

(No. 2109.)

“ K E L L O E ” (S.S.)

AND

“ R E M E M B R A N C E . ”

The Merchant Shipping Acts, 1854 to 1876.

In the matter of the formal Investigation held at the Sessions House, Westminster, on the 4th of March 1884, before H. C. ROTHERY, Esquire, Wreck Commissioner, assisted by Vice-Admiral POWELL, C.B., Captain PARISH, and Captain VAUX, as Assessors, into the circumstances attending the damage sustained by the sailing ship “REMEMBRANCE” through collision with the steamship “KELLOE,” on the 5th of February 1884, when one life was lost.

Report of Court.

The Court, having carefully inquired into the circumstances of the above-mentioned shipping casualty, finds, for the reasons annexed, that the collision was not due to any neglect or default on the part of either the master or the second officer of the “Kelloe,” and that although the master of the “Remembrance” was somewhat to blame for not having shown a light over his stern when the steamer was seen to be bearing down upon them, it is not a case in which the Court is disposed to deal with his certificate.

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

Dated the 4th day of March 1884.

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

We concur in the above report.

(Signed) ALFRED PARISH, R. ASHMORE POWELL, C. VAUX, } Assessors.

Annex to the Report.

This case was heard at Westminster on the 4th of March, 1884, when Mr. Kenelm Digby appeared for the Board of Trade, and Mr. Botterell for the master and second officer of the “Kelloe.” The master of the “Remembrance” was present, but was not represented by either counsel or solicitor. Ten witnesses having been produced by the Board of Trade and examined, Mr. Kenelm Digby handed in a statement of the questions upon which the Board of Trade desired the opinion of the Court. Mr. Botterell then addressed the Court on behalf of his parties, the master of the “Remembrance” was heard on his own behalf, and Mr. Kenelm Digby having replied for the Board of Trade, 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 “Remembrance,” which was a wooden snow, belonging to the port of Whitby, of 220 tons gross, and 208 tons net register, was built at Middlesbrough in the year 1862, and at the time of the casualty which forms the subject of the present inquiry she was the property of Mr. James Knott, of Newcastle-on-Tyne, and others, Mr. James Knott being the managing owner, and Mr. George Mennell, the master, being the owner of one-fourth part of her. She left Shields at noon of the 4th of February last, with a crew of eight hands all told, and a cargo of 390 tons of coal, bound to Exeter; and at a little after 3 a.m. of the following morning was approaching Flamborough Head, steering a S.S.E. course, and making from 2 to 3 knots an hour, with the wind blowing a smart breeze from about S.W. by W., the weather being clear but dark. At this time the red light of a sailing vessel was observed, apparently rounding the Head, and about 3 points on the starboard bow; and shortly afterwards both her lights appeared, and then

the red light was shut in, and the green light alone remained visible, shewing that she had starboarded her helm, and that she was proceeding on her course to the northward. At about the same time the red and masthead lights of a steamer, which afterwards proved to be the “Kelloe,” were observed about 4 or 5 points abaft the beam on the starboard side, apparently passing them to windward, but suddenly all her three lights appeared, shewing that she had starboarded her helm, upon which the master of the “Remembrance” hailed her, and asked where she was coming to, and at the same time he ordered the helm to be starboarded to ease the blow, and directed all hands to be called up. Almost immediately afterwards the green light of the steamer had again disappeared, and the red and masthead lights alone remained in view; but the steamer was then too close to clear them, and in a minute and a half to two minutes from the time of the steamer’s three lights having been seen, the “Kelloe” struck them, with her port bow in the starboard fore chains, doing some damage, and her head then paying off, her port quarter came into collision with the “Remembrance’s” starboard quarter, doing her further damage. Whilst the vessels were together, the master and two of the crew of the “Remembrance,” thinking that their vessel was sinking, clambered on board the “Kelloe,” but they shortly afterwards returned in the “Kelloe’s” boat; and it was then found that the starboard fore rigging had been so much damaged that it would not be safe to put any sail on the foremast, and that the decks and water ways had been started in different places; an apprentice also of the name of Edmonds was nowhere to be found. Accordingly the “Kelloe” took the “Remembrance” in tow, and towed her to Grimsby, where they arrived between 1 and 2 p.m. the same day, and where the damages have been since repaired.

