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(No. 5690.)

"STRANGER" and "HARBURY" (S.S.).

The Merchant Shipping Act, 1894.

IN the matter of a formal investigation held at the Town Hall, Cardiff, on the 15th, 16th, 18th, and 21st days of February, 1898, before THOMAS WILLIAM LEWIS, Esquire, Stipendiary Magistrate, assisted by Captain R. C. DYER, R.N., and Captains ANDREW CUNNINGHAME and W. BARNETT BIGLEY, into the circumstances attending the loss of the British sailing-ship "STRANGER," of Cardiff, through collision with the British steamship "HARBURY," of London, in the Barry Roads, on the 27th day of January, 1898, whereby loss of life ensued.

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 reckless navigation of the "Harbury" was a contributory cause of the collision.

It is not proved that such navigation was the sole cause of the collision.

It is not proved that the navigation of the "Stranger" was a contributory cause of the collision.

The Court finds the master of the "Harbury," Arthur Eams Bartlett, alone in default, and suspends his certificate for six months.

Dated this 21st day of February, 1898.

T. W. LEWIS, Judge.

We concur in the above report.

RICHD. C. DYER, } Assessors.
WM. BARNETT BIGLEY, }

Annex to Report.

This inquiry was held at the Town Hall, Cardiff, on the 15th, 16th, 18th, and 21st days of February, 1898, when Mr. Roe appeared for the Board of Trade, Mr. Bailhache as counsel for the owners, Mr. Vaughan for the master of the "Harbury," and Mr. Sankey as counsel for the relatives of Pilot Salt, of the "Stranger," and Roderick Brooks, his assistant, who were drowned. Eight witnesses having been called and examined on behalf of the Board of Trade certain questions were submitted to the Court by Mr. Roe: Mr. Bailhache, Mr. Sankey, and Mr. Vaughan then addressed the Court on behalf of their respective clients.

The "Stranger," registered No. 89,218, was a cutter-rigged pilot vessel, built of wood in Gloucester in 1872 by Messrs. Levison, of Gloucester, and her respective dimensions were as follows:—37.2 length, 12.1 ft. breadth, 22.9 ft. girth, and her tonnage 19 tons. She was owned by Mr. John Salt, of Penarth, near Cardiff, who was a licensed Cardiff and Barry pilot, and her crew consisted of her owner, Mr. Salt, and two assistants, namely Roderick Brooks and Joseph Kenure. She was provided with three lamps, a mast-head lamp, a flare up, and a green and red combination lamp, to comply with Article 8 of the Regulations.

She left Barry Dock on the 26th January last, about midnight, to take up her station in Barry Roads. She was then in charge of James Kenure. At 12.30 a.m., on the 27th, she anchored about a quarter of a mile below the Western Barry breakwater, and half a mile from Nells Point. At 4 a.m., Kenure was relieved by Brooks and he went below and turned in. At a quarter to six he was called on deck by Brooks to

get under weigh, the anchor was got up, and the main-sail, foresail and jib were set and the anchor light was mastheaded. The weather was then dark but clear, the wind light from S.W., and the sea smooth. Kenure remained on deck about ten minutes and then went below and turned in, leaving Brooks in charge of the cutter, which was at that time about half way between the Western breakwater and Nells Point and about a quarter of a mile from the shore. At a quarter past six Kenure was aroused by Brooks shouting out "jump up here" and "hard-a-starboard." Salt was at this time in his bunk where he had been all night. Salt and Kenure rushed up on deck, when Kenure saw the "Harbury" about ten yards away, heading at about right angles to the "Stranger's" starboard beam. The cutter at that time was heading about N.W. Seeing a collision was inevitable the three men jumped into the punt, which was towing astern of the cutter. Immediately afterwards the cutter was struck amidships by the stem of the "Harbury" and was carried, lying across the "Harbury's" bows, through the water dragging the punt after her; the painter of which was either fast to the cutter or had been let go in the hurry and had got foul. The wash from the steamer's bow filled the punt which capsized, throwing the three men into the water. The cutter remained across the "Harbury's" bow about five minutes, and then sank. Brooks was never seen again. Salt and Kenure swam about for about 15 minutes, when Salt sank and was not seen again. Five minutes afterwards Kenure, who had got hold of one of the punt's paddles, was picked up by two Barry boatmen who had witnessed the accident from a steamer some distance away.

