

(No. 2257.)

“CONSTANCE.”

The Merchant Shipping Acts, 1854 to 1876.

In the matter of the formal Investigation held at the Sessions House, Westminster, on the 30th July 1884, before H. C. ROTHERY, Esquire, Wreck Commissioner, assisted by Captains HIGHT and PARFITT, as Assessors, into the circumstances attending the abandonment and loss of the sailing ship “CONSTANCE” off the coast of Jamaica on the 9th of May 1884.

Report of Court.

The Court, having carefully inquired into the circumstances of the above-mentioned shipping casualty, finds, for the reasons annexed, that the loss of the said ship was due to her having become full of water, but how the water got into her, whether by a sudden leak, or by her unseaworthy condition, or by the act of any one on board, there is nothing to shew.

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

Dated this 30th day of July 1884.

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

We concur in the above report.

(Signed) EDWARD HIGHT, } Assessors.
WM. PARFITT, }

Annex to the Report.

This case was heard at Westminster on the 30th of July 1884, when Mr. Arnold White appeared for the Board of Trade. The owner and the master of the “Constance” were present, but were not represented by either counsel or solicitor. Five witnesses having been produced by the Board of Trade and examined, Mr. Arnold White handed in a statement of the questions upon which the Board of Trade desired the opinion of the Court. The owner and master then addressed the Court each on his own behalf, and Mr. Arnold White 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 “Constance,” which was a wooden vessel, belonging to the port of London, of 380 tons gross, and 367 tons net register, was built at Newhaven, in the county of Sussex, in the year 1858, and at the time of her loss was the property of Mr. James Bambrough, of No. 10, Alice Street, Sunderland, shipowner. She left Salt River, in the Island of Jamaica, on Tuesday the 6th of May last, for Goole, in Yorkshire, with a crew of 11 hands all told, and a cargo of 353 tons of logwood roots, and was put upon a westerly course, the master intending to pass round the west side of the island, the wind being light from the N.E., and off shore. Nothing particular occurred during that and the following day, but at about 7.30 to 8 a.m. of Thursday the 8th May it was observed that the vessel had a list to starboard, and on sounding the pumps she was found to have 5 feet of water in her hold. At this time they were about 35 miles from the coast, Pedro Bluff bearing about N.N.W., and accordingly the master, we are told, endeavoured to put her head in towards the shore, but found that she would not answer her helm, and that they could neither tack nor wear her. All hands were thereupon called up and set to work at the pumps, and they continued pumping her during the whole of that day and the following night; the water, however, gained upon them, and at about 10 a.m. the following morning, finding that there were 10½ feet of water in the vessel, the captain ordered the boats to be lowered, and all hands got into them. At about ½ past 11, however, the captain returned to the vessel, and having

taken an observation left her again at about 1 p.m., taking with him his chart, sextant, and chronometer, and at that time he told us that there were about 12½ feet of water in her. The same afternoon a Nova Scotia vessel bore down to them, upon which the captain and two hands pulled towards her, but finding, as he says, that they could give them no assistance they returned, and remained by the ship until she foundered, at about 11 p.m. the same day; after which they pulled for the shore, and landed at the mouth of the Black River, whence they were taken in a steamer to Kingston, and have come from there to this country.

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

“ 1. When the vessel left the United Kingdom was she in all respects in a good and seaworthy condition ?

“ 2. Did she make any unusual quantity of water whilst lying at Salt River, and during the time she was taking in cargo? If so, were proper measures taken to ascertain the cause of and to stop the leak, if any ?

“ 3. When the vessel left Salt River was she in a good and seaworthy condition, and were her pumps sufficient and in good order ?

“ 4. What was the cause of there being so much water in the vessel upon the morning of the 8th of May, and were prompt and proper measures taken to ascertain the cause of the leak ?

“ 5. Were the pumps used with sufficient frequency, and was every possible effort made to keep the water under and to get the vessel into port ?

And “ 6. Was the vessel prematurely abandoned ? ”

It seems that the vessel was built in the year 1858, and was originally classed for 13 years at Lloyd’s, and that on the expiration of that period she got an extension for nine years. In 1881 she was classed A 1 in red for four years, and was in that class when she was lost, but the last time that she was surveyed by Lloyd’s appears to have been in August 1882. In July 1883 Mr. Bambrough bought her, and having sent her to Sunderland had her there put into dry dock to have her bottom examined, and finding her, as he has told us, to be in very good condition, nothing whatever was done to her, and she left on the 15th of September with a cargo of about 550 tons of coal for Buenos Ayres. On the way out she seems to have made some, but, according to the evidence of the master and mate, not a great quantity of water, but it was, we are told, the practice on board to try the pumps every watch. At Buenos Ayres four of the crew, the boatswain, and 3 A. B’s, deserted her, and four hands were engaged in their place, and on her arrival at Kingston two of these hands were discharged, and two others engaged in their place. She then proceeded to Salt River, and took in the cargo, with which she sailed for this country. We are told that at Salt River she was found to be leaking in the port bow, and accordingly the bows were raised out of water by putting a quantity of the cargo aft, and the leak having been found a piece of tarred canvass was nailed over it, and this was covered first with lead and then with copper, and after that we are told she made no more water while she remained in port. According to the owner the vessel was in first rate condition when she left this country, he told us that she was the best vessel that he had ever had, which may well have been the case, and yet at the same time it might be no proof that she was in a good and seaworthy condition. His evidence is supported by that of the master and the mate, who also told us that shew as in first rate condition when she left Salt River. But that a vessel should within 2 days of her leaving port, be found suddenly to have 5 feet of water in her hold, although she had been during all that time under the lee of the island, and with a light off shore wind from the N.E., and that within about 24 hours from that time, although she had ample pumping power on board, and the pumps were kept almost continually going, the water should have increased to 10½ feet, rendering it absolutely necessary for them to abandon her, seems to show either that she could not, when she left, have been in a good and seaworthy condition, or that something was done on

board to cause her to make so much water. To which of these two causes her loss was due, it is quite impossible for us to say. Unfortunately the chief evidence we have on this point is that of the owner, the master, and the mate, and for reasons, to which I will presently advert, their evidence is open to very grave suspicion.

