

(No. 7539.)

"OCEANA" (S.S.)

AND

"PISAGUA."

The Merchant Shipping Act, 1894.

In the matter of a Formal Investigation held partly at the Westminster Palace Hotel and partly at the Caxton Hall, Westminster, on the 30th of April, and the 1st, 6th, 7th, 8th, 9th, 20th, 21st and 22nd of May, and the 10th, 11th, 12th, 19th, 20th, and 25th of June, 1912, before JOHN DICKINSON, Esq., assisted by Rear-Admiral ERNEST JAMES FLEET, Captain C. B. GRAVES, F.R.G.S., and Captain BATT, into the circumstances attending the loss of the British steamship "OCEANA," of Belfast, after collision with the German sailing ship "PISAGUA" in the English Channel, on or about the 16th of March, and the loss of life which occurred.

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 "Oceana" foundered at about 10 a.m. on the 16th of March last, after collision with the German ship "Pisagua." The collision was caused by the wrongful act of the chief officer in attempting to cross ahead of the latter ship, and for this the Court suspends his certificate of competency for six months.

After the collision 17 lives were lost through the swamping of No. 1 lifeboat. This was largely due to the error of judgment of the chief officer in lowering the boat while the vessel was still under way. For the failure to take adequate measures to rescue the persons thus thrown into the water the Court severely censures the master and chief officer, and also attaches blame to the third officer.

Dated this 25th day of June, 1912.

JOHN DICKINSON,
Judge.

We concur in the above Report.

ERNEST FLEET, }
C. B. GRAVES, } Assessors.
H. E. BATT, }

Annex to the Report.

This Inquiry was held, partly at the Westminster Palace Hotel and partly at the Caxton Hall, on the dates set out above. Mr. A. D. Bateson, K.C., appeared for the Board of Trade, with, at first, the Honourable H. Gorell Barnes, and afterwards Mr. Cunliffe. Notices of investigation had been served upon the master, Mr. Thomas Hermann Hide, who was represented by Mr. Adair Roche; upon the chief officer, Mr. Walter Naylor, represented by Mr. Higgs; upon the supernumerary second officer, Mr. Lewis C. Newman, who appeared in person and was not legally represented; upon the third officer, Mr. John L. St. George Lilley, who was represented by Mr. John Botterell; and upon Mr. S. Penny, the pilot, for whom appeared Mr. Clifford Penny. By leave of the Court there appeared, in addition,

Mr. Butler Aspinall, K.C., and Mr. R. H. Balloch, for the owners, and Mr. Hayward, Mr. Dumas, and Mr. Lewis for various passengers and relatives of deceased passengers.

The inquiry opened with an expression of regret by counsel for the Board of Trade, and for the owners, for the sad loss of life which occurred, and of sympathy with the relatives of those lost. With that regret and sympathy the Court associates itself.

Description of the Vessels.

The "Oceana," Official Number 93170, was a steel, single screw, steamship, built at Belfast in 1887, by Messrs. Harland and Wolff. She had four masts, all fore-and-aft rigged. Her dimensions were as follows: length 468.45 feet, breadth 52.15 feet, depth in hold from tonnage deck to ceiling amidships 19.05 feet, depth from upper deck to ceiling amidships 34.65 feet. Her gross tonnage was 6,610.31, and registered tonnage 3,507.15. She had triple-expansion, compound, surface-condensing, engines. The combined horse power was 1,000 nominal, and 6,000 indicated. The engines were constructed by the builders of the ship.

She was owned by the Peninsular and Oriental Steamship Company, of 122, Leadenhall Street, London.

According to Lloyds' Register she was built under special survey, and not classed.

