

(No. S 9.)

"VALIANT"
AND
"DIAMOND."

The Merchant Shipping Acts, 1854 to 1876.

IN the matter of a formal Investigation held at the Town Hall, Hull, on the 4th, 5th, 7th, and 8th days of May 1888, before E. C. Twiss, Stipendiary Magistrate, assisted by Captain FRENCH and Captain COSENS, into the circumstances attending the loss of the British fishing vessel "VALIANT," of Hull, through collision with the British fishing vessel "DIAMOND," of Hull, in the North Sea, on the 15th of March last.

Report of Court.

The Court, having carefully inquired into the circumstances attending the above-mentioned shipping casualty, finds, for the reasons stated in the annex hereto, that the loss of the said vessel was due to the "Diamond" having neglected to take measures to keep clear until too late; and the Court finds the third hand of the "Diamond," who holds no certificate, in default. The Court does not find the master or second hand of the "Valiant" in default, but considers that great blame attaches to the former for having failed to take more active steps after the collision to endeavour to save his vessel.

The Court does not make any order as to costs.

Dated this 8th day of May 1888.

(Signed) E. C. Twiss, Judge.

We concur in the above report.

(Signed) A. P. FRENCH,
WILLIAM COSENS, } Assessors.

Annex to the Report.

This inquiry was held at the Town Hall, Hull, on the 4th, 5th, 7th, and 8th days of May instant, when Mr. Saxelbye represented the Board of Trade, Mr. Laverach appeared on behalf of the master and second hand of the "Valiant," whilst the third and fourth hands of the same vessel and the third hand of the "Diamond" appeared in person, but were not represented by counsel or solicitor.

Mr. A. M. Jackson made an application to the Court that the Three Crowns Mutual Fishing Vessels' Insurance Company, Limited, with whom the "Valiant" was insured, might be made a party to the inquiry, and this application was granted.

The "Diamond," official number 79,453, is a ketch-rigged fishing vessel, built of wood, at Burton Stather, Lincolnshire, in 1878, by Messrs. Wray & Sons, and she is owned by Mr. Henry Maddick, of Hull. Her length is 74 $\frac{2}{10}$ feet, breadth 20 $\frac{1}{10}$ feet, and depth of hold 10 feet, and her registered tonnage 76.04 tons. She is registered at the port of Hull.

The "Diamond" left Hull in the early part of March last, bound for a fishing cruise with the Red Cross Fleet in the North Sea, and on the 15th day of the same month she was in company with the Great Northern Fleet on the tail end of the Dogger Bank.

About 12.30 in the morning the third hand came on deck and took charge, and so remained until the time of the casualty which followed. The wind was blowing strong from the northward and eastward, and the vessel was under reefed sail fore and aft, with no topsails.

About 5.30 a.m. the "Diamond," being close hauled on the starboard tack, was heading to the eastward, when a smack, which afterwards proved to be the "Valiant," was observed under her lee bow, close hauled on the port tack, and engaged in heaving in her trawl and fishing gear.

The third hand of the "Diamond" stated that she was then distant about a quarter of a mile, and that in his opinion he would be able to weather her.

When, however, he got within a hundred yards or so, seeing that he could not weather her, he put his helm up, intending to pass under her stern, but a heavy sea struck his weather quarter and brought his vessel against the helm, the tiller "taking charge" and knocking him into the lee scuppers.

On recovering himself he tried to put the helm up a little more but was unable to do so, and almost immediately afterwards the "Diamond" bowsprit struck the main boom of the "Valiant" just abreast of the main rigging and broke off, the stem then striking the vessel's starboard side a sliding blow, after which she passed astern starboard side to starboard.

The master of the "Diamond," who rushed on deck at the time of the collision, asked the "Valiant" if they required assistance, but the reply was, "No, but lie by."

The "Diamond," after getting clear, went astern for some distance, and then gybed round and laid to under the "Valiant's" lee quarter, and proceeded to repair the injuries she had sustained. After a time she endeavoured to beat up to the "Valiant," but without success, but later on, when the crew of the latter had safely boarded another vessel (the "Lena," of Hull), the "Diamond" sailed up and offered to take the "Valiant's" crew on board, but the proposal was declined, on the ground that there was too much wind and sea for them to leave the smack. Such was the account of the casualty as presented by the third hand, the only witness who was called of those on board the "Diamond."

The "Valiant," official number 79,016, was a ketch-rigged fishing vessel, built of wood, in 1878, at Falmouth, Cornwall, and was owned by Mr. James Leyman, of Hull, at which port she was registered. Her dimensions were—length 72 $\frac{1}{10}$ feet, breadth 20 feet, and depth of hold 10 $\frac{4}{10}$ feet, and her tonnage 79.87 tons nett register.

The "Valiant" left Hull in the latter part of January last, bound for a "flecting" fishing cruise with the Great Northern Fleet in the North Sea, under the command of Mr. William Shepping, who holds a certificate of service as skipper, and with the ordinary crew of five hands all told.

