(No. 2343.)

"WINDSOR CASTLE."

The Merchant Shipping Acts, 1854 to 1876.

In the matter of the formal Investigation held at Westminster on the 24th and 25th days of October 1884, before H. C. Rothery, Esq., Wreck Commissioner, assisted by Captain Hight, Captain Knox, R.N., and Captain Ronaldson, as Assessors, into the circumstances attending the abandonment and loss of the sailing ship "Windsor Castle" on the 25th of July last, and the loss of the life of one of her crew on the 28th June last, whilst on a voyage from Cochin to London.

Report of Court.

The Court, having carefully inquired into the circumstances of the above-mentioned shipping casualty, finds, for the reasons annexed, that when the said vessel sailed from Cochin on her last voyage, she was in a good and seaworthy condition; that no blame attaches to the owner, the master, or any one on board for the loss of the vessel, or for the loss of the life of Morant, the third officer, who was washed overboard on the 28th of June, and that the master and crew were fully justified in abandoning her when they did.

The Court makes no order as to costs.

Dated this 25th day of October 1884.

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

We concur in the above report.

(Signed) Edward Hight,
Henry Knox, Captain R.N.,
A. Ronaldson,
} Assessors.

Annex to the Report.

This case was heard at Westminster on the 24th and 25th days of October instant, when Mr. Muir Mackenzie appeared for the Board of Trade, Mr. Baden Powell for the master, and Mr. Nelson for the owner of the "Windsor Castle." Seven witnesses having been produced by the Board of Trade and examined, Mr. Muir Mackenzie handed in a statement of the questions upon which the Board of Trade desired the opinion of the Court. Mr. Baden Powell and Mr. Nelson then addressed the Court on behalf of their respective parties, and Mr. Muir Mackenzie 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 "Windsor Castle," which was a wooden ship of 1074 tons gross and register, was built at Sunderland in the year 1857, and at the time of her loss was the property of Mr. Elias Cox, of Bridport Harbour, Dorset, and others, Mr. Elias Cox being the managing owner. In May 1883 she left Plymouth with a crew of 22 or 23 hands all told, and having landed some marines at Monte Video and a man-of-war's relief crew at Sydney, proceeded to Colombo, and thence to Cochin. There she took in a general cargo of about 1,300 tons, and left on the 22nd of May last for London, having a crew of 22 hands on board, and drawing 18 feet forward and 19 feet aft. Nothing particular occurred until the 27th and 28th of June following, when she encountered a cyclone, which at first blew from the north, but after a lull recommenced from the opposite quarter. The master, wishing to ease the ship, ordered the fore topmast staysail to be hauled down, and whilst all hands were so engaged a heavy sea broke over her, carrying away the third officer, and injuring several of the crew, besides smashing up two of the lifeboats and doing other damage. It was not until they mustered the crew about half an hour afterwards that the third officer was missed, and it was then impossible to do anything. The weather continued in a very unsettled state until the 11th of July following, when it was so bad that the master determined to run for Algoa Bay. On getting, however, within sight of the anchorage, which is in a small inner bay, it was found that they would not be able to fetch it owing to a strong wind which was then blowing from the westward, and accordingly they put about and ran out to sea again. At about 6 p.m. of the 13th she was lying to on the starboard tack under the lower main topsail, when a sea broke over the quarter and carried away the rudder, leaving her in a helpless and unmanageable state, and she fell off into the trough of the sea. From that time she lay at the mercy of the winds and waves, and although several attempts were made to get her under command by rigging up a jury rudder they all had to be abandoned owing to the violence of the gale. On the 17th the "City of Benares" hove in sight and offered to take them off, upon which the crew came aft and asked the master what he intended to do, to which he replied that he should try to get her into port. The same night a Danish vessel came up and offered her services, but these were also refused. At length, on the 25th, a Norwegian barque, the "Ophir," hove in sight, and on being signalled bore down to them. A consultation then took place between the master, the officers, and crew, and as they had then been beating about for twelve days at the mercy of the winds and waves, and the barometer was falling, with every appearance of another gale, it was unanimously agreed that it would be better to abandon her, as they might not have another chance to save their lives. Accordingly the only remaining lifeboat was launched, and a portion of the crew were sent to the barque, which they reached with some difficulty, two of the hands being engaged the whole time in baling her. Having put them on board the boat returned and took a second batch, and this time brought back the chief officer of the Norwegian vessel, who examined the condition of the "Windsor Castle," and, we are told, gave it as his opinion that it would be proper to abandon her. The captain then, to prevent her becoming a danger to passing vessels if she remained afloat, set her on fire, and he and the remainder of the hands then went on board the barque, and were landed on the 20th August at St. Helena, whence they have been brought to this country. The vessel when she was abandoned was, we are told, about 30 or 40 miles from the east coast of Africa, between Port Alfred and East London, and since that time she had not been seen or heard of.

