

(No. 5772.)

“CROMARTYSHIRE” AND “LA  
BOURGOGNE (S.S.).

IN the matter of a formal investigation held at Halifax, N.S., on the 12th, 13th, 14th, and 15th days of July, 1898, before Captain W. H. SMITH, Chairman of the Board of Examiners of Masters and Mates, Commissioner, assisted by Captains BLOOMFIELD DOUGLAS and LEWIS ANDERSON, Nautical Assessors, into the circumstances attending the collision between the British sailing ship “Cromartyshire” and the French steamer “LA BOURGOGNE,” off Sable island, on the 4th of July, 1898.

This was an inquiry held by authority of the Minister of Marine and Fisheries, under the Wrecks and Salvage Act of Canada, into the cause of collision between the French steamer “La Bourgogne” and the British sailing ship “Cromartyshire,” which occurred about 60 miles to the southward of Sable Island, coast of Nova Scotia, on the morning of the 4th of July, 1898.

Mr. A. G. Morrison, barrister, appeared for the Government of Canada, and Mr. R. L. Borden, Q.C., M.P., was retained as counsel for the master and owners of the “Cromartyshire.”

At the commencement of the proceedings, Mr. R. E. Harris, Q.C., representing the French Consul, who was present, addressed the Court, and made the following remarks:—

“I understand that no one who had been on board of ‘La Bourgogne’ has been subpoenaed to give evidence, and, as a matter of fact, none of these persons are now in Canada, and I do not understand that the Court has any jurisdiction to investigate the conduct of any one connected with ‘La Bourgogne,’ or to make any inquiry as to the loss of that ship, and I assume that the inquiry will be restricted to the conduct of the master and crew of the ‘Cromartyshire.’ An inquiry is at present being made in New York by the Consul-General of France.”

Mr. Borden, Q.C., objected to Mr. Harris taking any part in the proceedings unless he appeared for some of the parties interested, so that he would be bound by the proceedings. He stated that the inquiry must be into the cause of the collision, and not a one-sided affair.

The Court said that while Mr. Harris could be present, that he could not examine or cross-examine any witnesses unless acknowledging the jurisdiction of the Court.

Mr. Harris stated that under the circumstances he would take no part in the proceedings.

The testimony of the crew and passengers who were saved from the French steamer was not available, as all of them left Halifax shortly after their arrival.

The investigation, therefore, embraces only the evidence adduced from the master, officers, and crew of the sailing ship, and the inferences to be drawn from the statements given by them to the Court.

The ship’s log-book, official log-book, and register were produced in Court, and the master brought his own diary with his daily work in it to corroborate the position of the ship as entered in the log-book.

The “Cromartyshire” is an iron sailing ship, built and registered at Glasgow, G.B., in the year 1879. She is the property of Messrs. T. Law & Co., of Glasgow. Her official number is 82,253, registered tonnage 1,462, and her dimensions are as follows:—Length, 248·8 ft.; breadth, 38 ft.; and depth, 22·8 ft.

The vessel is commanded by Oscar H. Henderson, who is in possession of a master’s certificate of competency, No. 1,999, obtained at Halifax, N.S., in 1884.

He has held the position on board the same ship for 3½ years.

He has serving under him a mate with an Imperial certificate of competency as master of a foreign-going vessel, No. 24,245; a second mate, who also held an Imperial certificate as second mate, No. 032,852; and a

third mate without a certificate, who was one of the apprentices promoted during the voyage. The crew consisted of 21 hands all told.

The ship was supplied with a sufficient number of charts for the voyage, the one by which she was navigated being produced in Court with the ship’s track and her daily position plainly entered and marked thereon.

There are three compasses on board. The standard is fixed upon a pole on the look-out house or bridge so-called, abaft the mainmast. This compass is correct magnetic upon the westerly points S.W. to N.W., having no deviation. There is also a binnacle compass for the helmsman to steer by, and likewise a spare one on board.