On the 15th of March last she was fishing with the Great Northern Fleet before mentioned on the east end of the Dogger Bank, bearing about E.N.E. of Spurn and distant about 190 miles. About 5.45 a.m. the vessel was lying hove-to on the port tack under reefed mainsail and foresail and double reefed mizen, there being a strong wind from the eastward, and a high sea running. All hands were engaged in heaving in the fishing gear, when a fishing vessel, which, as will have been already seen, proved to be the "Diamond," was noticed about 1 $\frac{1}{2}$ miles distant, bearing about S. by E., and heading apparently to the northward and eastward.

The process of heaving in the gear was continued, and no more notice was taken of the "Diamond" until about 6.50 a.m., when the latter was observed to be about 200 yards only distant, and heading straight for the "Valiant's" lee bow. The master of the "Valiant" hailed her to "look out," but she came on and struck the "Valiant," according to the statement of the latter's crew, a heavy stem-on blow, the bowsprit passing between the shrouds, and going over the main boom and under the foot of the mainsail, carrying away the after chain plate and then breaking off. After the "Diamond" had passed astern, the master of the "Valiant" was called down into the hold by the second hand, who had reported water running in. After this, beyond looking over the vessel's side, the master made no effort to ascertain where the leak was or to what extent the ship was injured, but they continued to heave in the net as quickly as possible, and this was accomplished in about a quarter of an hour. The cook was then sent below to prepare breakfast, and on entering the cabin he observed the water bubbling up through the holes in the cabin floor. This he at once reported to the master and then proceeded to get ready the breakfast. After frying one pan of fish he reported that breakfast was ready, and that the water was over the cabin floor. The master thereupon ordered the

pump to be set going, and the third and fourth hands were put to it, the master telling them that there was no time to think of breakfast. For the first hour or so after the pump was manned the water does not appear to have gained much on them, but at about 10 o'clock the water had increased to such an extent that the master hoisted a signal of distress and made preparations for leaving the vessel. In the meantime the smack had remained on the same tack and under the same canvas as at the time of the collision, whilst no effort had been made to get at or stop the leak. In answer to the signal of distress, the fishing smack "Lena," of Hull, came up from the fleet and hove-to under the "Valiant's" lee, and the crew of the latter launched their boat, and having collected their clothing, left their vessel and safely reached the "Lena." This was about 11.15 a.m. The "Valiant" afterwards, at about a quarter before noon, was seen to founder. The crew remained on board the "Lena" until the following Sunday, when they were transferred to the steam cutter "America," and were landed in London early on the morning of the 20th of March.

In the course of the inquiry it was stated by the third hand of the "Valiant" that after the collision, and at about the hour of nine, the second hand went down into the engine-room, taking with him an axe, and that he, the third hand, then heard a knocking, and on looking down the companion saw the second hand in the act of chopping at the feed pipe of the boiler and cutting it through, and that he told at the time the deck hand, who was at the pump with him, what was going on below. He further stated that the second hand then returned on deck and placed the axe on the skylight, where it had been before, and remarked to the skipper, "I have done it"; but he informed us that he did not believe the skipper heard him, but, according to his statement, the deck hand heard the remark, and said, "Done what?" to which the second hand replied, "Chopped the b— table away." The third hand further informed us that after this the water gained on them very rapidly, making $1\frac{1}{2}$ feet an hour. When questioned as to why he had not at once informed the skipper of what he had seen, his reply was that he was afraid, in the event of his doing so, that the skipper would tell the second hand, and "that there would be a mutiny—that the second hand with an axe was equal to six men, and might chop him." When asked why he had not gone down himself and turned off the sea-cock, seeing that, according to his statement, the pipe had been cut between the sea-cock and the boiler, his answer was that he knew nothing about the sea-cock or where it was. He also alleged that at the time the pipe was being cut the cook was in the fore-hold, where he had been sent to get an oar which was not required, and that the skipper had also gone forward to receive the oar. The deck hand, who was at the pump with the third hand, also said that he saw the second hand take the axe down, and heard chopping, but that he did not know what was going on, and never heard of the allegation until some days after his arrival in Hull. In contradiction of the third hand, he informed us that, so far from the latter having told him at the time that the second hand was chopping the pipe, the reply to his question as to what was going on below was, "Oh, nothing." It is unnecessary to remark that the second hand most positively denied the truth of the allegation, or that he had ever seen the axe before it was put into the boat on leaving the vessel. The third hand further alleged that before leaving her the second hand threw the bunker lid into the sea, and in this he was corroborated by the deck hand; on the other hand, this statement was most strongly denied by the skipper, second hand, and cook.