These being the facts of the case, I will now proceed to answer the questions that have been put to us by the Board of Trade, and the two first questions are as follow:—

"(1) When the 'Windsor Castle' left Cochin was "she in good and seaworthy condition?" and "(2.) "Was her rudder in any and what way defective, and "if so, is blame attributable to the master, or any other "and what person in regard to its condition?" It seems that the "Windsor Castle" belonged for a great many years to Messrs. Green's fleet of passenger vessels, and I am told by Captain Hight, one of the assessors, who was for about 40 years in Messrs. Green's service, that he knew her well, and that she was a very favourite ship in the Bombay trade. She was built in 1857, and was originally classed A 1 for 15 years, and was continued in that class for 14 years more, having been diagonally doubled and made almost a new ship in 1876, so that she would have retained her class till the year 1886. In July 1882 she was sold by Messrs. Green to Mr. Cox, who thereupon placed her in Messrs. Green's yard and had her repaired at an expense of 1,625*l*. On that occasion she was re-metalled and thoroughly over-hauled, and she was then taken up by the Government for the conveyance of troops to Zanzibar, having been previously overhauled in the usual course by the Admiralty authorities. On her return she was again chartered by the Admiralty to take marines to Monte Video and a man-of-war's relief crew to Sydney, whence she proceeded to Colombo and thence to Cochin. Now we were told by a witness named Purdy that, when they were at Sydney, he was employed painting the rudder, and that he then observed that it was defective, and was swaying about.

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He told us that he never mentioned it to any one, but that there was a seaman named Pedrick helping him, and that he would have had as good an opportunity of observing its condition, as he had. Pedrick, however, on being called, stated that the rudder was perfectly sound at that time, and that there was not any defect in it, and he was supported by the carpenter Waters, as well as by the master and mate. I should add that Mr. Cox, who is a practical ship builder, having been for about 40 years engaged in the trade at Bridport, told us that, when he bought her, he had the rudder unhung and re-coppered, and that he then thoroughly examined it, and that it was in a thoroughly good condition. It further appears that, after the rudder had been carried away, the rudder head was removed, and the neck driven downwards to clear the rudder trunk; and Purdy told us that at this time he was standing on the poop, and as it floated away he observed the appearance of a flaw or discoloured place, where the rudder had parted. He, however, never mentioned it to anybody, nor did any one besides himself see it. On the whole it appears to us that we should not be justified in putting any reliance on the unsupported statement of Purdy as to the state of the rudder; and that, so far as appears, the vessel, when she left Cochin, was in a good and seaworthy condition, and that her rudder was not in any way defective.

The third question which we are asked is, "What "was the cause of the loss of Mr. Morant, on or about "the 28th of June; and under the circumstances ought "any steps to have been taken with the view of "attempting to save him?" I have already stated that the crew were in the act of hauling down the fore topmast staysail, when a sea broke over them, which carried overboard Mr. Morant, injured several others of the crew, and smashed two of the lifeboats, besides doing other damage. It was not until half an hour afterwards, and when they mustered the crew, that Mr. Morant was missed, and then it was utterly impossible to do anything. But even if they had seen him go overboard, it would have been impossible to have launched a boat to go to his assistance, with the sea that was then on. It appears to us that nothing could, under the circumstances, have been done to save the life of this officer.

