

(No. 5573.)

"KHEDIVE" (s.s.).

BOMBAY :
Chief Presidency Magistrate's Court,
9th March 1897.

In pursuance of the directions contained in Government Resolution No. 26, Marine Department, dated 24th February 1897, this Court, consisting of J. SANDERS SLATER, Esq., Chief Presidency Magistrate, Bombay, Captain R. BARTON, of the s.s. "AFGHAN," and J. B. MACFADYEN, Esq., Marine Surveyor, assembled at the Esplanade Police Court, Bombay, on the 3rd March 1897, and proceeded to inquire into the circumstances connected with the stranding of the s.s. "KHEDIVE" off the mouth of the Porbandar Creek on the 11th January 1896.

2. The only papers affording any information regarding the casualty, received with the Government Resolution above-mentioned, were a copy of letter No. 334 of 1896-97 from the Port Superintendent, Porbandar, to the Administrator, Porbandar State, dated the 14th January 1897, and a copy of letter No. 132 of 1897 from the Administrator, Porbandar State, to the Political Agent, Káthiáwár, dated 15th January 1897. In the latter of these letters it was stated that the "Khedive" had been brought in a great deal closer to the shore than any steamer even half or quarter her size could safely be brought. It, therefore, appeared to the Court that this investigation was likely to involve the cancellation or suspension of the certificate of the master or of one of the officers of the vessel, and the Court therefore constituted as its assessors, for the purpose of the investigation, Captain R. T. Phillips, master of the s.s. "Chilka," and Captain A. McAllister, master of the s.s. "Mozaffari," and proceeded to hear the evidence.

3. On the assembling of the Court shortly after 11 a.m. on the 3rd March, Captain Thomas Matthews, who had been summoned to attend the Court, was called, but did not respond. Evidence of service, which appears in the proceedings, was accordingly taken, and as it appeared in that evidence that Captain Matthews' absence was probably intentional, a warrant was issued for his immediate arrest, and he was brought into Court in custody of an European police officer at about 1.30 p.m. that day, and the Court, having supplied copies of the statement received from the Government to Captain Matthews, and other officers who might possibly have been found in fault, proceeded to hear the evidence.

4. The first witness called by the Government Solicitor was Captain Thomas Matthews, who stated that he was the master of the s.s. "Khedive," and that he held a master's certificate. But he denied that he knew anything whatever about the casualty, and he refused entirely to answer any questions. The Court accordingly ordered him, under Section 12 (a) of Act V of 1883 and Section 480 of Act X of 1882, to be detained in custody, and, at the termination of the proceedings on that day, before the Court rose, Captain Matthews was again offered the opportunity of answering such questions as might be put to him, and warned of the consequences of refusing to do so. He, however, again absolutely declined to answer any questions, and the Court thereupon took cognizance of his offence, and ordered him to pay a fine of rupees one hundred, and in default of payment to suffer simple imprisonment for fourteen days. Captain Matthews was, however, present in Court during the whole of the proceedings and was afforded every opportunity of examining or cross-examining witnesses, and of making any defence. He declined to avail himself in any way of the opportunities so offered.

5. The following witnesses were examined:—George Harvey, chief officer, Joseph Henry Sargent, third officer, James Johnstone, second engineer, and Percy Smith, third engineer, all of whom were engaged in the navigation of the s.s. "Khedive" at the time of the casualty; Captain A. C. Clark, surveyor at Bombay to Lloyd's Register, who was a passenger on board the s.s. "Khedive" at the time of the occurrence, Shavaksha Cursetji, engineer, managing clerk of the owners of the s.s. "Khedive," and James Balfour Mackay, the assistant conservator of the

Port of Bombay. The last two witnesses were not on board the vessel at the time of her stranding and were called to explain the absence of certain persons who were on board the ship at the time of the casualty, but who were not called as witnesses, and the absence of statements by the master and officers as to the circumstances attending the occurrence.

6. From the evidence before the Court, it appears that the "Khedive" was a screw steamship, official No. 65,565, registered at Greenock, where she was built in 1871 by Messrs. Caird & Company. Her net-register was 2,447 tons, and she was propelled by compound direct-acting surface condensing engines. She was purchased on the 5th January last by Messrs. Dada Abdulla & Company from the P. & O. S. N. Company. She is stated to have been in every way a first-class ship of her class, and to have been well found with compasses, chronometers, charts, sounding machine, lead lines, boats, anchors, life-saving and all other appliances necessary for the proper and safe navigation of the ship. She was surveyed by Captain Clark and Mr. Moir at the time of her purchase, and the former gentleman states that he found her seaworthy and in every respect fit for her voyage. Upon the evidence regarding the condition of the vessel and her engines and equipment, the Court is satisfied that the ship was in a perfectly satisfactory and efficient state for sea.

