

(No. 2231.)

“ VENETIA ” (S.S.)

AND

“ FOSCOLINO ” (S.S.)

The Merchant Shipping Acts, 1854 to 1876.

In the matter of the formal Investigation held at the Sessions House, Westminster, on the 8th and 9th of July 1884, before H. C. ROTHERY, Esquire, Wreck Commissioner, assisted by Vice-Admiral POWELL, C.B., and Captains RONALDSON and HYDE, as Assessors, into the circumstances attending the loss of the steamship “ VENETIA,” and of the lives of two of her crew, through collision with the steamship “ FOSCOLINO,” on the 14th of June 1884.

Report of Court.

The Court, having carefully inquired into the circumstances of the above-mentioned shipping casualty, finds, for the reasons annexed, that blame attaches to the masters of both the said vessels for having only stopped, and not at once reversed their engines, and thus brought the vessels to rest, as soon as they were aware by hearing the whistle that there was another steamer approaching, the fog at the time being so dense that it was not possible to see one another, until they were so close that a collision was almost inevitable. Under the circumstances, however, the Court will not deal with their certificates.

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

Dated this 9th day of July 1884.

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

We concur in the above report.

(Signed) R. ASHMORE POWELL,  
A. RONALDSON,  
GEORGE HYDE, } Assessors.

Annex to the Report.

This case was heard at Westminster on the 8th and 9th of July 1884, when Mr. McConnell appeared for the Board of Trade, Mr. Aspinall for the owners and Mr. Botterell for the master of the “ Foscolino,” Mr. Kennedy for the owners and master of the “ Venetia,” and Mr. Moss for the widow and children of the second engineer of that vessel. Fourteen witnesses having been produced by the Board of Trade, and examined, Mr. McConnell handed in a statement of the questions upon which the Board of Trade desired the opinion of the Court. Mr. Kennedy, Mr. Aspinall, and Mr. Botterell then addressed the Court on behalf of their respective parties, and Mr. McConnell having been heard in reply, the Court proceeded to give judgment on the questions on which its opinion had been asked.

The story told by the witnesses from the “ Venetia ” is as follows:—She was an iron screw steamship, belonging to the Port of London, of 797 tons gross, and 509 tons net register, and was fitted with engines of 160 horse power. She was built at Low Walker on the Tyne in the year 1864, and at the time of her loss was the property of the London Steamship Company, Limited, Mr. John Mitchell, of No. 50, Royal Exchange, London, being the managing owner. She left London on the 11th of June last for Genoa, with a crew of 20 hands all told, and a cargo of general merchandise, and at 5.30 p.m. of the 13th had arrived off the Start, when a S.W. by W. course magnetic was steered to pass Ushant; and as the weather was clear, and the wind was blowing a fresh breeze from the northward, all sail was set, consisting of the two trysails, topsail, and fore topmast staysail, and she proceeded at full speed, making about 11 knots an hour. At midnight the weather became foggy, upon

which the engines were slowed down to a speed of from 4 to 4½ knots, and at the same time the topsail was taken in, and the sheets of the other sails were hauled aft so as to steady the vessel. At about 1.30 a.m., the weather having partially cleared up, the engines were put at half speed, the vessel making from 7 to 7½ knots. At 4 a.m. the fog again settled down, upon which the engines were put at dead slow, and from that time the vessel was kept going ahead at from 2½ to 3 knots an hour; and at 5 a.m., the fog still continuing to be very dense, the master deemed it prudent to give Ushant a wider berth, and with that object he altered the vessel's course to W. by S. They continued on that course, still going between 2½ and 3 knots, until about 6.30 a.m., at which time they were about 20 miles to the north of Ushant, when the whistle of a steamboat, which afterwards proved to be the “ Foscolino,” was heard about 3 or 4 points on the port bow; and in about a minute afterwards the “ Foscolino ” appeared out of the fog, heading directly towards the bridge of the “ Venetia,” and apparently approaching at a considerable speed. Orders were at once telegraphed to the engine-room to “ stop ” and “ reverse full speed,” but the “ Foscolino ” came on under a starboard helm, and in a minute to a minute and a half from the time of her being first seen she struck the “ Venetia ” on the port bow, about 30 feet from the stem, forcing her head round to the northward, so that the wind, which had before been on the starboard quarter, was brought on to the port bow. Finding that the vessel was filling fast, the master ordered the starboard lifeboat to be got out, which was done, and all except the chief and second engineers and the engineer's steward got into her, the master being the last to jump into the boat, and within five minutes after the collision the “ Venetia ” went down head foremost. The boat of the “ Venetia ” being stove, they pulled to the “ Foscolino ” and were taken on board. In the mean time the “ Foscolino's ” boats having been lowered, were pulled to the spot, and succeeded in saving the chief engineer and in recovering the body of the second engineer, but life was extinct; the engineer's steward was not seen.