The case of the “Kelloe” is as follows:—She is an iron screw steamship, belonging to the port of London, of 500 tons gross and 340 tons net register, and is fitted with engines of 70 horse power. She left the Tyne at 7.15 p.m. of the 4th of February, bound to London, with a crew of 16 hands all told, and a cargo of 657 tons of coal, and at about 3.15 a.m. of the following morning was within a mile and a half of Flamborough Head, bearing W.S.W. The weather, we are told, was dark but clear, the wind S.W. by W. and variable, and the vessel was on a S. by E. $\frac{1}{2}$ E. course, making from 7 to 8 knots an hour. At this time the green light of a schooner was observed about two points upon the starboard bow, upon which the master, who was on deck, ordered the helm to be starboarded to give her a wider berth, but almost immediately afterwards both the schooner’s lights came into view, shewing that she had ported her helm, upon which the master ordered the helm to be kept to starboard, and the engines at full speed ahead, to clear her. At this moment the look-out man reported a vessel without lights, which afterwards proved to be the “Remembrance,” about 2 points on the port bow. Seeing, however, that the schooner was still bearing down upon them, the master of the “Kelloe” kept his helm to starboard and his engines at full speed until his bows were clear of her, when he ported his helm and ordered the engines to be stopped and reversed full speed, in order to clear the “Remembrance.” The schooner passed under her stern at the distance of 10 to 15 feet, but they were too close to the “Remembrance” to clear her, and the two vessels came together, the “Kelloe” with her port bow striking the “Remembrance” a sliding blow in the starboard fore chains, as already described. The “Kelloe” sustained some trifling damage to her port bow, but nothing of any consequence.

Practically, then, there is no conflict as to the facts, the witnesses on both sides having given their evidence in a clear straightforward way. The only point on which there is an apparent discrepancy is in regard to the movements of the approaching vessel, and unfortunately she is not before us. According to the “Remembrance,” the schooner’s red light was at first alone in view, then both lights appeared, and then the red light was shut in, and the green light alone remained in view, which would naturally occur if she was rounding the head. According to the “Kelloe,” they first saw the green light of the schooner, and then the red light appeared, shewing that she had ported her helm;

but why she should have done so it is not very easy to understand. It is clear, however, that she might have done so sufficient to bring her red light into view of the "Kelloe," but not sufficient to open it to the "Remembrance." The two stories, therefore, are not inconsistent, and we are not inclined to think that all the witnesses from the "Kelloe" have committed wilful and deliberate perjury when they said that the red light of the schooner did come into view.

These, then, being the facts of the case, the first question upon which our opinion has been asked is, "Was the 'Kelloe' when approaching the 'Remembrance' an overtaking ship within the meaning of article 11 of the regulations for preventing collisions at sea, and, if so, was it the duty of the 'Remembrance' to shew a light as required by that article?" Article 11 of the regulations is in these words,—"A ship which is being overtaken by another shall shew from her stern to such last-mentioned ship a white light or a flare-up light." The master of the "Remembrance" told us that the "Kelloe's" lights were so far on his beam that it never occurred to him to shew a light over his stern, and that he did not think that article 11 applied to the case. He admitted, however, that when he first saw the "Kelloe's" red and mast head lights they were between 4 and 5 points abaft his starboard beam, and that when all the three lights appeared they were still about 3 points abaft his beam; and as his own lights would of course show only two points abaft the beam, it is obvious that the "Remembrance's" lights could not have been seen from the "Kelloe." Now the object of article 11 is to provide that, in case a vessel should be approaching another from such a direction that it would be impossible for those on board to see the lights of that vessel, some indication of her presence should be given to the approaching vessel. It is not necessary that the overtaking vessel should be directly in the wake of the other vessel, but if she is approaching her from such a direction that the lights of the overtaken vessel cannot be seen from her, the rule, in our opinion, applies, and that was the case in the present instance. When, therefore, the master of the "Remembrance" saw the "Kelloe" heading directly for him, and knew that from her position she could not possibly see his lights, it was his duty, if he could have done so, to have shewn a light over his stern.

I will take the 2nd and 3rd questions together; they are as follow:—"Whether the 'Kelloe' took proper measures to keep out of the way of the 'Remembrance' as required by article 17 of the said regulations?" and, "Whether the 'Kelloe,' when approaching another vessel, so as to involve risk of collision, properly complied with the requirements of article 18 of the said regulations, by slackening her speed, or stopping and reversing." The 17th article enacts that a steamship shall keep out of the way of a sailing ship, not merely, as Mr. Kenelm Digby rightly observed, when the two vessels are meeting, but when they are proceeding in any direction as to involve a risk of collision; and article 18 provides that a steamship, when approaching another ship "so as to involve risk of collision, shall slacken her speed, or stop and reverse, if necessary." The master of the "Kelloe," when he saw the green light of the approaching schooner, starboarded his helm, to give her a wider berth, and soon afterwards, on the red light coming into view, he still kept his vessel under a starboard helm, and his engines going full speed ahead in the hopes of clearing her; and in the opinion of the assessors that was the best thing for him to do under the circumstances; for if he had then ported his helm, he would in all probability have gone right over her. Up to this time the "Remembrance" had not been seen, her lights being screened from him; but as soon as he caught sight of her, there was then nothing for him to do but to continue his course at full speed, still keeping his helm to starboard, to clear the schooner; and as a fact we are told that he only succeeded in clearing her by about 10 or 15 feet; and had he slackened or stopped and reversed his engines, the schooner would have been on the top of him, and the collision would have been much more serious. As soon, however, as he was clear of the schooner, he hard-ported his helm, and stopped and reversed full speed, with the view of getting his vessel's head round in time to avoid running into the "Remembrance," and that he nearly succeeded in doing so is evident from the fact that the blow was only a sliding blow, and that only a

comparatively small amount of damage was done. On the other hand, had he kept his helm to starboard, and not ported at all, he would in all probability have struck the "Remembrance" amidships and sunk her. In our opinion the "Kelloe" took all proper measures to avoid the collision, and was fully justified in not slackening or stopping and reversing her engines until she did so.

