direct line between the Seacombe and St. George's Stages, she would lie in a direction something like S.E. and by E. from the Seacombe Stage.

Having thus ascertained with certainty the position of the lightship and wreck, let us now endeavour to fix, as far as we can, the position of the "Bowfell." According to the crew of the "Bowfell" they were anchored directly astern of the lightship, and at such a distance from it that, on the flood tide, the stern of their vessel was off the south bridge of the Wallasey landing stage. On the other hand the people belonging to the "Gem" place her very much nearer to the wreck,—in fact so close that, as I understand it, it must have been dangerous to pass between the wreck and the "Bowfell." But if the "Bowfell" was so close to the wreck that it was dangerous to pass between them, what right had the "Gem" to attempt to cross the "Bowfell's" bows, with a flood tide running at the rate of between five and six knots? It may, however, be said that Captain Cartwright did not know at the time how close she was; but he did know that a vessel's bell had been heard to the southward of the lightship, and not knowing exactly where the vessel was to which that bell belonged, it behoved him to exercise more than ordinary caution, lest he should come into collision with her.

But, as a matter of fact, I think that it will be found that the "Bowfell" was not anchored so close to the wreck as the "Gem's" people would wish us to believe. But how stands the evidence? First, then, we have the evidence of the men from the lightship. Now I am ready to admit that Wills, the seaman from the lightship, was anxious to give a fair statement as far as he could; but, to use Captain Hills' words, he had a very hazy idea of distance, and was undoubtedly very much confused, using the words to define the points of the compass in a certain conventional way, which, to say the least, is unusual, and which misled not only the learned counsel engaged in the case, but the Court also. If a witness will say that a certain object was north of his vessel, and at the same time south and west of it, he must expect that we shall have some difficulty in understanding him. On the other hand, Steele, who also came from the lightship, gave his evidence very clearly; he told us that, on the flood tide, the "Bowfell" was anchored in a line directly astern of the lightship, and that they could see her from either gangway. Steele also told us that, when both vessels were riding on the ebb, she was 130 fathoms from the lightship. On the flood, then, we should have to add twice the length of the "Bowfell's" cable, that is to say, 120 fathoms, and her length, which would be 35 fathoms more. This gives us from 270 to 280 fathoms, or something like 550 yards, as the distance between the lightship and the bows of the "Bowfell." Now if we measure off 550 yards from the place where the lightship was moored as laid down on the chart by Captain Hills, it will bring us about opposite to the south bridge of the Wallasey landing stage, which is where the crew of the "Bowfell" say that they were on the flood tide, and when also the collision occurred.

But this is not the only evidence on the point. According to Mr. Carson, what he required to be kept clear of

vessels at anchor as a track for the ferry boats was 500 yards on either side of a line drawn from Seacombe landing stage to the centre of the embayment of the Liverpool landing stage, which, as we have seen, would pass through the lightship. Now Mr. Carson has admitted that the "Bowfell" on the flood tide was anchored beyond what he had claimed for the Ferry track, that is to say, beyond 500 yards from a line from the Seacombe landing stage through the lightship. The "Bowfell" consequently on the flood tide must have been more than 500 yards to the southward of the lightship, which would agree with the evidence of those both from the "Bowfell" and from the lightship, and would place her opposite the Wallasey landing stage.

A question, however, arises, how was it, if the "Bowfell" was at this distance from the lightship and the wreck, that the "Gem" came into collision with her? and the answer appears to us to be very clear. When the "Gem" rounded with her head to the south-east she was going, we are told, half speed, which was five knots an hour; the tide also was taking her at from five to six knots an hour; she would therefore, until she had got her head round to meet the tide, be going something like 10 knots an hour over the ground. Now 10 knots an hour give one mile in six minutes, so that in two minutes the vessel would go a third of a mile or 580 to 590 yards. We are told, however, that the collision occurred in from three to four minutes from the time of leaving the landing stage, and in a minute and a half or two minutes from passing the lightship. But if it took the "Gem" only about two minutes to get under weigh, and to bring her head round, and to traverse the 450 yards between the stage and the lightship, is it very unreasonable to suppose that in the next minute and a half or two minutes she would traverse the intervening space between the lightship and the "Bowfell?" For it must be remembered that, when she passed the light ship her head would be about S.E., and that she would be going at her greatest speed; and as she had not got sufficiently far across the river to avoid coming in contact with the "Bowfell," which was anchored directly astern of the lightship, it is evident that her helm could not have been put to starboard to make her head across the river very long before the collision actually occurred.