The master had a card upon which the deviation of the two compasses was noted down, and it appears he took observations from time to time during the voyage to ascertain if any change had taken place, and found none when the ship’s head was in the above direction.

There was a difference between the standard and binnacle compasses of two points upon the westerly courses, in consequence of there being two points of easterly deviation upon such courses by that compass; and as the master allowed two points of westerly variation upon the compasses in the position the ship was in at that time, the vessel was actually steering a true course by the steering compass.

She had two bower anchors in their places and one spare one abaft the foremast, and one stream and one kedge anchor, and three boats, two of which were life-boats, and either of them would have been sufficient to carry all hands who were on board the ship.

Two sets of side lights were also on board, and the “Cromartyshire” was supplied with an efficient foghorn for that class of vessel.

All the members of the Court visited the ship and inspected the foghorn, and found it was of the description called a Norwegian foghorn, fixed in a box and worked by a crank with compressed air.

The vessel was, therefore, fully and properly equipped for the voyage.

Having loaded a cargo of 2,000 tons of chalk at Dunkerque, France, the ship left port at 3 a.m. of Wednesday, June 8th, bound for Philadelphia, U.S.A.

Her draft of water was 18 ft. 10 ins. forward, and 19 ft. aft, which draft was entered in the official log-book.

The mate had charge of the port watch, assisted by the third mate, and the second mate, under the master, kept the starboard watch.

After leaving Dunkerque, the weather was fine in the English Channel, wind from the northward, and, according to the log-book, they passed Beachy Head at noon of the same day.

Nothing particular occurred during the passage across the Atlantic; the vessel reached the vicinity of the Grand Banks of Newfoundland on the 30th of June.

During the voyage the master took observations for latitude and longitude, and gave the ascertained official position daily to the mate, who entered it in the ship’s log-book.

The mate took a meridian altitude of the sun, when practicable, himself, and, having found the latitude, compared it with that given by the master.

The dead reckoning was also worked up each day by him, and there was very little difference between the position found by it and that obtained by observations until the influence of the Gulf Stream was felt.

The vessel appears to have encountered much foggy weather after passing the banks of Newfoundland, and the evidence shows that proper care and skill was taken in navigating her both by day and night.

While the fog lasted, the ship’s fog-horn was blown at the regular intervals prescribed by the rules, as the vessel was either upon the starboard or port tack.

On Sunday, the 3rd of July, the weather being fine, early morning observations of the sun were taken for longitude, and the meridian altitude observed at noon to obtain the latitude.

The ascertained position of the ship, according to the log-book, found by these observations (the longitude

being brought down to noon from the morning sights) was latitude 41° 28' N., and longitude 58° 10' W. This agreed pretty nearly with the dead reckoning worked up from the preceding noon by the mate, and the Court has no doubt that the position was correct.

The vessel was upon the starboard tack in the morning, with the wind about W.N.W. true, but soon after one o'clock p.m. the wind backed and came from the S.W. quarter, and she was put on the port tack.

All plain sail was set with a moderate breeze, and the ship was headed about N.W. by the standard compass, which was correct magnetic, and she was going about five knots per hour.

The weather was fine and clear during the afternoon of that date and up to midnight, when the moon was shining.

At that time the wind remained steady, the vessel was still heading in the same direction and proceeding under all plain sail, close hauled on the port tack, and moving at the same rate of speed, which was ascertained by the patent log.

The mate had charge of the watch from 8 p.m. to midnight, and when he left the deck he reported the condition of the weather to the master, who was in the chart-room. This was according to the standing orders issued to the officers by the captain.

At midnight the second mate relieved the mate and took charge of the watch on deck, the weather still being fine and clear.

No change had taken place in the direction of the wind, which was S.W., and the ship was making a N.W. course (W.N.W. true).

About 1.30 a.m. fog commenced to set in, and, according to instructions, the second mate at once called the master, who went on deck, and observed the wind had moderated considerably. The barometer was standing at 30 inches. The ship's fog-horn was being sounded two blasts in succession at regular intervals. He said he had heard it blowing just before he left the chart-house.