Partly from the plans of the "Oceana" produced, which were not of a very detailed character, and partly from the evidence, the following description of the vessel has been drawn up. On the fore side of the propelling space there were four water-tight bulkheads, two of which extended up to the spar deck, and two to the main deck only. On the after side of the engine room there were also four water-tight bulkheads, two going to the spar deck and two to the main deck. In the water-tight bulkhead separating the main hold from the cross bunker there were two doors, one on each side; these doors were secured by nuts and bolts. In the bulkhead between the cross bunker and the stokehold there were two water-tight doors, one on each side, each operated by a screw. In the water-tight bulkhead between the fore and main holds there were two doors, one on each side, situated in the "passenger deck," that is, the space between the main and spar decks. These doors were closed by means of clips. There appear to have been three other sets of doors of a similar type situated in this space, one set being a little abaft the main mast, another set over the after end of the engine room, and the third set about 24 feet on the fore side of the stern post. There were also several doors in the bulkheads of the lower holds abaft the engine room.

The orlop deck extended from the forward, or collision, bulkhead to the water-tight bulkhead between the after end of the main hold and the cross bunker, and began again at the water-tight bulkhead abaft the engine room, and continued to the stern. The 'tween, main, and spar decks extended from stem to stern, except for the usual boiler and engine-room openings. The fore-castle deck was about 96 feet in length. There was a break of about 20 feet from the after end of the fore-castle to the fore end of the hurricane deck. The hurricane deck was about 230 feet in length, and at the after end of this deck there was a break of about 20 feet to the poop. The poop was about 112 feet in length. On the top of the hurricane deck there was a house extending from a few feet before the main mast about 60 feet forward. In the fore end of this house was the master's room, in the middle the first saloon music room or drawing room, and at the after end the first saloon entrance. On the top of this house, and at the fore end, was the navigating bridge; abaft this was a skylight; then came the wheel house and chart room, and on the after end another skylight. A ladder on each side communicated between the navigating bridge and the hurricane deck, the ladders being about 10 feet from the doors of the master's room.

Abaft the engine-room casing, on the hurricane deck, was another house, about 57 feet in length. In the fore end of this house the chief and second officers were berthed, in the middle portion of the house

were the engine-room skylights, and at the after end the first saloon smoke room.

On the fore end of the poop there was another house about 18 feet long, the fore end of which was the second saloon smoking room, and the after end the entrance to the second saloon.

The "Oceana" carried 17 lifebuoys, hung on the rails of the navigating bridge, the hurricane deck, and the poop. There were four Holmes' lights, two on the navigating bridge, and two on the poop. She had 562 lifejackets, those for use by the crew being kept in boxes on the hurricane deck, and those for the passengers in racks in their cabins.

The "Pisagua" is a German four-masted sailing ship, rigged as a barque, of 2,651 tons register, and 325 feet long. She was built of steel, in 1892, classed 100 A1 at Lloyds', and owned in Hamburg. On the voyage in question she was bound from Mexillones to Hamburg with a cargo of about 4,500 tons of nitrate. Her draft of water on leaving Mexillones was 23 feet 4 inches forward, and 23 feet 8 inches aft. She carried a crew of 31 persons all told.

The boats of the "Oceana."

The "Oceana," being a foreign-going steamship having a passenger certificate under the Merchant Shipping Acts, and having a gross tonnage of over 6,500 and under 6,750, was required by the Life-Saving Appliances Rules to carry boats as follows:—

Twelve boats, nine at least under davits, of a total capacity of 4,200 cubic feet. Not less than six of the boats had to be of section (A) or (B), four might be of section (C) and two might be of section (D). The description of the various classes of boats are set out in the General Rules of February, 1902, as amended by the rule of April, 1910, and the rule of June, 1911. Put briefly, boats of classes (A) and (B) are lifeboats of the most buoyant type provided for by the Rules, those of class (C) have only half of the buoyancy apparatus of classes (A) and (B), those of class (D) are ordinary ships' boats, without buoyancy apparatus, and class (E) may be collapsible boats.

The "Oceana" actually carried 13 boats, 11 being lifeboats of section (A), one boat of section (D), all under davits, and one collapsible boat. The lifeboats had a combined capacity of 4,811 cubic feet and were capable of accommodating 476 persons, the section (D) boat had a capacity of 188 cubic feet and accommodation for 23 persons, the collapsible boat was capable of accommodating 59 persons. The total accommodation of the boats was therefore 558 persons.