The explanation of the case is simply this: The master, instead of doing, as in the opinion of my assessors he should have done, that is to say, gone to the north of the lightship and the wreck clear of all obstructions, elected to turn his ship between the lightship and the Cheshire shore. This necessarily brought him with his head up the river, and with the flood tide running at the rate of five to six knots an hour in his favour. To retain command over his ship he had to keep her at half speed, which, we are told, is five knots an hour; he would therefore be going 10 knots over the ground, and might easily traverse the distance between the lightship and the head of the "Bowfell" before he had made sufficient way across the river to clear the bows of the latter ship. We think that the master was to blame for having attempted to cross the river with a flood tide running at a rate of between five and six knots an hour, and with the knowledge that there was a vessel somewhere to the southward of the lightship, but where exactly he did not know. When, however, he sighted the vessel, we think that the measures which he took were proper, and such as a prudent captain would take. In our opinion he showed a great deal of skill and presence of mind in ordering the engines to be put on full speed ahead, and in putting the helm hard-a-port, so as to cant the ship's stern out from the "Bowfell," and thus diminish as far as possible the consequences of the collision.

The third question on which our opinion has been asked is, whether the "Bowfell" was anchored in such a position as to be a cause of danger to ferry steamers crossing between Seacombe and Liverpool? Now it is clear, in our opinion, that there was a distance of some 550 to 560 yards between the lightship and the "Bowfell" for vessels going from Seacombe to St. George's Stage; and if that distance is not sufficient to enable a ferry boat to cross the river, I can only say that there would be very little space in the River Mersey for any vessels to anchor in. Assuming that Mr. Carson is right in saying that a space of 500 yards on either side of a line drawn from Seacombe to the St. George's Stage is required to be kept clear for the ferry track, it appears to the Court that, even on this assumption, the "Bowfell" was not in a place to be a cause of danger to the ferry boats, provided that the captains exercised due care and caution.

The fourth question on which our opinion is asked is, whether the pilot of the "Bowfell" was justified in anchoring her in the position in which she was on the morning in question? Now our attention has been called to certain

orders which have been issued by the pilotage authorities, beginning in the year 1859, and issued from that time successively in the years 1860, 1864, 1866, 1869, 1870, 1871, 1872, 1873, and lastly on the 31st October 1878, and in which pilots are recommended not to anchor in the ferry tracks. In most of these notices the recommendation is that they shall not anchor in the tracks of the Seacombe as well as the Woodside Ferry boats; but in the last notice, dated the 31st October in the present year, the Woodside Ferry track is alone mentioned. It has been pointed out that these notices are not orders, but only recommendations; and it is abundantly clear from the evidence of the pilots that they are so regarded by them. Now I am not going to say whether the pilotage authorities ought or ought not to have issued more stringent orders on the subject, for we have not the materials before us to decide so large a question; and moreover our opinion has not been asked upon the point. All that I need say is that according to the evidence of the pilots they do avoid anchoring in the ferry tracks, if they can conveniently do so; at the same time, from the fact that the Seacombe Ferry had been omitted from the last notice, they seem to consider that it is not so incumbent upon them to attend to the Seacombe Ferry track as to the Woodside Ferry track. It is clear, however, that the previous recommendations of the pilotage authorities as to the Seacombe Ferry track have not been cancelled.

But apart from these recommendations or notices, how stand the facts? The pilot of the "Bowfell," it seems, had been at sea from some time in the previous week, and therefore before the "Maggie Townson" had been sunk. He knew indeed that there had been a wreck, but not where it was exactly. In coming up the river he intended to anchor between the Rock and Egremont; and we have not only his own evidence, but the evidence of the mate of the "Bowfell," that the crew were standing by to let go the anchor during the whole time they were coming up the river; and that the vessel was on one occasion stopped for something like half an hour, for the purpose of taking up a berth, but they had to proceed on again, as it was thought that there was not sufficient room to swing clear. Under these circumstances the pilot, in our opinion most properly determined to go further up, with the intention of anchoring above Woodside Ferry. Before, however, he had arrived at the Woodside Ferry track, and when nearing the Prince's Stage, he saw a fog coming up from the southward and eastward; and, in our opinion, not only was he fully justified, but it was his bounden duty to anchor the ship at once. Had he gone on further he would probably have found himself in the track of the Woodside Ferry,—a more serious matter, I may observe, than anchoring in the Seacombe Ferry track. And so cautious did this man seem to have been, that, instead of anchoring in the Seacombe Ferry track, he steered his vessel across to the westward, so as to get into the triangle formed by the Seacombe and the Woodside Ferry tracks. Seeing then the lights of the lightship, though not knowing that she was over a wreck (although, had he known it, I do not think it would make any difference), and that there was a clear berth to the southward of her, he let go his anchor. Now it must be observed that a pilot is not to go on up to the last moment, until he has actually got into a fog, before he anchors his vessel, for then it might be very difficult for him to give her a clear berth. It is his duty to anchor her in sufficient time, so as to be quite sure that he has not given her a foul berth. The pilot of the "Bowfell" seems to have done all that could be required of him, and to have taken every precaution, not only to avoid the ferry tracks, but to place his vessel in such a position that she would ride with safety to herself and to others.

