

(No. 3314.)

“BAVINGTON” (S.S.).

The Merchant Shipping Acts, 1854 to 1876.

In the Matter of the formal investigation held at the Sessions House, Westminster, on the 22nd of July 1887, before H. C. Rothery, Esquire, Wreck Commissioner, assisted by Captains Ronaldson and Baker, as Assessors, into the circumstances attending the stranding and loss of the steamship “Bavington,” near Ushant, on the 8th of June 1887.

The Court having carefully inquired into the circumstances of the above-mentioned shipping casualty, finds, for the reasons annexed, that the stranding and loss of the said vessel was due to the wrongful acts and defaults of George Metcalf Taylor, the master. The Court accordingly suspends his certificate for six months, but recommends that during the period of the suspension of his master's certificate a first mate's be granted to him.

Dated this 22nd day of July 1887.

H. C. ROTHERY,
Wreck Commissioner.

We concur in the above report,
(Signed) A. RONALDSON,
W. H. J. BAKER. } Assessors.

Annex to the Report.

This case was heard at Westminster on the 22nd of July 1887, when Mr. Muir Mackenzie and Mr. Lushington appeared for the Board of Trade, Mr. Botterell for the owner and master, and Mr. Butler Aspinall for the chief officer of the “Bavington.” Eight witnesses having been produced by the Board of Trade and examined, Mr. Lushington handed in a statement of the questions, upon which the Board of Trade desired the opinion of the Court. Mr. Aspinall and Mr. Botterell then addressed the Court on behalf of their respective parties, and Mr. Lushington having been heard in reply, the Court proceeded to give judgment on the questions, on which its opinion had been asked. The circumstances of the case are as follows:—

The “Bavington” was an iron screw steamship, belonging to the port of Sunderland, of 1,753 tons gross, and 1,137 tons net register, and was fitted with engines of 160 horse power. She was built at Sunderland in the year 1885, and at the time of her loss was the property of Mr. William Kish of Sunderland, who was also the managing owner. She left Carthagena on the 1st of June last with a crew of 19 hands all told, and six passengers, consisting of the master's two daughters, his brother and sister, and the engineer's wife and child, and having on board a cargo of about 2,200 tons of iron ore, besides 150 tons of bunker coal, bound to Middlesbrough, and at 8.30 a.m. of the 6th passed Cape Villano, distant about six miles. Thence a N.E. course by the pole compass, equivalent to N.E. ½ E. magnetic, was steered till 8 p.m., when it was altered to N.E. ½ N. by the pole compass, equivalent to N.E. magnetic. On the following day observations were obtained for longitude and latitude, which placed the vessel at noon some seven or eight miles, according to the master, but according to the mate some 14 miles to the eastward of her assumed position by dead reckoning; upon which the course was altered to N.E. ¾ N. by the pole compass, equivalent to N.E. ¼ N. magnetic. At midnight the chief officer's watch commenced, and at 1 a.m. the master left the deck and went into the chart room and laid down, leaving orders with the chief officer to call him if he saw anything, and in any event to call him at 3 a.m. At this time it is said that the wind was light from the S.W., the sea smooth with a slight westerly swell and the weather clear, so that vessels as well as lights could be seen at a considerable distance. At 3 a.m. the chief officer, in accordance with the orders which he had received, called the captain, who came on deck and having taken a look round went again into the chart room to examine, as he said, his chart; and at about 3.30, and whilst he was still in the chart room, the look-out man reported that he heard a

fog-horn on the port bow, upon which the chief officer rang the telegraph to stand by. The master on hearing the telegraph came out on deck, and at once ordered the helm to be put hard astarboard, and the engines to be stopped, and on a cast of the lead being taken it was found that they were in 15 fathoms. In the meantime the vessel had come round under her starboard helm, and when her head was about West, orders were given to steady the helm, and to go on first slow and then half speed ahead, but almost immediately afterwards the vessel struck. Finding that she was fast sinking orders were then given to get out the boats, and all hands having got into them they pushed off, and within seven minutes of her striking the vessel slipped off the rocks into deep water. In about half an hour afterwards they fell in with a French fishing cutter, which took them on board and landed them at Brest. The place where the vessel is supposed to have struck is known as the Pierres Vertes, situate inside of and some three or four miles to the S.E. of the Island of Ushant.

These being the facts of the case, the first question, upon which the Board of Trade have asked for our opinion, is, “What was the cause of the stranding of the vessel?” but it will be better, I think, to reserve this question until I have dealt with some of the others that have been put to us.

The second question which we are asked is, “What number of compasses had she on board, where were they placed, and were they in good order, and sufficient for the safe navigation of the ship?” It seems that she had three compasses on board; a pole compass just forward of the bridge, a steering compass on the upper bridge, and a steering compass aft before the after wheel; and so far as appears they were in good order, and quite sufficient for the safe navigation of the vessel.

