

(No. 681.)

"CERWYN." (S.S.)

[RE-HEARING.]

The Merchant Shipping Acts, 1854 to 1876,
and

The Shipping Casualties Investigations Act, 1879.

In the matter of a re-hearing, by order of the Board of Trade, under section 2 of the "Shipping Casualties Investigations Act, 1879," of a formal investigation held before Justices at Falmouth into the circumstances attending the stranding and loss of the steamship "CERWYN," and which was heard at Westminster, on the 19th of July 1880, before H. C. ROTHERY, Esquire, Wreck Commissioner, assisted by Rear-Admiral POWELL, C.B., R.N., Captain FORSTER, and Captain VAUX, as Assessors.

Report of Court.

The Court, having inquired into the circumstances attending the above-mentioned shipping casualty, finds, for the reasons annexed,—

1. That the stranding of the "Cerwyn" was due to the master having mistaken the rocks off Penmarche Point for those off the west point of the Saints, and to his having omitted to get sufficiently far to the west before he again resumed his course to the north.

2. That the "Cerwyn" was supplied with proper appliances to ascertain the deviations of her compass.

3. That a proper course was not steered, the vessel having been kept too far to the eastward.

4. That, whether proper precautions were taken by the master to ascertain the deviation of his compasses, it was clearly his duty to take every opportunity to correct his compasses, and not to trust to his deviation card alone.

5. That it was quite possible for the master to have ascertained his position, and that the neglect to use the lead after the rocks had been sighted off Penmarche Point, and before he again laid his course to the north, was not justifiable, and did undoubtedly tend to the loss of the vessel.

The Court is not asked by the Board of Trade to deal with the master's certificate, or to make any order as to costs; and it refuses an application on behalf of the owners and master for their costs.

Dated this 19th day of July 1880.

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

We concur in the above report.

(Signed) R. ASHMORE POWELL,
GEORGE H. FORSTER, } Assessors.
C. VAUX,

Annex to the Report.

This case originally came before the justices at Falmouth on the 26th and 27th of April last, when it was held that "the casualty was caused by a serious error in the ship's reckoning, which may have arisen either from an extraordinary or unknown current, or from an easterly deviation in the compass, which was not allowed for or discovered by the master, and that, as he steered by the deviation card, and had no means of testing its correctness, the Court did not find him in default." The Board of Trade, being dissatisfied with the finding, have ordered it to be re-heard before this Court, under the provisions of the "Shipping Casualties Investigations Act, 1879;" and it is under these circumstances that this inquiry has taken place.

The case came before the Court at Westminster on the 19th of July instant, when Mr. Mansel Jones appeared for the Board of Trade, and Mr. Potter for the owners and master of the "Cerwyn." Three witnesses having been produced by the Board of Trade and examined, and the evidence taken before the court of inquiry at Falmouth having been brought in and read, Mr. Mansel Jones asked the opinion of the Court upon the following questions:—

L 367. 451. 200.—S/80. Wt. 47. E. & S.

"1. What was the cause of the stranding of the "Cerwyn"?"

"2. Whether the 'Cerwyn' was supplied with proper appliances to ascertain the deviation of her compasses?"

"3. Whether a proper course was steered?"

"4. Whether proper precautions were taken by the master to ascertain the deviation of his compasses?"

"5. Whether it was possible for the master to have ascertained his position with greater accuracy?"

"6. Whether it was not the duty of the master to take every opportunity to correct his compasses, and not to trust to his deviation card?"

"7. Whether the neglect to use the lead when the land was sighted was justifiable, or tended to the loss of the vessel?"

The managing owner of the ship having been produced and examined, Mr. Potter addressed the Court on behalf of his parties, and Mr. Mansel Jones having been heard in reply, the Court proceeded to give judgment on the questions on which its opinion had been asked. The circumstances of the case are as follow:—

The "Cerwyn" was an iron screw steamship of 333 tons gross, and 206 tons net register, and was fitted with engines of 50 horse power. She was built at South Shields, in the year 1873, and at the time of her loss was the property of Mr. Edward Handcock, of Falmouth, and others, Mr. Handcock being the managing owner. She left Bilbao at about 1.30 p.m. of the 24th of March last, bound to Newport, in South Wales, having a cargo of about 350 tons of iron ore, and a crew of 12 hands all told. As soon as she had cleared the port, she was, we were told by the master, laid on a north course by the bridge compass, which was equivalent to a N. $\frac{1}{2}$ W. course by the pole compass, the pole having no deviation on that course. The same course was continued, the vessel making about 7 $\frac{1}{2}$ knots an hour, till about 5.30 a.m. of the 26th, when rocks were suddenly observed ahead, upon which the master, believing them to be the rocks off the west end of the Saints, ordered the helm to be starboarded, and kept her on a S.S.W. course for half an hour, after which the course was altered to W. by N. $\frac{1}{2}$ N., and she was kept on that course till 8 a.m., when she was again put upon a north course by the bridge compass, equivalent to a N. $\frac{1}{2}$ W. course by the pole compass. At 9.20 a.m. the master altered the course to N. $\frac{1}{2}$ E. by the bridge compass, which we are told was equivalent to north by the pole compass, and he then went below to wash and dress himself. In about 20 minutes afterwards the mate, who had charge of the deck, called him, and on his coming up he observed rocks ahead and upon the starboard bow, upon which he immediately ordered the helm to be starboarded; but before the vessel had paid off further than to about N.W. she struck. It is not necessary to state what subsequently occurred, further than that the vessel soon became a total wreck, the place where the vessel struck being the easternmost rocks of the Saints, and that, with the exception of the master and one of the hands, all the crew were drowned.