The story told by the witnesses from the “ Foscolino ” is as follows:—She is an iron screw steamship, belonging to the port of Sunderland, of 1123 tons gross and 716 tons net register, and was fitted with engines of 99 horse power. She was built at Sunderland in the year 1882, and at the time of the casualty, which forms the subject of the present inquiry, she was the property of the Wear Steam Ship Company, Limited, Mr. John L. Browne of No. 16, John Street, Sunderland, being the manager. She left Bilbao on the 12th of June last for Amsterdam, with a crew of 18 hands all told, and a cargo of about 1400 tons of iron ore; and at about 9.45 p.m. of the 13th the Saints Light bore E. by S., distant about 20 miles, upon which she was put on a N.N.E. course to pass Ushant, and the weather being clear she proceeded at full speed, making from 7 to 7½ knots an hour. At 2 a.m. the course was altered to N.E. by N., and at 2.30 a.m., a thick fog having set in, the engines were slowed, and the speed of the vessel reduced from 2 to 2½ knots. At 4 a.m. the master, believing that he had cleared Ushant, altered the course to N.E. by E. ¾ E. magnetic, and she was kept on that course, the engines going dead slow, and the vessel making only 2 to 2½ knots, until about 6.30, when the second mate who was on the bridge, and a man named Ryan who was at the wheel, heard the whistle of a steamer, which afterwards proved to be the “ Venetia,” from two to three points on the starboard bow, upon which they called the master's attention to it. In a minute or two afterwards the whistle was heard again, and thereupon the captain, thinking that it was a vessel passing them to starboard, ordered the helm to be starboarded a little so as to prevent the vessel falling off with the westerly swell of the sea, and having brought her up about a point to half a point the helm was steadied. Presently the whistle was again heard, upon which orders were given to stop the engines, and almost immediately afterwards the look-out man reported a “ sailing ship on the starboard board.” On the vessel being seen the master at once ordered the helm to be put hard-a-port, and having telegraphed to the engine room “ full speed astern ” he rushed to the wheel to help to get it over, and the vessel was, accord-

ing to the master, just beginning to answer her port helm, and according to the man at the wheel had already paid off from a point to a point and a half, when the two vessels came together, the blow being more of a slanting blow than the witnesses from the "Venetia" assert. But however this may be, the result of the collision was to stave in the bows of the "Foscolino," filling the fore compartment, and at the same time to make a hole in the "Venetia's" side sufficient to cause her to sink in about 5 minutes. After remaining for some time on the spot, finding that nothing more could be done, and that it would not be safe to continue their voyage, the "Foscolino" proceeded towards Brest, where they arrived the same day.

These being the facts of the case, the Board of Trade have put to us a number of questions, the first four of which I will take together. They are as follow:—

1. Whether the "Venetia," on hearing a whistle on her port bow, was justified in keeping her course, having regard to Article 16 of the Regulations for preventing collisions at sea?

2. Whether the "Foscolino," on hearing a whistle on her starboard bow, was justified in starboarding her helm, having regard to Articles 16 and 17 of the said Regulations?

3. Whether both vessels, or either of them, was going at too high a rate of speed, having regard to the state of the weather and to Article 13 of the said regulations? and

4. Whether both vessels, or either of them, failed to comply with the requirements of Article 18 of the said Regulations?

And, first, let us see whether both or either of these vessels violated Article 13 of the regulations, which requires all vessels in a fog to "go at a moderate speed." Each vessel accuses the other of having been going at an immoderate rate of speed; but how stands the evidence. The chief engineer of the "Venetia" told us that the number of her revolutions at full speed was 65, but that from 4 o'clock the engines were going dead slow, and were making only from 25 to 28 revolutions. The second engineer of the "Foscolino" told us that at full speed their engines made 58 to 59 revolutions, but that, when he came on watch at 4 a.m., she was making only 27 revolutions, that he tried to reduce them to 25, but found that the engines stopped at that, and he had to put them at 26, which was as slowly as they could go without stopping, and that they were kept at that. Upon the whole, therefore, we are disposed to think that each vessel was going at dead slow, as slow in fact as they could go; and the reason why each thought that the other was going at an immoderate speed was, because each considered herself to be nearly at rest, and the combined speed, at which they were approaching each other, to be due wholly to the speed of the other vessel.