As the fog continued and gradually became more dense, the master remained on deck, and towards 4 o'clock he arranged for some of the sail to be taken off the ship.

Shortly after the starboard watch had gone below he ordered the cross-jack and main-top-gallant staysail to be taken in.

The third mate went aloft to assist in furling the sail, and as a precautionary measure the vessel was kept very close to the wind in order to deaden her way.

The speed she was making was about 4½ knots per hour.

Between half past four and five, the mate being in charge of the watch, the master left the deck and went to his chart-room to look at the barometer, and while there he heard the sound of a fog-horn upon the weather side of the vessel.

He states he could not tell with certainty the exact direction the sound came from, but immediately went on deck, and upon questioning the mate, that officer replied he had not heard the whistle.

This is no unusual occurrence, as the noise of the sea breaking against the sides of a vessel, and the flapping of the sails, frequently interferes with the transmission of sound.

About a minute after he reached the deck, the captain, mate, and third mate (the latter being upon the cross-jack yard) all heard the whistle again, and one of the seamen called down from aloft, where he was assisting to furl the sails, that he heard the whistle, and about the same time the man upon the look-out reported it.

The master then thought the sound came from a direction near the port beam, and sent the chief mate forward to the fore-castle-head with an order to the look-out man to shorten the intervals of the blasts a little and turn the crank quickly to make as loud a noise as possible.

The whistle was still heard at intervals by the seamen who were on watch upon the deck, and the sound appeared to be approaching towards the port bow of the ship.

The mate was then stationed before the cat-head on the port bow, right in the eyes of the ship, attentively listening for the sound and trying, if possible, to ascertain and to locate its direction.

Nothing was done on board the sailing ship beyond maintaining a look-out and keeping the fog-horn blowing, and the ship's course was still continued in the same

direction without any deviation therefrom—she being kept close to the wind upon the port tack, and going about 4 to 4½ knots per hour.

Somewhere about 5 o'clock a.m., while the mate was forward with the look-out man keeping a strict look-out in the direction of the sound, the master being on the weather side of the poop, and a seaman stationed at the wheel, a large steamer suddenly hove in sight. She was close-to on the port bow, and in a few seconds from the time she was first sighted the two vessels came into violent contact, the bow of the sailing ship being entirely cut off for about 12 or 20 feet. Risk of collision was involved as soon as the steamer was sighted.

The large steamer disappeared immediately in the fog. It was stated to be about five or ten seconds after the collision.

There is a little discrepancy in the evidence regarding time. It is, however, scarcely necessary to remark that in moments of peril and emergency, which occur on board a ship, it is nearly impossible to calculate the time in which the various incidents take place, with any degree of accuracy.

Men suddenly placed in extremely perilous positions are of necessity thinking of the safety of their ship, and what means they would employ to keep her afloat and save their own lives, and they would scarcely think of looking at a clock in order to note down the time in which all the various circumstances were taking place. Indeed, if such were the case, it would probably raise suspicion in the mind of a judge when examining the witnesses that collusion had taken place amongst them, or they had probably been inattentive to duty.

At the time the two ships came into collision, the concussion was so violent, and the blow inflicted so heavy, that the sailing vessel appeared to have been driven considerably from the way she was heading, although the number of points she was caused to deviate from her course is not exactly stated, but the effect of the blow was to cause her headway to be stopped and make her unmanageable.

The jibboom and bowsprit of the "Cromartyshire" passed over the side of the steamer, and were broken and torn away from the starboard side of the sailing ship, with all her gear attached, and cast over the lee side.

The fore-topmast was also broken, and came down from aloft and fell over the side of the ship.

The collision bulkhead remained intact, which saved the ship from foundering.

The damage the other vessel sustained was not known to those on board the sailing ship, and could not be, as the evidence shows she passed so quickly out of sight across the bow to starboard. She was, however, observed to be a steamer with two red funnels, and only one man on board the sailing vessel noticed any persons on the steamer's deck, this was William Haley, the look-out man. He says, "I saw some people on the steamer's deck forward, and two men on the bridge. The men on deck shouted out in a foreign language, and I could not tell what they said."