The "Harbury," official No. 105,858, is a steel screw steamship rigged as a schooner, built at Sunderland in 1896, by T. P. Austen & Sons of Sunderland. Her tonnage being 1,838.02 tons, and her registered tonnage 1,146.59 tons. She is registered at the port of London, and is owned by William Cory & Sons, Limited, Mr. Frederick Angier Harrison, of 52, Mark Lane, London, was designated ship's husband on the 10th November, 1896. She had triple expansion compound engines of 160 nominal horse power. She is 268.2 ft. in length, 37.7 ft. in breadth, 17 ft. depth, and 40 ft. length of engine room. She is classed 100 A1 at Lloyd's. She has steam steering gear. She carries three compasses, one on the upper bridge, one in the wheel-house, and one on the poop. She also carries three boats on the bridge, two being lifeboats which are carried on skids in davits on each side of the bridge, the other being a jolly-boat, which is carried on the port side, also on skids and in davits. She has six lifebuoys, four being on the upper bridge, and two on the poop; also 23 life-belts, one of which is served out to each officer, and the remainder were in the chart room. She left Barry on the 27th January last, bound to London, loaded with 2,500 tons of coal. Her draught of water being 17 ft. 2 ins. forward and 18 ft. 4 ins. aft. She was under the command of Mr. Arthur Eams Bartlett, who holds a certificate of competency as master, No. 32764. She had a crew of 18 hands all told.

The "Harbury" left Barry Dock in charge of a pilot about 6 a.m. The pilot left the vessel before she cleared the breakwaters. The master was then on the bridge, the first officer on the look-out on the fore-castle head, and the second officer at the wheel. According to the master's evidence, the "Harbury" cleared the breakwaters at 6.7 a.m., the engines were then going slow. A bright light was then seen about one point on the starboard bow, about a quarter of a mile distant. Several bright lights were also seen on the port bow, which the master knew to be vessels at anchor to the southward and eastward of the Barry entrance. A course of S.W. by S. $\frac{1}{2}$ S. magnetic was then set. The vessel was kept on that course for about 1 $\frac{1}{4}$ minutes, when the course was altered to W. by S. $\frac{1}{2}$ S. magnetic, and the engines put full speed ahead. That alteration of course bringing the light two or three points on the port bow. The light closed in quickly, and when about 300 or 400 yards away from the "Harbury," the vessel was observed to be a cutter under canvas, on port tack and standing in to the northward. A blast of the whistle was then given and the engines were ordered full-speed astern.

3. The "Harbury" did not comply with Article 20 of the said Regulations.

There is a concurrence of evidence oral and documentary, that the collision took place at 6.15, and that at 6.12 the "Harbury" was put at full speed ahead. Owing to the conflicting evidence of the master and chief officer of the "Harbury" on the one hand and their respective entries in the log books on the other hand, the Court is unable to determine whether the "Stranger" was seen or her precise bearing to the "Harbury" before the "Harbury" was put at full speed ahead at 6.12. At 6.12, when the engines were put at full speed, the "Harbury" was put on a W. by S. $\frac{1}{4}$ S. magnetic course, and the "Stranger" was then seen 2—3 points on the port bow. The "Harbury" continued on that course until the collision at 6.15, and according to the engineer's log she was going full speed ahead until 6.15. The witness, Alfred John, stated that when the "Harbury" was half a steamer's length from the "Stranger," the "Harbury" gave one short blast of her whistle, and he estimated the speed of the "Harbury" at the moment of collision to have been seven or eight miles an hour, also that from his position about five ships' lengths from the collision, he plainly heard the crash, saw the "Harbury" carry the "Stranger" for about two minutes at her bows, and then lost sight of both. The evidence of John—an independent spectator—taken in conjunction with that of the engineer, and the evidence as to the force of the impact, and the distance traversed by the "Harbury" with the "Stranger" fixed at right angles on her bow, appear to the Court conclusively to establish that the "Harbury" did not slacken her speed or stop or reverse when approaching the "Stranger." It is clear she did not slacken when collision was imminent or when collision appeared inevitable, and it is doubtful if she slackened even before collision occurred. Hence the Court is of opinion that the "Harbury" infringed Article 23 of the Regulations for Preventing Collisions at Sea. The "Stranger" kept her course, and thereby complied with Article 21 of the said Regulations.

4. The evidence as to the look-out is that the chief officer was stationed on the fore-castle head, and according to the oral evidence, on getting clear of the piers at 6.7 a.m., he reported the light (which subsequently proved to be the light of the "Stranger") bearing one point on the starboard bow. As already stated, according to the logs, the light was not seen until 6.12 a.m. The light would unquestionably have been visible from the "Harbury" when she cleared the piers at 6.7, and ought to have been reported then. The chief officer next observed, so he states, the light about two points on the port bow, and a few minutes later when the light was about 100 yards distant he made the light out to be that of a vessel under sail and closing in at right angles to the "Harbury."

According to the master of the "Harbury" (who was on the bridge) the "Stranger's" light was first seen, on clearing the piers bearing three points on the starboard bow, then one point on the starboard bow, and afterwards two points on the port bow. If the light had been observed from 6.7 a.m., and its character discovered when distant about 100 yards, it is inexplicable that it should have been approached at full speed. If, on the other hand, the light was not observed until 6.12 a.m., the look-out was wanting in vigilance. The Court is unable in the circumstances to say that the look-out was good.

