

(No. 2696.)

“ ROSCIUS.”

The Merchant Shipping Acts, 1854 to 1876.

In the matter of the formal Investigation held at Westminster, on the 8th day of October 1885, before H. C. ROTHERY, Esquire, Wreck Commissioner, assisted by Captains PARFITT and PATTISON, as Assessors, into the circumstances attending the abandonment and loss of the sailing ship “Roscius,” of Greenock, off the Hook, County Wexford, on the 4th of August last.

Report of Court.

The Court, having carefully inquired into the circumstances of the above-mentioned shipping casualty, finds, for the reasons annexed, that the said vessel, when she last left Belfast, was not in a sufficiently good and seaworthy condition to carry such a heavy dead weight cargo as she had on board to its destination; and that the owner is to blame for having sent her, and the master for having taken her, to sea in that state.

The Court is not asked to make any order as to costs.

Dated this 8th day of October 1885.

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

We concur in the above report.

(Signed) WM. PARFITT,  
JOHN L. PATTISON, } Assessors.

Annex to the Report.

This case was heard at Westminster on the 8th of October instant, when Mr. Howard Smith appeared for the Board of Trade, Mr. King for the owner and master of the “Roscius,” and Mr. Robine for the owners of her cargo. Seven witnesses having been produced by the Board of Trade, and examined, Mr. Howard Smith handed in a statement of the questions upon which the Board of Trade desired the opinion of the Court. Mr. King then addressed the Court on behalf of his parties, and Mr. Howard Smith having been heard in reply, the Court proceeded to give judgment on the questions upon which its opinion had been asked. The circumstances of the case are as follow:—

The “Roscius,” which was a wooden brigantine of 108 tons gross and 99 tons net register, was built in Prince Edward’s Island in the year 1849, and at the time of her loss Captain Randel McLester, of Belfast, was her registered owner. She had been lying at Belfast since March 1883, when she was chartered at the beginning of the present year to take a cargo consisting mainly of anchors, chains, old iron, copper, and brass to Newcastle. The loading commenced in the first week of January, and occupied some 6 or 7 months, and on the 28th of July last she left with a crew of four hands all told, and a cargo of 186 tons, and the same evening came to anchor off Grey Point. The next day she got under way, and proceeded to the northward, intending to go north about; and in the evening of Friday the 31st she made Oversay Light in Islay. At this time the wind was from the N.N.W. with a short sea, and the vessel began to labour heavily; but they continued tacking on and off until about noon of Sunday the 2nd of August, when the master, finding that he could make no way against a head wind, determined to put about and to go by the English Channel, the vessel at the time according to the master making about 3 inches of water an hour. At about 8 a.m. of the 3rd they passed the South Rock Light off the coast of Down, and the same evening it came on squally with rain, and they stowed the upper topsails, took two reefs in the mainsail, and furled the staysail. At 4 a.m. of the 4th they were off the Codling Light, when, finding that she was making rather more water, the master determined to make for Waterford

Harbour, with which he seems to have been well acquainted. She accordingly continued her course down the coast, and at 7 p.m. they were off the Coninbeg. At 8, finding that she did not suck, they sounded the pumps, when they found 2 feet of water in her. They continued to make for Waterford Harbour, sounding every ¼ to ½ an hour, and at 9.30 p.m. she had 4 feet 10 inches of water in her. At this time it was found that the water was coming in fast at the bows, and accordingly the boat was swung out ready to lower; and at 11 p.m., finding that the vessel was settling down by the head, they got into the boat, and after hanging on for about ½ an hour, fearing that they might be blown out to sea, they cast off and pulled for the shore. At 6 a.m. they had to beach the boat to bale her out, and at 7.30 a.m. they landed at Duncannon, whence they proceeded to Belfast. In the meantime the “Roscius” had been fallen in with at about 4.30 the same morning by a steam tug called the “Knight of St. John,” some 6 miles S.W. of Hook Point, which took her in tow, and proceeded with her towards Waterford Harbour, but after towing for about two miles she suddenly sank.