Immediately after the collision occurred the master of the "Cromartyshire" ordered the chief mate and others to prepare the boats for lowering, to save life in case of the ship filling with water.

An inspection of the collision bulkhead was made by the carpenter, and it was seen that it had not been damaged, and no water was found in the hold after the wells were sounded.

During the time the officers were engaged inspecting the damaged part of the ship a fog-whistle was heard, the sound of which appeared to be crossing the bow.

Afterwards a bomb and a gun were fired. The sound coming apparently from windward, which was supposed to be from the steamer. All further signals soon ceased, and the master and officers of the "Cromartyshire" considered the steamer had proceeded upon her course.

The probable cause of the ship hearing the fog signal of the steamer crossing her bow, was, as the captain states, his ship had fallen off and drifted from her course.

The master says, "I did not know the position of the other ship, and not one of us thought for a moment she had received any injury; in fact, we were all grumbling that she had gone away and left us."

About 20 minutes or half past five o'clock the fog lifted, and the weather began to clear a little.

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A sail was put over the the strain off the collision towed safely to Halifax at per hour.

At 3.30 a.m. of the 6th were sighted, and at 5 a.m. at 10 a.m. the ship was b harbour.

These being the facts o to determine if any blame of the "Cromartyshire" f or if it can be shown that crew of the ship contribu by any action of theirs.

The International Reg lisions, which should h vessels, were adopted at the came into force on the 1st contained in the following

It is necessary to take th

"A steam vessel shall steam whistle or siren, substitute for steam, so pl be intercepted by any obst fog-horn, to be sounded b with an efficient bell."

"A sailing vessel of upwards shall be provided bell."

"In fog, mist, falling whether by day or night, Article shall be used as fol

(a) "A steam vessel hav at intervals of not more t blast."

(c) "A sailing vessel intervals of not more th starboard tack, one blast; blasts in succession; and bear, three blasts in succe

Soon after a boat with a number of persons on board was seen to be pulling towards the sailing ship.

She had a French flag flying, and came alongside. They stated they were French seamen from the steamer "La Bourgogne." This boat contained only eight men.

It was known that this was the vessel the "Cromartyshire" had been in collision with.

The seamen stated that the steamer had foundered with all those on board.

After the fog had further cleared away, some other boats came towards the ship, and the master of the "Cromartyshire" ordered two boats to be manned, and sent the second mate with one, and the look-out man with another.

They proceeded to the scene of the disaster in order to ascertain if there were any other people afloat, and make every effort to pick them up.

As the weather continued clearing, and the fog drifted away, a number of rafts were seen floating about, and some other boats. It appears that some of the rafts were empty.

After the second mate had been several hours in the vicinity of the debris, pulling about in various directions, he considered that no further attempt would be available to rescue any more lives, and that in all probability no other people had escaped from drowning when the "La Bourgogne" went down.

He then made up his mind to return to the ship as he could render no more assistance.

The "Cromartyshire" laid-to all day for the purpose of repairing the ship, and receiving the survivors of the passengers and crew on board, and about 200 of them were rescued.

Thirty tons of cargo were jettisoned from the forehold in order to lighten the ship and raise her by the head.

About 3 p.m. the Allan steamship "Grecian," from Glasgow to New York, hove in sight, and having bore down upon them, agreed to take the passengers on board, and offered to tow the "Cromartyshire" to Halifax. The passengers were transhipped on board the steamer, and about 6 p.m., connections having been made, the "Grecian" commenced towing the ship towards Halifax.

A sail was put over the broken bow in order to take the strain off the collision bulkhead, and the ship was towed safely to Halifax at the rate of about four knots per hour.

At 3.30 a.m. of the 6th the lights of Halifax harbour were sighted, and at 5 a.m. the pilot was received, and at 10 a.m. the ship was brought safely to anchor in the harbour.