The fourth question which we are asked is, "Were "the pumps in good order, and were they used with "sufficient frequency?" and I will take with it the seventh question, which is as follows:—"Did the vessel "at any time prior to her abandonment make much "water, and if so, what was the cause of her doing "so?" The vessel, we are told, made about 3 inches of water an hour, which can hardly be wondered at, seeing the violent weather to which she was exposed for so many days; and when they finally left her, we were told by the carpenter that she had about 13 inches of water in her. But, whatever it was, it was admitted that the pumps were fully able to keep it under, shewing that they must have been in good order, and that they were worked with sufficient frequency.

The fifth question is in these words, "What was the "cause of the loss of the rudder?" The loss of the rudder is, in the opinion of the assessors, to be fully accounted for by the violence of the sea, which struck the vessel whilst she was lying to under her lower main topsail.

The sixth and ninth questions I will take together. they are as follow:—"6. Was every possible effort made "to save the vessel?" and "9. Was she navigated "with proper and seamanlike care?" After she had lost her rudder, the vessel became quite unmanageable and fell off into the trough of the sea, and although no less than five efforts, I think, were made to rig a jury rudder, they all failed, owing to the violence of the gales which she encountered. In the opinion of the assessors every effort was made to save this vessel, and they think that she was navigated with exceptional seamanlike care.

The eighth question which we are asked is, "Was "the master justified in abandoning the vessel on July "25th?" In our opinion he was fully justified in so doing. He had declined to leave the ship when the "City of Benares" and the Danish barque had offered their assistance, hoping to be able to get the ship into port; but at length after knocking about for twelve days without a rudder, at the mercy of the winds and waves, and with the prospect of another gale coming on again, as in fact it did, it would have been madness on the part of the master if he had not accepted the services of the "Ophir," when they were offered, and gone on board that vessel. We think too that he was justified in setting fire to her before he left her, as we are told that she had a large quantity of oil on board, which would have kept het afloat for a long time, and made her a danger to passing vessels.

The tenth question which we are asked is, "Is any "blame in respect of the casualty attributable to the "owner, master and officers, or any other, and what "persons?" In our opinion no blame whatever is attributable either to the owner, the master, or the officers, or to any one on board, who all seem to have done their best in the difficult circumstances in which they were placed.

The eleventh question which we are asked is, "What "was the original cost of the vessel to her owner at the "time he purchased her, and what were the sums spent "upon her for repairs and equipment by the owner "prior to her sailing on her last voyage?" The owner, we are told, paid Messrs. Green 3,000*l.* for her in July 1882, and then spent a sum of 1,625*l.* upon her to put her into a state of thorough repair. He also told us that he had spent an additional sum of 2,000*l.* for her outfit at that period, but what was spent upon her previous to her departure on her last voyage we were not informed.

The twelfth question which we are asked is, "What were the insurances effected on the ship and freight, and how were they apportioned?" The ship, we are told, was insured for 3,600*l.*, and the freight for 2,500*l.*, and there was no other insurance whatever.

The thirteenth question which we are asked is, "What, in the opinion of the Court, was the value of the vessel at the time she left Cochin on her last voyage?" I have stated that Mr. Cox gave 3,000*l.* for her in July 1882, and immediately afterwards spent 1,625*l.* upon her, to put her into a state of thorough repair, making a total of 4,625*l.*; and looking to the character of the vessel, and to the fact that Mr. Cox bought her under exceptional circumstances, when, owing to the death of Mr. Richard Green, and the dissolution of the partnership, it was necessary to sell all their ships, we think that he got a very good bargain. We think, having regard to all the circumstances of the case, that she would have been worth, when she left Cochin, probably not less than about 5*l.* a ton. Mr. Cox has estimated her value at that time at 5,600*l.*, and he is probably not far from the mark. In insuring her therefore for 3,600*l.* he insured her for very much less than her value. When too Mr. Cox insured the freight for 2,500*l.* he estimated that it would amount to about 3,000*l.*, and he told us that he had refused a lump sum of 2,800*l.* for it. As a fact, however, owing to circumstances into which it is not necessary to enter, the freight would only have realized 2,545*l.*, but even then it was not over insured, there being no insurance at all on the outfit.