The boats were placed as follows:—

On the starboard side of the hurricane deck, commencing from forward, was the accident boat or cutter, then came Nos. 1, 3, and 5, in the order named. These four boats were all of section (A). The collapsible boat was carried under No. 3 boat, and was lashed to the rail on the outside. On the starboard side of the poop were Nos. 7 and 9. Starting from forward on the port side of the hurricane deck, first was the "mail boat" (section (D)), then 2, 4, and 6, in the order named. On the port side of the poop were Nos. 8 and 10. All the boats on the port side except No. 10 were swept away or smashed by the collision. Four boats were carried swung out and hanging to the davits; these were the mail boat, the cutter or accident boat, and Nos. 7 and 8 lifeboats. The remainder of the boats (except the collapsible) were under davits and resting on the rail in chocks.

The evidence before the Court as to the condition of the boats was that of the chief officer, the ship's carpenter, the Board of Trade surveyors, various persons who occupied the boats at the time of the casualty, persons who picked them up after they were abandoned, and a boat builder who examined some of them subsequently as they lay drawn up on Eastbourne beach. According to an inventory dated the 5th of March, 1912, signed by the chief officer, all the boats with the exception of Nos. 7 and 9, and the starboard cutter, and possibly the Berthon boat, were supplied to the ship in 1887. No. 7 was supplied, presumably new, in January, 1911, and No. 9 in January, 1912. The starboard cutter was supplied from the "Arcadia" in September, 1908, and the "Arcadia" being a sister ship of the "Oceana,"

was probably of the same date, viz., 1887. The only boat as to the condition of which any complaint was made was this cutter, but, before dealing with that boat, it is desirable to observe the general evidence as to the boats and their upkeep by the company's servants, and their inspection by the Board of Trade surveyors.

The chief officer said that at Bombay, where the ship was laid up for over two months (November, 1911,–January, 1912), he thoroughly overhauled the boats, with the carpenter, and they were in good condition; also that, on the last homeward voyage, he had examined each boat separately, renewing all guys and lifelines where required. The carpenter amply corroborated this statement. The chief officer added that the company's rules as to boats were strictly observed.

Those rules were read to the Court, from two small volumes, referred to as the "Blue" and "Red" books, supplied by the Peninsular and Oriental Company for the guidance of their officers.

Rule 79 in the Red Book runs:—"The boats require constant care and supervision to ensure their good order and efficiency. An officer and crew must be appointed to each, and the former is held responsible for his charge. He will personally inspect his boat, at least once a week, and satisfy himself that her equipment in masts, sails, oars, rowlocks, breakers, &c. is complete, that the tackles are good and in running order, gripes ready to let go, and the boat in every respect fit for immediate use. Boats are not to be kept hanging too long at the davits, but lowered in the water whenever opportunity offers. As far as practicable, any boat sent away from the ship, both at sea and in harbour, shall have an officer in charge." Rule 33 in the Blue Book is as follows:—"Lifeboats. These are to be lowered into the water whenever opportunity occurs. When in the tropics the hose should be played over and into them when the decks are washed, to keep them from drying up. The officer of each boat is responsible for its complete efficiency"; and Rule 26 says:—"... Boats' gripes and lashings should be fitted with toggles, so that they can be instantly let go. The falls should never be coiled away under the boats' covers, but either stopped to the davits with beackets, or coiled on the deck ready for immediate use. One, at least, of the breakers in each boat should be kept filled with fresh water, or more, if the weight is not likely to strain the boat. Preserved provisions should also be kept handy for emergencies."

These rules are quoted at length because the Court considers them sound and valuable, and because, as it is unfortunately necessary to animadvert upon various points connected with the saving of life from this ship, the Court is desirous of giving equal emphasis to those factors which indicate care and foresight on the part of responsible persons in the Peninsular and Oriental service.