These being the facts of the case, the Court has now to determine if any blame can be attached to the master of the "Cromartyshire" for the cause of the collision, or if it can be shown that either the master, officers, or crew of the ship contributed in any way to the casualty by any action of theirs.

The International Regulations for Preventing Collisions, which should have been observed by these vessels, were adopted at the Washington Conference, and came into force on the 1st day of July, 1897. They are contained in the following Articles and Sub-sections:—

It is necessary to take them in their numerical order.

*Article 15.*

"A steam vessel shall be provided with an efficient steam whistle or siren, sounded by steam or some substitute for steam, so placed that the sound may not be intercepted by any obstruction, and with an efficient fog-horn, to be sounded by mechanical means, and also with an efficient bell."

"A sailing vessel of 20 tons gross tonnage and upwards shall be provided with a similar fog-horn and bell."

"In fog, mist, falling snow, or heavy rain-storms, whether by day or night, the signals described in this Article shall be used as follows, viz. :—

(a) "A steam vessel having way upon her shall sound, at intervals of not more than two minutes, a prolonged blast."

(c) "A sailing vessel under way shall sound, at intervals of not more than one minute, when on the starboard tack, one blast; when on the port tack, two blasts in succession; and when with the wind abaft the beam, three blasts in succession."

*Article 16.*

"Every vessel shall, in fog, mist, falling snow, or heavy rain-storms, go at a moderate speed, having careful regard to the existing circumstances and conditions."

"A steam vessel hearing, apparently forward of her beam, the fog signal of a vessel, the position of which is not ascertained, shall, so far as the circumstances of the case admit, stop her engines, and then navigate with caution until danger of collision is over."

*Article 20.*

"When a steam vessel and a sailing vessel are proceeding in such directions as to involve risk of collision, the steam vessel shall keep out of the way of the sailing vessel."

*Article 21.*

"Where, by any of these rules, one of the two vessels is to keep out of the way, the other shall keep her course and speed."

Note.—"When, in consequence of thick weather, or any other causes, such vessel finds herself so close that the collision cannot be avoided by the action of the giving-way vessel alone, she also shall take such action as will best aid to avert the collision."

*Article 22.*

"Every vessel which is directed by these rules to keep out of the way of another vessel, shall, if the circumstances of the case admit, avoid crossing ahead of the other."

*Article 23.*

"Every steam vessel which is directed by these rules to keep out of the way of another vessel, shall, on approaching her, if necessary, slacken her speed, or stop and reverse."

*Article 27.*

"In obeying and construing these rules, due regard shall be had to all dangers of navigation and collision, and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger."

*Article 29.*

"Nothing in these rules shall exonerate any vessel, or the owner, or master, or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper look-out, or of any neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case."

Having quoted these Articles, it remains to be seen whether the instructions therein contained were carried out, and if the mechanical appliances for making the necessary sound signals were on board the respective vessels and operated according to law.

There can be no doubt the steamer was supplied with an efficient steam whistle according to Article 15, and it was sounded at regular intervals.

The officers of the sailing ship, and most of the seamen in the watch on deck, state they heard it several minutes previous to the collision.

Abundant proof is also produced in evidence that the sailing ship had an efficient fog-horn sounded by mechanical means, and it was operated continually according to the regulations contained in Article 15, Sub-section (c), for a vessel in fog under sail upon the port tack.

From the statements made by witnesses in this case, there is an indication that the ship's horn was heard on board the steamer, and answered by her.

Alfred Stewart, third mate, says: "Our fog-horn and the steamer's whistle never blew together, and I thought the steamer was answering our fog-horn."

James Calder, the second mate, says: "I heard our own fog-horn responding to the whistle."

The master, in his evidence, says: "I asked the first people who came alongside if any officers were on board, and they said no, but a quartermaster was there. I asked him if he had heard our horn while on the steamer, and he said he had."

This is corroborated by the third mate, whose evidence states: "I remember seeing the quartermaster spoken of. The captain asked him if he had heard our horn, and he said yes."