Secondly, what was the duty of each vessel, and upon which of them did the obligation of getting out of the way rest? Article 16 is in these words, "If two ships under steam are crossing, so as to involve risk of collision, the ship which has the other on her own starboard side shall keep out of the way of the other." It is admitted that when the two vessels first became aware of each other's approach, the course of the "Venetia" was W. by S., that of the "Foscolino" N.E. by E.  $\frac{3}{4}$  E., and that the "Venetia" had the "Foscolino" on her port bow, whilst the "Foscolino" had the "Venetia" on her starboard bow. They were, therefore, crossing vessels, and were proceeding in such a direction as to involve risk of collision; and under these circumstances it was the duty of the "Foscolino," under the 16th Article of the Regulations, to keep out of the way, and of the "Venetia" to keep her course. Nor would it have made any difference had the "Venetia" been a sailing vessel, (as the "Foscolino" at first thought, owing to her having had her sails set,) for the "Foscolino" would equally have had to get out of the way, and the "Venetia" to have kept her course. Let us see then how far each vessel endeavoured to comply with the Regulations.

And first as regards the "Venetia." Her master told us that from the time of hearing the "Foscolino's" whistle they kept their course, neither porting nor starboarding their helm. The master of the "Foscolino," indeed, supposed that the "Venetia" must first have ported his helm to cross their bows, and then starboarded it, and thus come into collision with them; but this is pure conjecture, founded upon the assumption that the "Venetia" had been on a directly opposite

course to them, whereas we know that from 5 a.m. her course had been W. by S., so as to give Ushant a wide berth. It appears to us, therefore, that the "Venetia" did, after she heard the "Foscolino's" whistle on her port bow, keep her course, and that she was justified in so doing.

Secondly, as regards the "Foscolino." It is admitted that, when the whistle was first heard, nothing was done, but that on its being heard a second time the helm was starboarded, according to the master, about a point, according to the man at the wheel, about half a point. Now the reason which the master gives for starboarding his helm was that he imagined the approaching vessel was on a directly opposite course to himself, and being on his starboard bow he thought that they would pass starboard side to starboard side, as two other steamers had done only shortly before. He also said that he was afraid that the swell from the westward would, as soon as he stopped his engines, cant his head to starboard, and thus throw him under the bows of the approaching steamer, and that that was why he starboarded, to keep her from falling off. Now, although it is quite possible that the starboarding of the helm may have somewhat contributed to the casualty, and that, if the helm had been ported immediately on hearing the "Venetia's" whistle, the collision might have been avoided, the assessors are not prepared to say that the master of the "Foscolino" was not justified in starboarding his helm. They think that, hearing the whistle some 2 or 3 points on his starboard bow, and not knowing in what direction she was approaching him, he would not have been justified in at once porting his helm, as the result might have been to throw his vessel right under the bows of the approaching vessel.