And here the case might have terminated, if it had not been for an application that has been made by Mr. Nelson for a portion of the costs of this inquiry. It seems that on the 16th October instant, the solicitor to the Board of Trade wrote to Mr. Cox, informing him of the time and place of the inquiry, and stating at the same time that he was "instructed by the Board "of Trade to inform the Court that the under-"mentioned vessels in which members of your firm "have had a registered interest have been lost, "namely, the Carnaquheen, the Cosmos, the Duke of "Sutherland, the Island Belle, the Mountain Ash, the "Pride of the Isles and the Rosalie." And a letter with a similar statement was on the same day sent to Messrs. Lowless and Nelson, Mr. Cox's solicitors, No reply having been returned to these letters either by Mr. Cox or his solicitor's, Mr. Cox was asked in the course of his examination in regard to these seven vessels, and he then told us that he never had had anything to do with the "Carnaquheen;" that he had had a fourth interest in the "Cosmos," which was lost in the year 1882; that he never had had any interest in the "Duke of Sutherland;" that he was managing owner of the "Island Belle" for 12 years, that he had built her for himself, and that she was driven ashore in the harbour of Trinidad, in the West Indies, during a gale; that he never had had any interest whatever in the "Mountain Ash;" that he built the "Pride of the Isles" in 1858, and had sailed her on his own account for 22 years, when she was unfortunately lost, being at the time very poorly insured; and that he had never had any interest in the "Rosalie." So that out of those seven vessels there are four in which Mr. Cox had never had any interest whatever, and the other three appear to have been lost under circumstances which throw no suspicion whatever on Mr. Cox. Under these circumstances, Mr. Nelson

has asked that Mr. Cox should be allowed the expenses which he has incurred by having to meet the charges which he was told would be preferred against him. But I am somewhat at a loss to see what those expenses can be. Mr. Cox knew perfectly well, as soon as he got the letter from the Board of Trade, that he never had had any interest in four of them, and he knew also the circumstances under which the three other vessels had been lost. What expenses then has he been put to? None that we can see. Why neither Mr. Cox nor his solicitors returned any reply to the solicitor's letters of the 16th October, I am at a loss to conceive. Had he done so, saying that he had never had any interest in four of them, and explaining the circumstances under which the other three were lost, in all probability we should not have heard of them, and possibly there would not have been any inquiry at all. According to Mr. Nelson, to ask as to any other vessels which an owner might have lost would not be pertinent to the inquiry, but in that opinion I am not able to concur. There was a case which came before me only in July last, that of the "Constance," in which it appeared that the owner had had five vessels in succession, and that he had lost them all, three of them during the last three or four years, being at the rate of about one ship a year; and what was very remarkable was, that the master and mate of the "Constance" had also been master and mate of the two previous vessels, and the owner could not, or professed not to be able to tell us for what amounts they had been respectively insured. In that case it certainly appears to me that the number of vessels which this owner had lost, and the circumstances under which they were lost, were not matters which were so wholly foreign to the inquiry. In the present case I am happy to say that no suspicion whatever attaches to Mr. Cox in regard to the loss of any of the vessels with which he seems to have been connected, but in so much as he does not appear to have been put to any additional expenses by the inquiry respecting them, and as neither he nor his solicitors thought fit to answer the letters of the solicitor to the Board of Trade, or to inform him of the facts, I shall not give him any costs.

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

We concur.

(Signed) Edward Hight,
Henry Knox,
Captain R.N.,
A. Ronaldson,
} Assessors.