It may be observed that the third hand never communicated as to these alleged acts on the part of the second hand with anyone in authority until after his arrival in Hull, and after a dispute had arisen between him and the owner of the vessel with reference to his claim for wages. The same remark will also apply to the deck hand. The cook, a lad of about sixteen, also stated that on their arrival in London, the deck hand told him that "if he didn't say the same as them, he'd give him a good hiding," and that he told him to say that "he had seen the second hand chop the pump pipe in two and chuck the bunker lid overboard."

It is also worthy of notice that there were many discrepancies in the statements of the third and deck hands, and that they differed from one another materially in many points. Upon the whole, and after a very careful review of the evidence adduced, we are of opinion that the statements of the third

and deck hands are not entitled to credit, and that the serious allegations made by them against the second hand have not been sustained.

The witnesses on behalf of the Board of Trade having been called and examined, Mr. Saxelbye submitted the following questions, upon which the opinion of the Court was desired:—

1. What was the cause of the collision?
2. Whether both vessels complied with the Regulations for Preventing Collisions at Sea, and particularly with Articles 14, 22, and 24?
3. Whether a good, proper, and sufficient look-out was kept on both vessels?
4. What was the cause of the "Valiant" making so much water after the collision, and ultimately foundering?
5. Was every possible effort made by the master of the "Valiant" to keep the water under after the collision, and to save his vessel?
6. Whether the "Diamond" stood by the "Valiant" after the collision, ready to render assistance if required?
7. Whether both vessels were navigated with proper and seamanlike care?
8. Whether the third hand of the "Diamond" and the master and second hand of the "Valiant" are, or either of them is, in default?

The Board of Trade is of opinion that the certificates of the master and second hand of the "Valiant" should be dealt with.

Mr. A. M. Jackson having then called one witness, and Mr. Laverack three, they each addressed the Court on behalf of their respective clients, and Mr. Saxelbye having replied on the part of the Board of Trade, the Court, in giving judgment, replied to the questions as follows:—

1. The collision was caused by the "Diamond" having neglected until too late to take measures to keep clear of the "Valiant."
2. Seeing that the "Valiant," although close-hauled on the port tack, was heaving in her fishing gear, she was practically a stationary vessel, and Articles 14 and 22 of the Regulations for Preventing Collisions at Sea became inapplicable, and it was the duty therefore of the "Diamond" to comply with Article 24 of the said Regulations, which she failed to do.
3. A proper look-out appears to have been kept on both vessels.
4. The cause of the "Valiant" making so much water after the collision, and ultimately foundering, was attributable, in the opinion of the Court, to the injuries she sustained through the collision.
5. It cannot be said that every possible effort was made by the master of the "Valiant" to keep the water under after the collision, and to save his vessel. The Court considers that he should have put his vessel on the opposite tack, and have endeavoured to ascertain the extent of the injuries received, and also have hoisted a signal of distress much sooner than he did. With regard to the pumps, the Court is of opinion that sufficient energy was not displayed to cope with the requirements of the emergency, and it may be observed that, according to the master's own statement, he personally took but one spell of some five or ten minutes only, whilst the other hands were collecting their clothes.
6. The "Diamond" did stand by as far as under the circumstances she was able, in order to render assistance if required.
7. The "Diamond" was not navigated with proper and seamanlike care, but up to the time of the collision the "Valiant" was.
8. The Court finds the third hand of the "Diamond" in default, for having approached so near to the "Valiant" before taking any measures to keep out of her way.

Upon a careful review of the facts, the Court considers that the evidence falls short of justifying it in finding the master of the "Valiant" in default, but at the same time it is of opinion that great blame attaches to him for having failed to take more active steps than he did after the collision to endeavour to save his vessel. The Court does not find the second hand of the "Valiant" in default.

Before concluding this report, we would observe that, in reply to question Number 5, we have said that in our opinion the skipper did not make all the efforts he might have made after the collision to save his vessel.

The collision appears to have taken place at about 7 a.m., and the vessel to have foundered about 11.45 a.m.

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Between getting in the nets and hoisting a signal of distress, pumping appears to have been carried on in an apathetic manner. No endeavours were made to ascertain the precise locality and nature of the injury sustained, either from the inside or, by putting the vessel about on the other tack, from the outside, both of which, in the judgment of the Court, were practicable. If the signal of distress had been hoisted sooner, it is reasonable to suppose that assistance would have been at hand from other smacks in the fleet, and we have been told that there were 30 or 40 of them within a short distance to windward. Whether, had these means been resorted to, the vessel might have been saved or not is a matter of conjecture, but at the same time we feel very strongly

that such steps on the part of the skipper of the "Valiant" might and ought to have been taken.

To some extent in favour of the third hand of the "Diamond," it may be remarked that he had been in sole charge of the deck from 12.30. midnight up to the time of the collision, which, in the opinion of the Court, especially having regard to the severity of the weather which prevailed and the circumstances generally, was far too long.

(Signed) E. C. Twiss, Judge.

We concur.

(Signed) A. P. FRENCH,
 WILLIAM COSENS, } ASSESSORS.