The captain also informed the Court that a man named Lacasse, one of the passengers who was rescued, said he was on deck and had heard the fog-horn of the "Cromartyshire" blowing.

Perhaps this is not strictly legal evidence, but taken in connection with the foregoing statements by the crew, is at least calculated to make an impression.

The Court considers it right to observe, that if the horn was not heard on board the steamer previous to the collision it was from no fault of those who were navigating the sailing ship, for no irregularities occurred in the succession of blasts which were required to be made upon the fog-horn of the ship.

Although fogs constitute one of the principal impediments to navigation, it is generally acknowledged that the presence of fog is no obstacle in the way of sound travelling.

Article 16 comes next. It says "Every vessel shall, in a fog, mist, falling snow, or heavy rain-storms, go at a moderate speed, having careful regard to the existing circumstances and conditions."

The restrictions contained in this Article with reference to speed was evidently taken into consideration by those in charge of the sailing ship during fog, her speed being between four and five knots.

This is not only shown by the statements of the witnesses in their evidence, but receives corroboration and proof from the entries made in the log-book for several consecutive hours on the previous day, and up to noon of the 3rd.

The speed was slow during all that time, and it is not reasonable to suppose that any increase in the speed of the ship was made after the fog set in, unless some change in the force of the wind had taken place, which does not appear to have occurred.

Entries in the log-book, copied from the scrap-log, also give a slow rate of speed from noon until midnight, and even until 4 a.m. of the 4th.

The Court is therefore of opinion that the sailing ship was going at a moderate rate of speed when the collision took place.

With regard to the speed of "La Bourgogne" at the time of the collision, nothing can be absolutely and correctly known as to its rate, except from the inferences drawn from the various statements made by the witnesses in evidence, also by taking into consideration the damage sustained by the sailing vessel as a result of the collision, her bow being entirely taken off.

Perhaps the speed with which she was moving just at the time the collision occurred will never be accurately known with any degree of certainty, as the information upon this very important point could only be given by the officers in actual charge of the steamer at the time, and the voices of those who could give evidence respecting the speed are for ever silent.

It is scarcely possible that any log or memorandum book was saved when the ship foundered.

Other methods must therefore be resorted to for the purpose of ascertaining the approximate speed of the steamer at the time of the collision.

Isaac Smith, carpenter, says—"The steamer was going very fast, and her propellor was working, and seemed to be revolving very rapidly, and driving the ship ahead."

William Haley, the look-out man, says:—"I estimated the speed of the steamer was about 18 knots. I am accustomed to heave the log, and can judge pretty nearly the speed of a vessel." He also said:—"We lost sight of the steamer in about twenty seconds," and in another answer, he says:—"She appeared to be going very fast—somewhere between 16 and 20 knots per hour."

Taking the distance the steamer had run from Sandy Hook Bar, and the time elapsed when she had reached the position where the collision took place, it gives an average rate of speed of over 16 knots an hour. The distance carefully worked out is 651 miles.

This, however, is no absolute proof that the ship was moving at that rate of speed during the last hour of steaming, and at the time of collision.

It was stated by several of the witnesses examined, that some of the crew of "La Bourgogne" told more than one person on board the "Cromartyshire" that they were of opinion the steamer was going full speed.

This may not be considered as proper legal evidence, but from the sudden manner the steamer first came in sight upon the port bow of the sailing ship, and her equally quick disappearance in the fog immediately

after the casualty, the Court is forced to the conclusion that the steamer was proceeding at a very high rate of speed.

The master of the "Cromartyshire" says in his evidence before the Court:—"My opinion at first was that she was going about 15 knots. The quartermaster of the steamer told me shortly after he came on board the "Cromartyshire," that his vessel was going 18 knots an hour; also that she was going full speed, and had not been slowed down, and that he was on the look-out at the time.

"The fourth engineer, who was amongst those saved, said the steamer was going full speed at the time of the collision.

"I asked him if she had been slowed down, and he said no."