The seventh question which we are asked is, "Was assistance offered to the master, and if so, was he justified in refusing it?" The only evidence, again, which we have on this point is that of the master himself; for the two men who went with him to speak the Nova Scotia vessel have not been produced. According to the master, he asked the captain of the Nova Scotia vessel to lend him some hands to assist in pumping, and to get the vessel's head in towards the shore, but the captain of that vessel replied that he would not for all the riches in the world go on board her. The master admitted that they had offered to stay by him, but he says that he didn't want that, as he had two good boats, with which he felt certain of being able to reach the land.

The eighth question which we are asked is, "Was the master then in a state of intoxication, or otherwise suffering from the effects of drink?" Upon this point also we have very little evidence. It is said that there were two bottles of port wine in the boat, but that may only have been a reasonable precaution on the master's part, seeing that they were about to leave the ship. There is no evidence to shew that the master was intoxicated. I presume, however, from the question having been put, that the Board of Trade had some information to go upon, but that they have not been able to produce any evidence of the fact.

The ninth question which we are asked is, "Are the master and mate, or is either of them, in default?" With the evidence that has been laid before us, it is impossible to say whether the master and mate are or are not in default. There is no evidence that they are so; but at the same time there are facts to which I shall presently advert which raise the strongest suspicions against them. Seeing, however, that there is no direct evidence that the master and mate are in default, it will not be possible for us to accede to the prayer of the Board of Trade that we should deal with their certificates.

The tenth question which we are asked is, "What was the cost of the vessel to her owner?" Mr. Bambrough has told us that he gave for the ship in July last 1,100*l.*, besides 10*l.* for the permanent metal ballast that was in her, which would be at the rate of about 3*l.* a ton. The outward cargo consisted of 547 tons of coal, the freight on which was 28*s.* a ton, making a total of 765*l.* 16*s.*, of which 385*l.*, or about one-half, was paid in advance. The freight home was at the rate of 33*s.* per ton, which on 353 tons would amount to 582*l.* 9*s.*, no part of which we are told had been advanced.

The eleventh question which we are asked is, "What was her value at the time of her loss?" It is a very difficult question to answer. If the vessel was in a good condition, 3*l.* a ton would not be much to give for her; but if she was in bad condition it would be impossible without seeing her to say what she was worth.

The twelfth question which we are asked is, "What were the insurances effected, and how were they apportioned?" The owner has told us that the vessel was insured for 1,000*l.*, that is to say, 500*l.* with a Mr. Evans, an underwriter, and 500*l.* with the Whitby Club; and that her freight was insured for 700*l.*, that is to say, 300*l.* with Mr. Evans and 400*l.* with a Mr. Leeman.

Before concluding this report it is necessary that I should advert to some facts which came out in the course of the inquiry, and which throw very great suspicions on the whole transaction. Mr. Bambrough told us that he had been a shipowner for about 16 years, and that during that time he has owned five ships and no more. The first was called the "Arlington," and she went ashore and was lost upon the Scaw. The next was the "Excelsior;" she was lost on the coast near Sunderland. The third was called the "Marli;" she foundered some 3 or 4 years since, but the precise date Mr. Bambrough could not give us. The fourth was the "Hebe;" she foundered in the Bay of Biscay in April of last year. And last of all we have the "Constance," which foundered on her first voyage in May last, off the coast of Jamaica, and within 4 days of her leaving port. What too is the more remarkable is that Captain Henry Webberling, the master, and Mr. Samuel Kent, the mate of the "Constance," were in Mr. Bambrough's regular employ, and had been master and mate respectively of the "Marli" and the "Hebe" when they foundered, so that these gentlemen may be said to have had considerable experience in the foundering of vessels. As regards Mr. Bambrough, he has had the misfortune, or, shall we call it, the good fortune to lose all his five vessels in succession one after the other, the three last within the last 3 or 4 years, and all three by foundering. We have seen what was the cost of the "Constance," and for what she was insured. The "Marli" was 231 tons, had been built in 1847, and at the time of her loss had been struck out of Lloyd's list, having been last surveyed in November 1875. The "Hebe" was 331 tons, had been built in 1860, and had also been struck of Lloyd's list, having been last surveyed in April 1876. Mr. Bambrough told us that they were both classed like the "Constance," but this proved to be not quite correct, for they had been struck out of Lloyd's list, but were, we were told, classed in the American Lloyd's. What were the amounts for which they were insured Mr. Bambrough could not tell us, but he said that he thought it was about 1000*l.* each. I think that these facts are sufficient to show that this is a case which deserved very careful inquiry, and we only regret that the evidence is of so meagre a character as to throw very little light upon the transaction.

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

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

We concur.

(Signed) EDMUND HIGHT, } Assessors.
WM. PARFITT, }

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