7. At the time of the events hereinafter related, the s.s. "Khedive" was under the command of Captain Thomas Matthews, who held a certificate of competency as master, granted at Liverpool by the Board of Trade about 1873, No. 016,844. The chief officer was Mr. George Harvey, who holds a chief mate's certificate, granted by the Board of Trade at Dundee in 1864. The second officer was Mr. Amirrudin. No evidence as to this officer's qualifications was available, as he is said to have left Bombay, and no information could be obtained of his whereabouts. The third officer was Mr. Joseph Henry Sargent, who holds no certificate of competency in navigation, but who formerly served as quartermaster in the s.s. "Langbank," of Liverpool, a vessel of over 2,000 tons. The chief engineer was Mr. Kendal, whose services appear to have been lent to the owners of the s.s. "Khedive" by the P. & O. S. N. Company, and who appears to have been employed by that company as a second engineer, and to be at present away from Bombay. The second engineer was Mr. James Johnstone, who holds a chief engineer's certificate granted by the Board of Trade in 1893, and who was engaged only for the voyage to Porbandar and back to Bombay. The third engineer was Mr. Percy Smith, who holds a certificate, but who has had about four years' experience at sea as engineer. The remainder of the crew, both deck and engine-room, were natives of India. As the ship left without signing articles, and the master has refused to answer any questions in this enquiry, no evidence is available as to the exact number of the crew; but there seems no reason to doubt the statement made by the third officer that the ship was quite sufficiently manned, so far as numbers are concerned, and there does not appear to have been any difficulty whatever experienced in promptly carrying out all orders which were given. The master and officers appear to have been all strangers to the ship and to one another, and to have been hastily collected to take the ship on a trip to Porbandar (where one of the owners reside) with a party of guests and back again to Bombay.

8. The s.s. "Khedive" was to have started on her voyage on Saturday, January 9th, 1897, but owing apparently to the illness of a person who was to have gone in her as chief engineer, she was unable to start then, and only got away at 2 p.m. on Sunday, January 10th. She then had one of the owners, Mr. Abdulla Haji Adam Javeri, on board, with about 25 European ladies and gentlemen and 250 natives, who were all his guests for the trip to Porbandar and back. She carried no cargo, but had a quantity of water in her fore-hold which had been taken in to tip the vessel for dry dock and had not been pumped out. There was some delay at the start in getting the anchors up, as the chain cables had become twisted in consequence of the swinging of the ship. She, however, got away without mishap and proceeded on her voyage, dropping her pilot as usual at the Outer Light Ship. All went well up to noon on Monday, January 11th, when the ship's position was fixed at latitude 21° 20' N., longitude 69° 43½' E. Porbandar bearing N. N.-W. distant 22 miles. The course was set N. N.-W. with an allowance of 1½° for easterly deviation. The land was in

sight at a distance of about 10 miles and the ship was proceeding at about 10 or 11 knots an hour. It was the third officer's watch from 8 A.M. till noon, but he was not relieved by the second officer until about a quarter or ten minutes to 1 P.M. The captain was on the upper bridge during the whole of this time, and remained there until the ship stranded. On being relieved, the third officer was ordered by the chief officer, who was forward awaiting orders as to the anchors, to station himself on the forward deck-house to pass the orders from the bridge, which he accordingly did. When he left the bridge the ship was heading N. by E. $\frac{1}{2}$ E., but he states that just before he left the bridge the captain shifted the course to N.-N.-E. The Court has no confidence in the accuracy of this evidence as to the course the ship was on while approaching the land. No log book has been produced before this Court, which has serious doubts whether any was kept, though the third officer says that he made an entry in a log book which he found lying on the deck on the bridge at midnight after leaving Bombay. This Court regrets that it has been able to obtain so little information as to the actual steps which led to the casualty under investigation, and that it has been unable to obtain any evidence at all as to what took place on the bridge after the third officer left it. The obstinate silence of the master, the disappearance of the second officer, the quartermaster and the leadsmen, and the utter absence of any means whatever of tracing any of them, have brought about this unsatisfactory state of things. It is stated that the owner, Abdulla Haji Adam was on the bridge at the time the ship stranded, and his evidence, if available, might have been useful. But it was not available. Notice of the intended inquiry was given at his office in Bombay at the earliest possible date, and an application was made on his behalf by Mr. Nusserwanji for a postponement of the inquiry, on the ground that he was in attendance upon a son who was ill at Porbandar. It, however, appeared to the Court extremely undesirable to risk the chance of losing what evidence then appeared to be available, the master's refusal to answer any questions being subsequent to this, in order to obtain the attendance of a gentleman then residing in a Native State, whose attendance could not be enforced, and who had given no indication of his willingness to attend. The Court, therefore decided to proceed with the enquiry. Subsequently it appeared that Mr. Abdulla proposed to come to Bombay in the course of three or four days, but it was impossible then to adjourn the proceedings, as one of the assessors was compelled to leave Bombay before Mr. Abdulla proposed to leave Porbandar. Under these circumstances, the Court was obliged to conclude this inquiry after all the available evidence had been recorded; and upon that evidence it must base its decision. It appears, however, that at about 2.5 p.m., deck time (the engine-room clock being 25 minutes behind the deck clock), warning was sent to the engine-room to stand by. At about 2.25 p.m. half-speed was ordered. Up to this time the engines had been going full speed ahead. At 2.30 the engines were again ordered to go full-speed ahead, at 2.35 half-speed, at 2.36 slow, and at 2.38 stop. At 2.39 they were moved slow ahead, and within a minute came the order "full-speed astern" without any intermediate order "stop." All these orders were transmitted by telegraph and promptly carried out. Just after the order to the engines to go full-speed astern, the captain ordered the starboard anchor to be let go, which was instantly done. The ship struck almost immediately after these orders were carried out. The second engineer states that he felt the ship touch the ground as the orders "full-speed astern" rang. The position of the ship when she stranded, as marked on the chart by the chief officer and by Captain Clark, places her at a distance of about three-quarters of a mile from the shore.