The third question which we are asked is, “When and by whom were they made; and when and by whom were they last adjusted?” We were told that they were made by Hutchinson, of Sunderland; and that the vessel was swung in March last off Souther Point at the entrance to the Tyne, and that proper deviation cards were then made out.

The fourth question which we are asked is, “Did the master ascertain the deviation of his compasses by observation from time to time? Were the errors of the compasses correctly ascertained, and the proper corrections to the course applied?” The master told us that immediately after passing Cape Villano he took an azimuth, and found that on a N.E. course the pole compass had the same deviation as that shown by the deviation card, namely, half a point easterly; and there is no reason to think that the deviation was not correctly ascertained, and the proper corrections applied.

The fifth question which we are asked is, “Whether proper measures were taken to ascertain and verify the position of the vessel at or about 8.30 a.m. of the 6th June? Whether a safe and proper course was then set and steered, and whether due and proper allowance was made for tide and currents?” And with it I will take the sixth question, which is, “Whether a safe and proper alteration was made in the course at 8 p.m. of the 6th June, and whether due and proper allowance was made for tide and currents?” We were told that in passing Cape Villano a four-point bearing was taken, which placed them some six miles from it; and there is no reason to think that that was not so. From there a N.E. ¾ E. course magnetic was steered until 8 p.m. of the 6th, and after that a N.E. course magnetic until noon of the 7th. The captain told us that the proper course from Cape Villano to pass outside of Ushant was N.E. ¼ E. magnetic, and that it was his practice to steer for half the way on a N.E. ½ E. course, and for the remaining half a N.E. course; and there is no reason, as Mr. Lushington observed, why he should not do so if he pleased, instead of keeping her all the way on a N.E. ¾ E. course.

The seventh question which we are asked is, “Whether proper measures were taken at noon of the 7th June and thereafter to ascertain and verify the position of the vessel;” and with it I will take the eighth question, “Whether a safe and proper alteration was then made in the course, and whether due and proper allowance was made for indraught?”

It seems that on the 7th observations were obtained, which, according to the chief officer, put the vessel at noon of that day in latitude 46° 24' North, and longitude 6° 30' West, whereas her position by dead reckoning should have been 46° 42' North and 6° 44' West. She had thus, according to the chief officer, got some 14 miles to the eastward of her position by dead reckoning. According to the master, however, she had got only some seven or eight miles to the eastward of her course. The master also told us that he was more inclined to trust his dead reckoning than the observations; why, it is difficult to understand, seeing that it is the usual practice to correct your dead reckoning by observations, and not your observations by dead reckoning. Be this, however, as it may, the course was then altered to N.E. $\frac{1}{4}$ N. magnetic, which would, the master said, if the observations were correct, take him some three or four miles, and, if his dead reckoning was correct, something like 11 miles to the westward of Ushant. In laying that course, however, no allowance was made for the continuance of the indraught, which, if the observations were correct, had already set this vessel some 7 to 14 miles to the eastward of her course, a factor which he was not justified in neglecting; and as a fact it turned out that the alteration was not a safe and proper one, and that due allowance had not been made for indraught.

The ninth question which we are asked is, "Whether, when the fog-horn was heard, the master took proper measures to ascertain the position of the vessel; and whether a safe and proper alteration was made in the course at or about 3.35 a.m.?" As soon as the master came on deck, after the fog-horn had been heard, he ordered the helm to be put hard astarboard, and the engines to be stopped, and a cast of the lead to be taken, which gave them 15 fathoms, and when the vessel's head had come round to about West he steadied the helm, and then ordered the engines to go on at first slow, and then at half speed. It would perhaps have been better if he had brought her head round to about S.W. before putting the engines ahead, so that she might thus have come out on the opposite course to that on which she had gone in.

The 10th question which we are asked is, "Whether, having regard to the state of the weather, the vessel was navigated at too great a rate of speed?" and with it I will take the four next questions, namely, "10a. Whether the master was on deck at a time when the safety of the vessel required his personal supervision? 11. Whether the lead was used with sufficient frequency? 12. Whether a good and proper look-out was kept?" and "13. Whether the vessel was navigated with proper and seamanlike care?" We are told that up to about 3.30 a.m. of the 8th the weather remained comparatively clear, so that they could see a considerable distance round them, and that they then suddenly ran into a bank of fog which was hanging over the land. Now, if they had not been approaching so dangerous a locality as Ushant; if they had known their position; and if they had had plenty of sea room, there seems no reason why, in the then condition of the weather, as described by the witnesses, the vessel might not have been kept going at full speed, at any rate until they entered the fog at 3.30 a.m., objects being, we are told, visible at a sufficient distance to enable them to go clear. But let us see what was the position of the vessel at this time. We are told that she had been going all the way at the rate of about 8 $\frac{1}{2}$ knots an hour, so that between 8.30 a.m. of the 6th, when she passed Cape Villano, and 3.30 a.m. of the 8th, a period of 43 hours, she might be expected to have got over some 365 miles. Now, the distance from Cape Villano to Ushant is, we are told, 360 miles, so that by 3.30 a.m. of the 8th she had, according to her dead reckoning, overrun her distance to Ushant some five miles. The observations, too, which had been taken on the 7th seemed to show that up to noon of that day she had been set somewhat to the eastward of her course; and not having seen any light, and not knowing his exact position, the master had no right to continue his course until he had overrun his distance to Ushant. The master told us that he remained up on deck till about 1 a.m., when he thought that they must have passed the Saints, and not seeing any lights he concluded that they were so far to the westward as to be outside the range of the Saints Lights. But a cast of the lead would have told him at once that that was not so; and that the reason of his not seeing the Saints Lights was because they were probably obscured by fog, as were those of Ushant, fogs and thick weather being very frequent