These being the facts of the case, the first question upon which our opinion has been asked is, “Was the vessel, when she left Belfast, in all respects in a good and seaworthy condition?” The vessel, as I have said, was built in Prince Edward’s Island in the year 1849, and some 15 years ago Mr. McVeagh, of Belfast, bought her for the sum of 550*l.* He told us that he employed her chiefly in the coasting trade, and occasionally to bring flax from the Baltic. He also said that any repairs that she required during that time were done under his own supervision, he buying the materials and paying the weekly wages, and that consequently he was not able to produce any bills to shew what had been done to her. In March 1883 she came to Belfast, and remained there from that time until she left on her last voyage on the 28th of July 1885. From the certificate given to her by American Lloyd’s, and which bears date the 27th of June 1883, it would seem that in 1877 she had had “new topsides, waterways, keelson and rider, pitch pine new keel, decks, beams, main rails, bulwarks, new stern frame, and planking.” It also appears that in December 1878 she had “all new ceiling from keel to gunwale, all re-treenailed, new timbers for 20 feet in each end, new stem, apron, and bow logs, seven new stanchions in each bow, new lower masts and bowsprit, salted throughout, well fastened with iron knees.” And it is added that she had been well kept up ever since; and under these circumstances she was classed in American Lloyd’s \*A 1\* for three years from the 20th of June 1883. Very shortly after this an agreement was entered into for the sale of the vessel to Captain Randel McLester, under conditions to which I shall presently have to refer. She, however, continued to lie in Belfast Harbour until the beginning of the present year, when she began to take in the cargo with which she finally left; and on the 8th of May, in pursuance of the engagements entered into with Captain Randel McLester, she was classed *Æ 1* in London Lloyd’s for 4 years, and she left, as I have said, on the 28th of July. Very soon after leaving she began to make water, without there being any weather to account for her so doing. According to the master, however, she was only making about 3 inches an hour, when she put about at noon of the 2nd of August to take the southward course; but according to the two seamen, she was making so much water from Friday the 31st of July that they had to work the pump every quarter of an hour for spells of 3 or 4 minutes each. And although almost from the time when she put about she would have an off-shore wind, and consequently very little sea, the water continued to gain, so that they had ultimately to abandon her. With these facts before us, it is impossible for us to say that she was, when she last left Belfast, in a good and seaworthy condition, at all events in a sufficiently good and seaworthy condition to carry the cargo which she had on board.

The second question which we are asked is, “Were her pumps sufficient and in good order?” We are told that she had two pumps, but that one of them, the starboard one, was out of order and would not draw. There was also, it seems, only one handle for the two pumps. This, in our opinion, was not sufficient for her;

she should have had both her pumps in good order, for if the port pump had given way she would have no means of freeing herself of water.

The third and fourth questions which we are asked are, "Was the vessel overladen?" and, "Was the cargo properly stowed?" We were told that the load-line was placed some 2 feet to 2 feet 6 below the deck, and that when she left the load-line was about 8 inches out of water; this would give her a freeboard of 2 feet 8 to 3 feet 2; and if these statements can be relied on she would, under ordinary circumstances, have had a sufficient amount of freeboard, the vessel's hold being 11·2 feet, and drawing, we are told, 9 feet 6 forward and 10 feet 6 aft. But we must look at the nature and character of the cargo, which, as I have stated, consisted of anchors, chains, scrap iron, brass, copper, and some old canvas and rope, making a total dead weight of about 186 tons, the gross tonnage of the vessel being 108 tons, and the net tonnage 99½ tons. The cargo seems to have been properly stowed, at all events there is no evidence to the contrary; but, looking at the age and character of the vessel, we think that it was too heavy a cargo for her to carry, even on a summer coasting voyage.

The fifth question which we are asked is, "Was the vessel navigated with proper and seamanlike care?" and the seventh is, "Are the master and mate, or either of them, in default?" There is nothing to shew that she was not navigated with proper and seamanlike care; the fault was in taking her to sea with such a heavy dead weight cargo on board, and for which the master is to blame.

The sixth question which we are asked is, "What was the cause of the loss of the vessel?" The cause of her loss was that the heavy dead weight cargo which she had on board was too much for a vessel of her age and condition, and caused her to spring a leak and fill before she could be got into port.

The eighth question which we are asked is, "What was the cost of the vessel to her owner?" In dealing with this question the first point which we have to consider is who was the owner of this vessel. Mr. M<sup>c</sup>Veagh told us that he bought her some 15 years ago, and that he then gave 550*l.* for her; but that in July 1883 he entered into an agreement to sell her to Captain Randel M<sup>c</sup>Lester, and it may be well to state what were the terms of that agreement. It is as follows:—

"Belfast, 9th July 1883.