9. After the ship struck, her boats were got ready, but as other craft came alongside at once, the passengers, except a few who remained on board to advise and assist in the extrication of the ship from her position of peril, were landed in safety. Captain Clark states that after the accident Captain Matthews appeared to be very ill, though he did not appear incapacitated in any way before the ship struck. Captain Clark, who is a practical seaman of very considerable experience, therefore undertook the direction of the operations to get the ship off. The ship was lightened in every possible way, anchors were laid out astern, the most favourable, and, in fact, only possible direction in which to bring the ship off was carefully ascertained by

soundings, and at high tide on the night of Tuesday, January 11th, efforts were made, by reversing the engines full-speed and heaving on the anchors, to drag the ship off the ground. At that time the ship was making no water, and it appeared that the efforts to release her would be successful, when, at the critical moment, the cables carried away and the ship swung broadside on to the beach. Her position then appeared to Captain Clark, as indeed it proved to be, hopeless, for though subsequently efforts were made by all available means to get the ship off the shore they have proved unavailing, and she is now a total wreck, with the water rising and falling inside her with the tide. Fortunately there has been no loss of life in consequence of this casualty.

10. These being the facts—meagre though they are—of which this Court is in possession, the first question for the Court is, What was the cause of this casualty? It appears to the Court that one fact is established beyond doubt, namely, that the speed at which the "Khedive" was moving at the time of stranding, and for a considerable period previous to that, was excessive. The ship was drawing 18 feet forward and 18 feet 6 inches aft. The chart shows, that, for a distance of very nearly three-quarters of a mile from the land, there are very few spots where there are more than two fathoms of water. Captain Matthews was evidently aware of the necessity for watching the depth of water, for he had had the lead going constantly for at least two hours. He must, therefore, have known that he was getting into dangerously shallow water, and yet he continued to keep the engines going at full speed ahead till fifteen minutes before she struck and then, after he had reduced the speed for five minutes, he increased it again to full-speed until four minutes before the ship struck. Under these circumstances, the Court is of opinion that, in approaching the land at such an excessive rate of speed, Captain Matthews was guilty of a wrongful act, and that that wrongful act was the cause of the casualty.

11. In considering what penalty this Court should inflict upon Captain Matthews for his wrongful act, it must express its regret that he has been so ill-advised as to refuse to give any explanation whatever of his conduct. In the absence of any excuse, the Court has sought, in the evidence before it, for some palliation of his neglect. It may be that Captain Matthews, in acting as he did, was carrying out the wishes of the owner who was on the bridge with him in bringing the ship so close to the land; but, even if this was the case, it is no justification for his maintaining so dangerous a speed in such vicinity to the land, for the master of a ship cannot shift the responsibility for wrongful navigation on to the shoulders of the owner, even by proving that he was obeying the owner's orders in doing a wrongful act. It may be that Captain Matthews was physically incapacitated from attending to his duty upon this occasion. There is no evidence whatever to support such a supposition, though the evidence of the third officer as to the master's apparent forgetfulness of the necessity of reducing the speed to take soundings may suggest that, for some reason or other, his attention was distracted from his duties, but if he was physically incapable of carrying out his duties efficiently, it was his clear duty to have handed over the command of the vessel to some other person, and not to imperil the safety of the ship and of her passengers and crew. This Court is unable to find any other excuse which could be urged on behalf of Captain Matthews, and feels bound to pronounce its opinion that, in running the s.s. "Khedive" ashore at Porbandar in broad daylight, he was guilty of gross carelessness and incompetency, and this Court therefore orders that his certificate be suspended for two years. In the event of Captain Matthews being considered physically and mentally competent to carry out the duties of chief officer, the Court recommends that he should be granted a chief officer's certificate during the period of suspension of his own certificate.

J. SANDERS SLATER,
Chief Presidency Magistrate.

R. BARTON,
Master of the s.s. "Afghan."

J. B. MACFADYEN,
Marine Surveyor.

(Issued in London by the Board of Trade on the
12th day of August 1897.)

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