Regarding the statement of the quartermaster to the captain, the third mate says:—"I was on the fore-castle-head helping to clear away the wreckage, and I overheard his (the quartermaster's) conversation with the captain."

The most significant remarks appear to be those which were made to the captain by the second purser of the steamer.

The captain of the ship in his evidence states that, in reply to questions put by him to the second purser, when he came on board in a boat, that officer said he believed the ship was going full speed, but it was not fair to blame either the captain of the ship or the company, as the passengers all wanted to go in the fastest steamers.

The Court acknowledges that the statements of the survivors of those on board "La Bourgogne," expressing their opinion as to the speed of the steamer, can scarcely be accepted as legal evidence, but as the enquiry is for the purpose of ascertaining as much of the circumstances as possible, it is of opinion that such probabilities should come within the scope of this enquiry, and be taken into consideration, and viewed only in connection with the other proofs.

It would be reasonable to expect that men who had just escaped from a watery grave would be likely to tell the truth, the facts being so fresh in their memory, and the evidence given in such a straightforward manner by the master, is worthy of notice.

The note to Article 16 says:—"A steam vessel, hearing, apparently forward of her beam, the fog-signal of a vessel, the position of which is not ascertained, shall, so far as the circumstances of the case admit, stop her engines, and then navigate with caution until danger of collision is over."

If the fog-horn of the sailing ship was heard on board the steamer, the observance of this rule was imperative.

Article 20 states:—"When a steam vessel and a sailing vessel are proceeding in such directions as to involve risk of collision, the steam vessel shall keep out of the way of the sailing vessel."

The duty which devolves on a steamer, either by night or day, in fine weather or fog, is plainly laid down in this article. For reasons unknown to the Court, the steamer did not keep clear of the sailing vessel.

Article 21 says:—"Where by any of these rules one of two vessels is to keep out of the way, the other shall keep her course and speed."

The evidence upon this point is of a clear and satisfactory character, and conclusively proves that the sailing ship under the circumstances did keep her course and speed, according to the provisions of the Act enjoined by this Article.

Those in charge of the ship absolutely adhered to the regulations, no deviation whatever being made from her course until she was driven away from it, in consequence of being in collision with the steamer.

The Court is of opinion that the master would not have been justified in departing from the statutory regulations, unless he could have sheltered himself under the conditions pointed out in Article 21, and also taken into consideration the construction to be put on Articles 27 and 29, and found the circumstances were such as to have rendered it necessary for him to have departed from the rules in order to avoid immediate danger. He could not have known the movements of the steamer, for she was not in sight.

The note to this Article has a most important bearing, taken in conjunction with Articles 27 and 29.

Although certain special and urgent cases which are bound to be held strictly, he may take upon

From the evidence it can be plainly seen by those on board in close proximity for the master any action whatsoever to avert the collision disastrous.

Had the steamer been possible that so board the ship, or bringing her to that purpose.

It was, however, made such a mistake appears to have been is stated in the sighting the steamer collision.

The master of the navigation right to assume such a manner as

No duty was course and speed good look-out, proper caution, navigation of her was taken into

The Court, in circumstances occurred between and the British Monday, the 4th southward of Sandy Hook, who were on board considered the evidence and signed by mature deliberation

1. That the master obeyed the International Collisions during fog on the morning up to the time of

2. That the master at proper intervals to Article 15 (and previous to the steamer being heard

3. That a good look-out board the ship, fore-castle-head coming in sight

Although certain discretionary powers are given under special and urgent conditions to the master of a ship which is bound to keep her course, the said master will be held strictly responsible to the Courts for any action he may take under the circumstances.

From the evidence adduced at this investigation, it can be plainly seen that the steamer was not observed by those on board the sailing ship until they were in close proximity to each other, and there was no time for the master of the "Cromartyshire" to have taken any action whatever, or to have effected any manœuvre to avert the collision or even to have rendered it less disastrous.

Had the steamer been seen in sufficient time, it is possible that some manœuvre might have been made on board the ship, either by throwing her head sails aback or bringing her quickly right up in the wind's eye for that purpose.