At Tilbury on the 10th–11th March, 1912, there was a Board of Trade inspection of the boats and other life-saving appliances, for the passenger certificate. Mr. George Campbell, one of the Board's surveyors, saw the boats on the 10th. He had the buoyancy tanks removed from two of them, and satisfied himself they were in good condition. He made no examination of the boat equipment.

On the 11th of March, Mr. D. J. Harris, another of the Board's surveyors, examined the boats. He had them all swung out. He made no particular examination of their equipment. The starboard boats, including the collapsible boat, but not including the accident boat, were put into the water, and Mr. Harris said they were all watertight and in very good condition. A lighter under the cutter prevented her being lowered. The falls of one boat only were unhooked. No signs of leakage were observed by the surveyor, but as the boats were in the lightest trim, with one or two men only in each, as they were lowered one after the other, and as the surveyor took not more than three-quarters of an hour in all over his examination, the test cannot be considered satisfactory. The planks above a boat's light water line being more exposed to the sun's rays are those more likely to open out. No test of a boat for water tightness can be regarded as complete unless an average weight, at least, is put into her. The port boats were not lowered, that side of the ship being next the quay. The equipment of the boats is fully dealt with in the answer to question 6, where also some further comments on the Board of Trade inspection appear.

To return to the cutter. The chief officer said this boat was in frequent use at Bombay, and was in good condition and watertight. The carpenter, however, said that the upper strakes of this boat were slightly opened out, but there was, in his own words, "nothing detrimental to the boat." The evidence of most of the passengers and members of the crew in the accident boat, together with that given by the skipper of the trawler "W. A. T." of Rye, who recovered the boat, is that she leaked badly. The latter informed the Court that when the boat was alongside the trawler, one and a half hours' baling had very little effect in clearing her of water. On the whole the Court is satisfied this boat leaked considerably. The Court puts aside the view that the plug was out, and does not think she sustained any damage in lowering. The open condition of the upper strakes would, when the boat was heavily laden, account, with what was taken over the gunwale, for the water in her.

The ship's company and passengers.

The ship's company of the "Oceana," on the voyage in question, consisted of 68 Europeans, including the pilot, and 153 lascars and Asiatics, making in all 221. The Europeans were:—the master, five mates, surgeon, carpenter, sailmaker, joiner, and ten able seamen or quartermasters, six engineers, electrician, a refrigerating mechanic, boilermaker, winchman, purser, and 36 miscellaneous ratings, the latter including three stewardesses.

The master, Mr. T. H. Hide, who holds a certificate of competency as master, No. 07852, had been in the company's service 31 years. He had commanded the "Oceana" from November, 1908, to November, 1909, and he rejoined her again on the 4th of March, 1912. The chief officer, Mr. Walter Naylor, held a master's certificate of competency. He had been in the company's service for over 20 years, and holds a commission as lieutenant in the Royal Naval Reserve. He joined the "Oceana" in June, 1911. The second officer, Mr. H. S. Wilding, joined the "Oceana" in November, 1911. Mr. L. C. Newman, the supernumerary second officer, joined in March, 1912. He had been in the company's service for over eight years. The third officer, Mr. J. L. G. Lilley, joined the "Oceana" at Bombay in February, 1912. He had a master's certificate. The fifth officer, Mr. G. Baker, joined the "Oceana" in March, 1912. He held no certificate. He was not a watch keeping officer.

On this voyage the ship carried 15 first-class, and 26 second-cabin passengers, in all 21 men, 18 women, and two children.

Boat drill at Tilbury.

On the 14th of March, the day before sailing, the crew were inspected at boat stations by Captain Harris, the company's dock superintendent, at Tilbury, and, according to his statement, the officers and crew were mustered at their respective boats. One boat, No. 7, was lowered, manned with a lascar crew, in charge of the third officer, and she was pulled up and down the dock for some little distance. The boats' equipments were neither inspected nor mustered. The inspecting officer did not check off the officers and crews at their respective boats. He said that he trusted the captain and chief officer to see that the men were at their right stations. The native portion of the crew had been mustered earlier in the day by the chief officer at their stations. Some officers and men were necessarily absent from Captain Harris's inspection, as they were engaged on other duties.