"Thomas M<sup>c</sup>Veagh has this day sold, and Randel M<sup>c</sup>Lester has this day purchased for the sum of eight hundred and fifty pounds, sixty-four sixty-fourth shares of the sch. 'Roscius,' of Greenock. Payment to be made as follows—One hundred and fifty pounds in cash, the balance, seven hundred pounds, by acceptance at four months, with interest at the rate of 4%<sup>o</sup>. The bill to be renewed, and reduced one hundred and fifty pounds each renewal. It is also agreed that the seller shall class the vessel A 1<sup>st</sup> at Lloyd's and fit the vessel out at his expense to the satisfaction of Lloyd's surveyor and the Board of Trade. The purchaser agrees to keep the ship and freight insured to the extent of at the least five hundred pounds, and give seller the policies, and a mortgage on said vessel empowering the mortgagor to enter upon and sell the vessel, provided the conditions of the agreement be not complied with by the purchaser.

(Signed)      RANDEL M<sup>c</sup>LESTER.  
                    THOMAS M<sup>c</sup>VEAGH."

It seems that Captain Randel M<sup>c</sup>Lester paid the deposit of 150*l.*, and gave Mr. M<sup>c</sup>Veagh bills for the balance of 700*l.*, which Mr. M<sup>c</sup>Veagh then discounted

with the Provincial Bank of Ireland. Mr. M<sup>c</sup>Veagh had, it will be seen, to get the vessel classed A 1 at Lloyd's, and to "fit the vessel out at his expense to the satisfaction of Lloyd's surveyors and the Board of Trade." For some reason or other Mr. M<sup>c</sup>Veagh failed to comply with these conditions, and in fact never got her classed at Lloyd's A 1, and it was not until May 1885 that she had any class at Lloyd's, and then it was not A 1, but Æ 1, which is a very different thing. Mr. M<sup>c</sup>Veagh said that the agreement meant that he was to get her an A 1<sup>st</sup> class in the American Lloyd's, but that could hardly be for she had already got that class in June 1883. But however this may be, Mr. M<sup>c</sup>Veagh, notwithstanding the agreement to sell the vessel to Captain M<sup>c</sup>Lester, remained the virtual owner; he appointed John Holbrook, the master, who seems to have been a regular servant in his employ, to take charge of the vessel, and afterwards appointed him to be her master; he paid all the charges on the vessel during the whole time she remained at Belfast, and until she finally left. Captain M<sup>c</sup>Lester himself seems to have done nothing beyond paying the deposit of 150*l.*; he is a master mariner, and was away from Belfast almost the whole time in command of his vessel, leaving everything in Mr. M<sup>c</sup>Veagh's hands. It would thus seem that Captain M<sup>c</sup>Lester was the registered owner, whilst Mr. M<sup>c</sup>Veagh was the actual managing owner; the latter told us that he gave some 15 years ago 550*l.* for the vessel, the former gave 150*l.* and bills for 700*l.*, none of which however have been since taken up by him.

The ninth question which we are asked is, "What was the value of the vessel when she sailed on her last voyage?" It is very difficult to say what the value of this vessel was. Seeing, however, that she was originally a Prince Edward Island vessel, built in the year 1849, and making allowance for the repairs and alterations which are said to have been done to her, we should say that her value, when she last left Belfast, could not possibly have been more, if as much as 500*l.*

The tenth question which we are asked is, "What were the insurances, and how were they apportioned?" The vessel, we are told, was insured by Mr. M<sup>c</sup>Veagh for the sum of 500*l.*; and the cargo, which he said was the property of the Belfast Warehouse Company, was insured by him for 3,500*l.* Mr. M<sup>c</sup>Veagh was not prepared to swear that the cargo was worth more in the open market than 2,230*l.*, but he told us that it was worth 3,500*l.* to himself; but how, if it did not belong to him, it could have been worth more than its market price to him, he could not explain. The whole transaction, so far as Mr. M<sup>c</sup>Veagh is concerned, was fraught with doubt and suspicion.

Lastly, it is added "that the Board of Trade are of opinion that the certificate of the master should be dealt with." The master is no doubt to blame for having taken the vessel to sea with so heavy a cargo in her, knowing, as he must have done, from having been in her as ship keeper from the 1st of January last until he signed articles for the voyage in July, and from having personally stowed the cargo on board, what kind of vessel she was. He had been for some 13 years in Mr. M<sup>c</sup>Veagh's employment, and may therefore be presumed to have been in that gentleman's confidence. But, however suspicious the circumstances may be, there is nothing in the master's conduct which would justify us in dealing with his certificate.

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

We concur.

(Signed)      WM. PARFITT,  
                    JOHN L. PATTISON, } Assessors.