Now the first question upon which our opinion has been asked is, "What was the cause of the stranding of the 'Cerwyn'?" To this the answer is simple; it was due to the master having mistaken the rocks which he first saw, and which it is now admitted were the rocks off Penmarche Point, for the rocks off the west end of the Saints, and to his having stood away again on his course to the north before he had got sufficiently far to the west, which brought him upon the east end of the Saints.

The second question upon which our opinion has been asked is, "Whether the 'Cerwyn' was supplied with proper appliances to ascertain the deviation of her compasses?" It appears that the master had an azimuth compass on board, from which he could have had no difficulty in ascertaining the deviation of his pole compass. Not, indeed, that we are prepared to say that he had the best or simplest appliances for the purpose, but they were quite sufficient.

The third question upon which our opinion has been asked is, "Whether a proper course was steered?" Whether it was owing to an error in the compasses, or to the set of the tides, or to a wrong course having been steered from the first, it is clear that the vessel was kept too far to the eastward; she ought never to have come near Penmarche Point. It is clear, therefore, in our opinion, that a proper course was not steered, and that she should have been kept more to the westward.

The fourth question upon which our opinion has been asked is, "Whether proper precautions were taken by the master to ascertain the deviation of his compasses?" The master has told us that from the time when the compasses were adjusted in January last until the time that the vessel was lost on the 26th of March, during which time he had made one complete voyage between Newport and Bilbao, and was in course of making a second voyage, he had never had but one opportunity of testing his compasses, and that on that occasion he had found his pole compass to be quite right. The fact, if true, is somewhat remarkable, but we have no means of disproving it.

I will next take the sixth question, which is, "Whether it was not the duty of the master to take every opportunity to correct his compasses and not to trust to his deviation card?" I think we are all agreed upon this point, that it was the master's duty to take every opportunity to correct his compasses, and that he had no right to trust solely to his deviation card. As the owner very properly observed, it is the duty of a master to correct his compasses on every possible occasion; and he said that he should certainly not retain a captain in his employ who neglected to do so.

The fifth and seventh questions may be conveniently taken together; they are: "Whether it was possible for the master to have ascertained his position with greater accuracy?" and "Whether the neglect to use the lead when the land was sighted was justifiable, or tended to the loss of the vessel?" It appears to us that, when the master sighted the rocks off Penmarc'h Point, he knew that from some cause or other he had been set further to the east than he had any reason to expect. Whether this was due to any error in the compasses, or to a strong current to the east, it ought to have aroused his vigilance; and instead of jumping to the conclusion that they were the rocks on the west point of the Saints, he should have taken every means in his power to ascertain whether they were so or not. This he could easily have done; for he had only to take a cast of the lead, after standing off to the westward, and before he again resumed his course to the northward, and indeed at any time before striking, and he would have found that he had only some 30 or 40 fathoms

of water, whereas, if he had been off the west end of the Saints, he would have had from 70 to 80 fathoms of water; and this would have clearly shewn him his position. Assuming that the vessel was, as the Court at Falmouth have held, set too far to the eastward, either by an error in his compasses or by "an extraordinary and unknown current," the master was to blame for having resumed his course to the north before he had well assured himself of his position. He knew, or ought to have known, that it was full moon, and that the tides on that day were stronger than on any other day in the year, and he ought not to have put her again and continued her on a northerly course until he had ascertained with certainty that he was well clear of the Saints, which he could easily have done by taking a cast of the lead. In our opinion the omission to use the lead after the land had been sighted was not justifiable, and did tend to the loss of the vessel.

The Board of Trade not having asked that the master's certificate should be dealt with, but only that the decision of the Court held at Falmouth should be overruled, Mr. Potter applied for an order for the costs of the master and owner. We were, however, of opinion that, as the decision of the Court at Falmouth had been overruled, and as the master had been held to blame for the casualty, which had been attended with the loss of a valuable vessel and her cargo, together with 10 out of her crew of 12 persons, the master was not entitled to his costs; and that, if the case had originally come before us, we should have been disposed to punish him severely for his negligence. We thought also that the owners were not entitled to their costs, for that they ought to bear their share of the responsibility for having appointed such a master. The Board of Trade did not ask for any costs; no order was therefore made as to costs.

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

We concur.

(Signed) R. ASHMORE POWELL,
GEORGE H. FORSTER, } Assessors.
C. VAUX,

The Me

In the matter of
Westminster
H. C. F.
assisted by
Assessors
stranding
London, 1880.

The Court has
stances of the
for the reason

1. That the
2. That pro
3. That no
4. That the
5. That in this
6. That in this
7. That in this
8. That in this
9. That in this
10. That in this

For this writ
certificate of
be suspended
The Court

Dated this
()

This case was
July instant,
of Trade, Mr.
ham for the
having been
amined, Mr. S
the following
"1. What
"vessel?
"2. Wheth
"passes were
"the master
"for the pur
"3. Wheth
"leaving the
"proper allo
"4. Wheth
"1 a.m. was
"proper allo
"5. Wheth
"quency?
"6. Wheth
"fog, the m
"vessel from
"7. Wheth
"vessel, due
"the log?
"8. Wheth
"and seaman
"9. Wheth
Mr. Snagge
"of opinion
"dealt with.
Mr. Cottin
addressed th
Mr. Snagge
ceeded to giv
opinion had b
are as follows
The "llen
to the port
net register,
60 horse-pow
L 367. 4