Commencement of the voyage and the collision.

The "Oceana" left Tilbury for Bombay at 2 p.m. on the 15th of March last, with a general cargo and specie. About 2.56 a.m. on the 16th of March, she passed the "Royal Sovereign" light vessel, at a distance of about three miles. A course was then set of S. 83° W. true (N. 81° W. magnetic). The weather is described as fine and clear with a fresh north-west wind. Beachy Head was abeam about 3.28 a.m. In accordance with the usual arrangement the pilot was to continue to act until the ship reached the Nab light vessel. From midnight to 4 a.m. was the chief officer's watch, and during this time he had two other officers on watch with him. Mr. Newman was on the navigating bridge, and Mr. Lilley on the fore-castle. There was also on the look-out on the fore-castle one European seaman named Morris, and one Lascar. On the

navigating bridge an European seaman named Smith was at the wheel, another white seaman and a Lascar were standing by. Shortly after the ship passed the "Royal Sovereign" the pilot left the bridge to sit down in the chart room to rest, he told the chief mate he was doing so, and added, "Keep a look-out and give me a call if you want me." The "Oceana" was steaming full speed ahead, and was making about 14½ knots per hour through the water.

The most satisfactory method of arriving at what happened from this point is to take, first the chief officer's account, then the account given by those on the "Pisagua," and check these two versions (which are indeed irreconcilable) by the evidence of other, less interested, persons.

The Chief Officer's story.

About 3.55 a.m. the Chief Officer was examining some lights on the starboard bow when he heard the gong in the bows struck once, the signal indicating that there was a ship on the port bow. This was the first time the gong had been sounded in reference to this particular ship. The chief officer at once looked at the ship through his glasses. He saw it was a sailing ship, and, walking quickly to the port side of the bridge, he examined her closely. He made out that she was a large ship under all plain sail, steering an approximately opposite course, showing her starboard side open. A blue flare was being burned on the sailing ship, and by its light he saw the sails, and that she was running free, with the yards canted on the port tack. Upon mature consideration after the event, he judged her distance to have been about 1½ miles, and she bore about two points on his port bow. At first he did not see the green side light, but, as the flare burned down he saw a faint green light, which changed to a bright green light when the flare was extinguished, the increase in brilliancy not being merely apparent, as a result of the cessation of other light, but being due, in the chief officer's opinion, to the substitution of a fresh lamp. Upon this sudden increase in brilliancy the chief officer strongly insisted.

There was a fresh wind at the time, and he considered the sailing ship to be making about ten knots or even more through the water. He gave the order "port five degrees." He gave no signal to indicate what he was doing. His explanation for adopting the course he did is that he regarded it merely as a preliminary move, which committed him neither to a port nor a starboard helm.

In his examination-in-chief he was asked:—

Q. "Is it right to say that you were leaving it to her to settle what you should do?"

A. "I was giving her the right of way as she was a sailing ship, but of course I know I had to keep clear . . . The idea occurred to me that if she was once committed to either a port or starboard helm, keeping clear on my part was an easy matter, as I was the faster ship and the handier ship."

Q. "Did you do anything with your engines at that time?"

A. "No, I wanted my speed to keep clear, as she was a sailing ship going through the water at a high rate of speed."

The order to port five degrees was obeyed. Immediately afterwards the pilot came quickly out of the chart room and said, "What are you porting to?" The chief officer replied, "The ship burning a flare-up." The pilot looked quickly at the ship and gave the order, "Hard-a-port." The order was repeated to the man at the wheel, and the helm was put hard over. The chief officer now considered the pilot had resumed charge, and himself gave no more orders. The "Pisagua" was now from half to three quarters of a mile away, and bearing as she did when first seen by the chief officer. He noticed that immediately after the "Oceana's" helm was hard over, the "Pisagua" apparently starboarded, for, although the "Oceana" was now acting under port helm, the effect of which should have been to foreshorten the sailing ship, her after sails opened out.