Whilst then we are disposed, in answer to questions Nos. 1 and 2, to say that the "Venetia" was justified, on hearing the "Foscolino's" whistle on her port bow, to keep her course, and the "Foscolino," on hearing the "Venetia's" whistle on her starboard bow, in starboarding her helm to the extent she did, the question remains whether they were justified in continuing to go ahead as they did after they had heard each other's whistles, and whether in the terms of question No. 4 they failed to comply with the requirements of Article 18 of the Regulations. Now the 18th Article of the Regulations is in these words, "Every steamship, when approaching another ship so as to involve risk of collision, shall slacken her speed, and stop and reverse if necessary." The "Venetia" we are told stopped her engines as soon as she heard the whistle of the "Foscolino," but the order to reverse was not given until the "Foscolino" came in sight, which was about a minute afterwards. So also the "Foscolino," on first hearing the "Venetia's" whistle, did nothing, it was only after the second whistle was heard that the engines were stopped, and not until the third whistle was heard, and just as the "Venetia" came in sight, that the engines were reversed. Both vessels seem to have stopped their engines, but neither to have reversed them so as to bring the vessels to rest, but they allowed them to forge ahead until they had got so close to one another that a collision was almost inevitable. It was said by Mr. Kennedy that a reasonable time must be allowed them to take the necessary step, and that, so far as the "Venetia" was concerned, there had been no unreasonable delay in reversing her engines. But I rather think that the tendency of the Courts has been to interpret this Article of the Regulations strictly, and if ever there was a case in which it should be strictly interpreted, it is this. Here are two vessels, proceeding it is true at a very slow rate, but in a fog so dense that it is utterly impossible for them to see one another until they are within one or two ships' lengths of each other, and so close as to make it almost impossible to avoid a collision. It appears to us that this was especially a case, the weather being so densely foggy, in which it was the duty of each to have at once reversed her engines and brought herself to rest as soon as she knew that there was another steam vessel in the neighbourhood; had they done so, and not gone on again until they had ascertained how the other vessel was heading, no collision would have occurred. It is not, indeed, the duty of this Court to determine the civil liabilities of the parties, all that we have to do is to say whether in our opinion these vessels ought not only to have stopped, but to have stopped and reversed as soon as they were aware of the near approach of the other, and in our opinion they ought to have done so. They are both, therefore, to a certain extent to blame for the casualty.

The fifth question is "the cause of the possible effort of the engineer seems to have foundered, and that to one of the da boat, and was carried however, in our loss of these two "Venetia" appeared into the boat, and round the deck, her. And as great praise is due to the rapidity with which she got to the spot, and it of the "Venetia," having been stowed any assistance.

The two remaining questions are "6. Whether the "and seamanlike" of either, and added that "the certificates of" dealt with." It was justified in keeping in starboarding her they heard one however, that they having kept her in, and that the ing the vessel's being on the starboard the "Venetia" drawn aft they did the wind at the time

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 avoid it?" The second engineer seems to have been below when the vessel foundered, and the engineer's steward was hanging on to one of the davits, but was afraid to drop into the boat, and was carried down with the vessel. No blame, however, in our opinion, attaches to any one for the loss of these two men's lives. The master of the "Venetia" appears to have been the last person to get into the boat, and he said that before doing so he looked round the deck, and thought that everybody had left her. And as regards the "Foscolino," we think that great praise is due to her officers and crew for the rapidity with which they got their boats out and pulled to the spot, and it was to that that the chief engineer of the "Venetia" owed his life, the "Venetia's" boat having been stove in launching, and unable to render any assistance.

The two remaining questions are as follow:—  
 "6. Whether the vessels were navigated with proper and seamanlike care?" and "7. Whether the master of either, and which ship, is in default?" and it is added that "the Board of Trade are of opinion that the certificates of the masters of both vessels should be dealt with." I have already said that the "Venetia" was justified in keeping her course, and the "Foscolino" in starboarding her helm to the extent she did, when they heard one another's whistles. It was said, however, that the "Venetia" was to blame for having kept her sails up after the fog had set in, and that they would have the effect of increasing the vessel's speed through the water, the wind being on the starboard quarter. But the master of the "Venetia" has told us that the sheets being drawn aft they did not increase the speed of the vessel, the wind at the time being light; and that his object in

keeping them up was to prevent the vessel from rolling, there being a heavy swell from the westward, and at the same time to make the vessel more easily seen by an approaching vessel; and that it had that effect is apparent from the fact that, when first seen from the "Foscolino," she was reported as a sailing ship, showing that it was her sails which were first seen. There can, however, be no doubt that the "Venetia's" sails would tend to hamper her movements, and prevent her losing her way so quickly when it became necessary to stop and reverse. On the whole, however, the assessors are not disposed to blame the master of the "Venetia" for having kept his sails standing. They think, however, that both are to blame for not having at once reversed their engines when they became aware of the presence of the other, seeing the extreme density of the atmosphere, and that there was a danger of their getting so close before seeing one another that a collision could hardly be avoided. It is, however, not a case in which we should think of dealing with the certificates of either of these gentlemen. They were on deck throughout the night, and on the bridges of their respective vessels actively engaged in keeping a good look out and in attending to their duties; and if they are to blame, it is due rather to an error of judgment than to any neglect of duty, and in such cases we never deal with the certificates.

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

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

We concur.  
 (Signed) R. ASHMORE POWELL, }  
 A. RONALDSON, } ASSASSORS.  
 GEORGE HYDE, }