The fifth question upon which our opinion has been asked is, whether the "Bowfell" carried, and whether her master and crew used, proper fog signals on the morning in question? The tenth article of the Regulations says "that vessels, when at anchor, shall sound the bell at least every five minutes." Now, although the Regulations do not say that the bell shall be sounded more often when the weather is very thick, I think it may be admitted that a prudent and careful captain would order the bell to be sounded more frequently in such weather, and when an object could not be seen until it was quite close, than at other times. It is quite possible too, that, if this vessel's bell had only been sounded once in five minutes, it might not have been sounded between the time of the "Gem" leaving the Seacombe Stage and the collision, which we are told was only from three to four minutes.

But, as a matter of fact, there is very strong evidence that the bell was sounded, and frequently too. In the first place, there is the evidence of the "Bowfell's" people. We are

not quite disposed to think that that very energetic young apprentice was continually ringing the bell in the way in which he did it in court, for I should hardly think that he could have kept it up in that way for more than two or three minutes; probably he did what I am told they usually do on board vessels, ring it two or three times, then pause, and then ring it again. But that the "Bowfell's" bell was rung is to us clear, for apart from the evidence of her own crew, we have that of the pilot of the "Glaucus," which vessel was anchored between her and the Liverpool Stage; and we have also evidence that the captains of the Seacombe boats heard a bell to the southward of the lightship, and there can be no doubt that this was the "Bowfell's" bell. Those on board the lightship seem to have been very energetic in sounding their bell, which might probably be expected, as they were stationed there to warn ships from going on the wreck, and as the "Bowfell's" bell was not sounded quite so frequently, they may have thought that it was not sounded sufficiently often. But, so far as we can see, even they did not place the intervals at which the bell was sounded at more than from two or three minutes from one another. We have also the evidence of Mr. Bully, who was a passenger in the "Gem," and in whom we place great reliance, and who told us that he heard the bell of the "Bowfell" sounded when they were passing the lightship, and then again just immediately before the collision. The bell itself too, I am told by my assessors, is a very good bell, just such a bell as a vessel of this kind would carry. No doubt its tone was not very musical, but it has a note which, I am told, would probably be heard at a very considerable distance, if properly rung. I think, therefore, that we may conclude that the truth lies between the two stories; probably the bell was not rung with the energy with which it was rung in this court, nor indeed was that necessary; but it was probably rung at intervals of some two minutes or less, sufficient to warn, not vessels that were approaching at the rate of 10 knots an hour, but vessels going at a moderate rate of speed. We must therefore hold that the "Bowfell" did carry, and that her master did use, proper fog signals on the morning in question.

The sixth question on which our opinion is asked is, whether the casualty was due to any neglect or default on the part of the owners or master of the "Gem?" We have already in effect answered this question. We think that the casualty was due partly to the default and neglect of the owners, and partly to the default or neglect of the master; to the owners for not giving any discretion to their manager, or to their captains, as to running when the fog was so intensely thick that it was impossible to see more than 20 yards; to the captain for taking the imprudent course of passing between the lightship and the Cheshire shore, with his head to the southward, going at the rate of about 10 knots an hour, instead of passing, as he should have done, to the northward of the lightship clear of all obstructions, when he was told that there was a ship lying somewhere to the southward of the lightship, but where exactly was not known.

The seventh question on which our opinion has been asked is, whether the casualty was due to any neglect or default on the part of the master, pilot, or owners of the "Bowfell?" This question also has been already answered. In our opinion it was not due to any default on the part of any of them. We think that the pilot, in anchoring the vessel where he did, took a wise and prudent course in placing her as far as he could out of the way of other vessels. We think also that no blame is imputable to the master or to any of the officers of the "Bowfell," and we shall, therefore, return to the master his certificate.

(Mr. Barnes.) I do not know, Sir, whether the Court would consider that the pilot of this vessel ought or ought not to have a portion of his costs.

(The Commissioner.) Against whom do you ask for them?

(Mr. Barnes.) I suppose that will depend upon the judgment of the Court; but I think I should suggest against the clients of my learned friend Mr. Kennedy.

(The Commissioner.) Do you ask for costs against Mr. Kennedy's parties?

(Mr. Barnes.) I will not press it, Sir.

(The Commissioner.) If you do not ask for them, I have, of course, nothing to decide. (To Mr. Mackenzie.) Do you ask for costs?

(Mr. Mackenzie.) No, Sir.

H. C. ROTHERY,  
Wreck Commissioner.

We concur.  
ELPHINSTONE APLIN, } Assessor.  
Rear-Admiral, }  
HENRY JONES, Assessor.