As to the look-out on the "Stranger," the only circumstances deposed to from which an inference might be drawn are, that when the "Harbury" was about ten yards distant—Brooks—the man at the tiller of the "Stranger" shouted to the master and Kenure, who were below. Also that the "Stranger" kept on her course. If Brooks kept a good look-out he would have seen the "Harbury" bearing down upon him and it would be expected that he would have shouted to his companions earlier. On the other hand he was inside the usual track of outgoing steamers and might reasonably have supposed his position safe. In the circumstances the Court does not feel warranted in pronouncing any opinion as to the look-out on the "Stranger."

5, 6, and 7. Prompt and proper measures were taken by those on board the "Harbury" to render assistance.

Owing to the sinking of the "Stranger," the loss of the life of the man in charge of her at the time of collision, and other circumstances above mentioned, the Court is unable to say whether she by any act or

omission contributed to the collision, or whether she was navigated with proper and seamanlike care. But the acts of the "Harbury," if not the sole cause, were contributory to the collision and loss of life in that she was navigated at a speed which, having regard to her position and her proximity to other vessels, was excessive. She omitted to slacken her speed, stop, or reverse, when approaching another vessel, or even when collision was imminent. She also ported her helm to pass inshore, and to the northward of a bright light, admittedly plainly visible, before ascertaining the nature of the light, and thus steered a course inshore of the fairway—a course stated by one witness of authority to be imprudent, and by another unsafe. For these and the foregoing reasons the Court is of opinion that she was not navigated with proper and seamanlike care, and finds the master in default. In dealing with the certificate of the master of the "Harbury," this Court has regard only to his professional misconduct, and assumes in his favour for this purpose, that such misconduct was not the sole cause of the casualty. His misconduct may have been the sole cause, but it is not proved. His misconduct is proved to have been a contributory cause, and his certificate is therefore suspended for six months.

T. W. LEWIS, Judge.

We concur.

RICHD. C. DYER,
WM. BARNETT BIGLEY, } Assessors.

Statement of the reasons of CAPTAIN CUNNINGHAME for his dissent from the report.

I regret I cannot concur in the finding of the Court in this inquiry. In analysing and discussing the evidence, the Court, I respectfully submit, has not sufficiently considered the actual circumstances of the situation.

On the one hand I think too little weight has been allowed to considerations affecting the "Stranger," disclosed in course of the inquiry. She had got under weigh on a strong lee tide, shortly before the "Harbury" emerged from the pier heads; there was only one man, Brooks (not the master), on deck to steer, to keep a look-out, and to exhibit the lights required by the Regulations for Preventing Collisions at Sea. She was standing in, on the port tack, towards the land, when her sails necessarily would intervene between Brooks and the "Harbury" approaching from the lee side. That Brooks did not see the "Harbury" until she was close to the "Stranger" is, if not proved, at least highly probable from the fact that the steamer was in dangerous proximity to the cutter before he shouted to the other members of the crew to jump up on deck; and if he did not see the steamer, it is still more probable, indeed, all but certain, that he did not show or flash the coloured light required by the Regulations. The independent witness, John, as well as the "Harbury's" officers, stated in effect that at no time did he see any other light or lights on the "Stranger" except the mast-head light. It is agreed that the flare-up light required to be shown at intervals by a pilot boat on her station, was not shown—at least after the "Harbury" appeared on the scene. Another consideration inclines me to think that Brooks did not see the "Harbury" earlier, nor exhibit the coloured light, viz:—the "Stranger" was standing in towards the land, and Brooks was probably intent only on his steering duty with a view to determining when it would be necessary for him to go on the other tack.

On the other hand I think the Court has attached too much weight to the alleged discrepancies between the evidence of the "Harbury's" witnesses and the entries in their log books. The latter, it is true, make no mention of the bright light, which afterwards proved to be on the "Stranger," until 6.12, while the former say they saw it directly the "Harbury" cleared the breakwater, but, I take it, the log books record only what related to that light immediately before and after the situation became critical; up till then there was no more need to mention it than to mention the numerous other lights in the roads, or the state of the tide, both of which we know were important factors in determining the "Harbury's" course. I attach,

therefore, no importance whatever to the omission of any mention in the log books of the "Stranger's" light before 6.12. Further, I think too much is made of the evidence of the witness John when it is stated that, taken in conjunction with other evidence, it conclusively establishes that the "Harbury" did not slacken her speed or stop and reverse her engines, for John was on another vessel four or five ships' lengths off, and could not possibly know, in the darkness, what was being done with the "Harbury's" engines.

After the most careful consideration of all the circumstances I have come to the conclusion that the master of the "Harbury" had reasonable ground for believing that the "Stranger" was at anchor; that, consequently, his navigation of the "Harbury" was

neither improper nor unseamanlike—still less, reckless. And that there is no sufficient reason for dealing with his certificate. But granting that the evidence in his favour is not so strong as to my mind it appears to be, I think the elements of uncertainty are so obvious that on the principle of giving one the benefit of the doubt, his professional reputation should be allowed to remain unstained.

ANDW. CUNNINGHAME.

14th March, 1898.

(Issued in London by the Board of Trade on the 21st day of March, 1898.)