in those localities. In the Admiralty Sailing Directions for the West Coast of France, Spain, and Portugal, (page 7) it is said that "much caution is requisite in rounding Ushant. That island is surrounded by dangers in all directions, there are numerous rocks, the channels are intricate, the tides rapid, fogs and thick weather not uncommon, and, as might be expected, wrecks are frequent. No vessel should approach within five miles, or, if the weather be thick, come into less than 70 fathoms water until the parallel of the island be passed." And then there is a special caution in these words, "In approaching Ushant in thick weather it is absolutely necessary to keep the lead going." The master continued his course at full speed, until he had overrun his distance to Ushant, without seeing any light, and without having taken any steps to ascertain his true position, even by a cast of the lead, which would at once have shown him that he had got to the eastward of his course. It is not a question of look-out, which seems to have been well kept by the chief officer and the look-out man, but of improper and unseamanlike conduct. To add to his misconduct he went below at a time when the safety of the vessel required his personal supervision; knowing that he was nearing Ushant, he should not have gone below until he had sighted the light, or got safely past the island.

We can now return to the first question, which is, "What was the cause of the stranding of the vessel?" It is well known that vessels in crossing the Bay of Biscay are very liable to be set by the indraught to the eastward of their course; it is a danger against which they are expressly warned by the Sailing Directions. And that this was so in this case is clear from the observations which were obtained on the 7th, and yet the master took no precautions against the continued action of the indraught, the alteration of the course a quarter of a point to the westward being intended merely to bring the vessel back to her position by dead reckoning, and not to counteract the indraught. It is probable, however, that the same indraught, which had set her to the eastward of the course previous to noon of the 7th, continued to act upon her, and that when she was off the Saints she had already got too far to the eastward of her course. Once there the flood tide, which on that night commenced at about 11 p.m., and which we are told in the Sailing Directions sets between Ushant and the Saints to the East, would carry her still further to the eastward, and inside of Ushant. This, added to the neglect of the lead, was no doubt the cause of the casualty.

The 14th question which we are asked is, "Whether the master and officers are, or either of them is, in default?" In our opinion the whole responsibility for this casualty rests with the master and with the master alone.

The 15th question which we are asked is, "What was the cost of the vessel to her owner?" We were told by Mr. Kish that he purchased her in the year 1885 from the builders for the sum of 16,500*l.*; and that at that time vessels were very cheap.

The 16th question which we are asked is, "What was her value when she last left the United Kingdom?" Mr. Kish has told us that in his opinion she was as valuable then as she was when he originally purchased her; and that is not denied by the Board of Trade.

The 17th question which we are asked is, "What were the insurances effected on her, or on any interest in her, and against what risks at the time she was lost, and how were they apportioned?" The vessel, we are told, was insured for 16,000*l.*, in addition to which there was 1,000*l.* upon premiums. The freight, which was 650*l.*, and of which 180*l.* had been advanced at Carthage, was not insured. We are told, however, by the learned Counsel that, in the opinion of the Board of Trade, she was not over-insured.

Lastly, it is said that, "in the opinion of the Board of Trade the certificate of the master should be dealt with." Mr. Botterell has, with his usual ability, argued this case, and has endeavoured to show that the master has been guilty rather of an error of judgment than of actual neglect or misconduct, for which the Court would be disposed to deal with his certificate; but we cannot agree with him in that view. If ever there was a case in which a ship has been lost by the neglect of the most ordinary precautions, it is this. He was guilty in our opinion of a wrongful act and default within the meaning of the Act in continuing his course at full speed until he had overrun his distance to Ushant, after he had been warned by his observations

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on the 7th that he was being set by the indraught into the bay, and without taking any steps either by a cast of the lead or otherwise to ascertain his true position. It is a case of reckless and careless navigation, for which we shall suspend his certificate for six months. The Court, however, at the request of his advocate Mr. Botterell, agreed to recommend to the Board of

Trade that during the suspension of his master's certificate he should be allowed a first mate's.
 (Signed) H. C. ROTHERY,
 Wreck Commissioner.

We concur,
 A. RONALDSON,
 W. H. J. BAKER, } Assessors.

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