The fourth question which we are asked is, "Whether the said vessels respectively complied with the said regulations?" In our opinion the "Kelloe" complied with the regulations so far as it was possible for her to do so; the "Remembrance" however did not comply with article 11 of the regulations, not having shown a light over her stern, as she should have done, when she saw the "Kelloe" bearing down upon her.

The fifth question which we are asked is, "What was the cause of the loss of life, and whether every possible effort was made to prevent it?" None of the crew were able to tell us how it was that Edmonds was lost. It seems that it was his watch below, and it is probable, from the fact that his drawers were found on deck, that when the crew were aroused he rushed up on deck, and fell overboard whilst attempting to get on board the "Kelloe." It does not however appear that blame is attributable to any one on board either vessel for the loss of this lad's life.

The sixth question which we are asked is, "Whether the master of the 'Remembrance,' and the master and second officer of the 'Kelloe' are, or any of them is, in default?" and it is added that "the Board of Trade are of opinion that the certificate of the master of the 'Remembrance' should be dealt with." So far as the master and second officer of the "Kelloe" are concerned, we can see nothing for which they are in any way to blame. We think that the master did quite right to keep his helm to starboard, and his engines at full speed, after the red light of the approaching schooner was seen; and as soon as he had cleared her, but not before, he did right to port, and stop and reverse full speed. Even assuming that he might, when he saw the schooner's red light appear, have gone clear by porting his helm, or that, after clearing the schooner, he might by keeping on under a starboard helm have gone under the "Remembrance's" stern, it would at the utmost have been only an error of judgment, and under exceptionally difficult circumstances. We are told that the captain of the "Kelloe" has been 45 years at sea, and that for the last 18 years he has been in the same owner's employ, and during all that time in only two ships, for the first 6 years in a vessel called the "Boston," and for the last 12 years in the "Kelloe" for 8 years as mate, and for the last 4 as master of her; and that during the whole of that time he has never met with any accident; and from the very skilful manner in which he managed the vessel under peculiarly difficult circumstances, it is clear that he is a good seaman. As regards the master of the "Remembrance," he is, no doubt, to a certain extent to blame for not having shown a light over his stern to the "Kelloe," when he saw that she was bearing down upon him. It should be observed, however, that, until the "Kelloe" starboarded her helm to avoid the approaching schooner, and thereby brought her three lights to bear upon him, no such necessity existed, the "Kelloe's" red and mast head lights being alone visible, and some four to five points abaft his starboard beam, showing that the steamer was passing clear to windward of them. When, however, the steamer's three lights appeared, although no doubt the master of the "Remembrance" ought then to have shown a light over his stern, the time was so short, that there was no time to do so, there being no lamp on deck, and the binnacle light not being available for the purpose. No doubt the master of the "Remembrance" should have had a lamp on deck ready to show over the stern to any overtaking vessel, but it is not a fault for which we should think of dealing with his certificate.

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

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

We concur.

(Signed) ALFRED PARISH, R. ASHMORE POWELL, C. VAUX, Assessors.

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The Merchant Sh

the matter of the Sessions House of March 1884, b Wreck Commission and PARRITT, as A attending the stran "EMILY," on Brigg Down, on the 11th

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The Court, having circumstances of the abo for the reasons a loss of the said vessel v fault of George Metc her on a course t land, but without ma ed currents, which we her course, and towa depends his certificate at during the period, certificate be allowed t The Court is not a

Dated this 6th day o

(Signed)

We concur in the

(Signed)

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This case was heard March instant, whe the Board of Trad Mr. Dickens for th ate of the "Emily" ented by either cou ayving been produce xamined, Mr. Muir M of the questions upon opinion of the Cour addressed the Court on and the chief officer w Mr. Muir Mackenzie l Trade, the Court gave which its opinion had of the case are as follo

The "Emily" was to the port of St 47 tons net register, a lace power. She was 1876, and at the tim Mr. Thomas Kish, o Thomas Kish being t Glasgow on the 8th of hands all told, and 820 tons in her bunkers, following day, the wea put into Belfast Lough Roads. There she ren S.W. distant about 1 when she got under v N.E. by E. course mag re are told she made course was then alter lighthouse then bear master and chief offic with the Mew Island or a point and a half o 30 minutes afterwards alone on the bridge, L. 367. 1880.