It was, however, impossible for the master to have made such a manœuvre in from 10 to 30 seconds, which appears to have been the longest interval of time that is stated in the evidence to have occurred between sighting the steamer and the two vessels coming into collision.

The master of the sailing ship was in personal charge of the navigation of the ship at the time, and had a right to assume that the steamer would be steered in such a manner as to get out of his way.

No duty was imposed upon him but to keep his course and speed, and sound his fog-horn, and keep a good look-out, and these duties were performed with proper caution, and due diligence was exercised in the navigation of his ship, when the character of the fog was taken into consideration.

W. H. SMITH,  
Commissioner.

*Decision of Court.*

The Court, having carefully enquired into all the circumstances connected with the collision which occurred between the French steamship "La Bourgogne," and the British sailing ship "Cromartyshire," on Monday, the 4th of July, 1898, about 60 miles to the southward of Sable Island, and examined the witnesses who were on board the sailing ship at the time, and duly considered the evidence adduced, which was read over to, and signed by them, has come to the conclusion, after mature deliberation, and finds:—

1. That the master of the "Cromartyshire," implicitly obeyed the International Regulations for Preventing Collisions during the time his vessel was enveloped in fog on the morning of the aforesaid 4th of July, and up to the time the casualty took place.

2. That the fog-horn of the sailing ship was sounded at proper intervals, and operated continuously according to Article 15 (c) for some hours before the collision, and previous to the sound of the whistle on board the steamer being heard.

3. That a good and proper look-out was maintained on board the ship, the first mate, with a seaman, being on the fore-castle-head for some time previous to the steamer coming in sight, and at the actual time of the collision.

4. That the speed of the sailing ship was moderate in accordance with the Regulations.

5. That the master kept his ship upon her course and speed, in obedience to the rules laid down for his guidance, contained in Article 21, and the evidence produced in Court shows that the vessel did not deviate from the course she was making until after the collision happened, when the force of the blow occasioned by the collision caused her to be driven from her course, and took the whole of her bow and bowsprit off, and the progress of the vessel through the water was stopped by the contact with the steamer, and she afterwards became unmanageable in consequence of the loss of head sails, and the obstruction formed by a large amount of wreckage hanging alongside and pounding against the ship.

6. That after the said master had ascertained the bulk-head of his ship was secure, and she was in no immediate danger of sinking, a boat came alongside with eight seamen on board from the steamer, and they stated she had foundered. Two other boats came alongside loaded with rescued people, and the master dispatched the second mate and look-out man in charge of boats to endeavour to pick up any other survivors, and the conduct of the said master is to be highly commended, and he deserves much credit for his action throughout.

7. That the master of the ship "Cromartyshire" is, therefore, not found in default, and is entirely exonerated from all blame or responsibility for the cause of the collision, and the certificate of competency, No. 1,999, of the said master, Oscar H. Henderson, is herewith returned to him.

8. No blame whatever is to be attributed to the officers or crew of the "Cromartyshire," and the Court is of opinion that they did their duty in every respect under the circumstances.

9. The evidence submitted to this Court does not enable it to determine the manner in which the steamer "La Bourgogne" finally disappeared and foundered, or the circumstances by which such a melancholy loss of life resulted, and the Court is not called upon to express any opinion regarding the conduct of the master and officers of the aforesaid steamer "La Bourgogne."

(Signed) W. H. SMITH, R.N.R., F.R.G.S.,  
Commissioner.

We concur in the above report and decision.

(Signed) BLOOMFIELD DOUGLAS, R.N.R.,  
Naval Assistant. }  
(Signed) LEWIS ANDERSON, } Nautical  
Master Mariner. } Assessors.

Given in Open Court at Halifax, N.S.,  
this 28th day of July, 1898.

I concur in the above judgment,

(Signed)

L. H. DAVIES.

August 8th, 1898.

(Issued in London by the Board of Trade on the  
23rd day of September, 1898.)