The "Oceana" was now paying off under port helm, and the "Pisagua" under starboard helm. The latter struck the former at an angle estimated by the chief officer as nearly a right angle, showing that while the "Oceana" had swung from four to five points to starboard, the "Pisagua" had swung three or four

points to port. The blow was about 18 feet before the foremast as marked on the plan by the chief officer. The "Pisagua's" bowsprit came right over the "Oceana." The damage done is hereinafter described. The "Pisagua" rebounded before she came near the bridge of the "Oceana," again striking her just at the break of the bridge, and sweeping away all the boats on the port side, save the aftermost, No. 10, then going clear of the ship, and passing astern.

At the conclusion of his story of the collision, Mr. Naylor was again asked if he desired to offer any further explanation of his action, and said:—

A. "No, excepting that you understand I should like to have seen if the other ship intended to take any action. I should have liked to have seen what that action was to be before I took final action.

Q. "Before you committed yourself?

A. "Yes.

Q. "You are aware of the rule of steamers keeping clear of sailing vessels?

A. "Yes, and I am also quite aware of the excitement that would probably take place on board a sailing vessel when there was an imminent risk of collision, and that she might have ported her helm if I had starboarded right away, and so caused the collision.

Q. "And you are also aware of the rule which says that it is your business to pass astern?

A. "Yes, that is the same thing; it applies to the same case.

Q. "And to stop and reverse your engines when there is danger?

A. "Yes, but I thought it better to keep the speed, seeing that she was going so fast through the water.

Q. "You don't want to offer any further explanation?

A. "No.

Q. "I have given you every opportunity of making any explanation you want to make?

A. "Yes.

Q. "And I have drawn your attention to the various Articles that seem to bear upon the case?

A. "I was relying upon my being the faster ship and being able to keep clear at close quarters. And I believe, if I had not been overruled by Mr. Penny's order, that I should have kept clear of collision. In fact, I am sure I should have kept clear of collision. I believe there was ample room to have cleared.

Q. "By doing what?

A. "By going hard-a-starboard and full speed astern after it was apparent that the other ship was acting under a starboard helm, which I should have done at once."

Such was the story told, and the explanation given, by Mr. Naylor in his examination-in-chief, and he maintained the story and emphasized the explanation in the course of his cross-examination, and of his examination by his own advocate.

The "Pisagua's" Story.

It was the chief officer's watch, but the master had been on deck, except for short intervals, the whole night. The third officer and twelve men were also on watch.

The course steered from off the "Owers" lightship, which was passed at a distance of seven miles, was N. 81° E. true, and was maintained right up to the moment of collision. The two masthead lights of the "Oceana" were reported to the chief officer, and he saw them at about a distance of six miles, estimating them to be about one point on the starboard bow, the higher light being to the right of the lower light. A little later he saw the red light of the "Oceana." The chief officer thereupon requested the master to come up on the bridge deck. The chief officer bade the man at the wheel (the ship was steered from amidships) to pay particular attention to his course, and the master sent the third officer forward to see that the lights were burning brightly. He obeyed this order, looking into the glass of the green light, and assuring himself

it was burning satisfactorily. The red light he could see was in good order by the reflection on the deck.

When the "Oceana" was something between a half and three-quarters of a mile distant, manifesting no intention to change her course, the master ordered the chief officer to burn a blue flare to attract her attention. The flare was accordingly burned for about half a minute. The third officer again went forward and examined the lights, which were still burning properly. Seeing a collision was inevitable, he ran off the fore-castle and reached the bridge deck just as the impact took place. Immediately after the blue light was burned, the two lights of the "Oceana" were observed to be opening out, indicating that her head was turning more to starboard.

Critical Examination of the Two Stories.

In examining these two contradictory versions, the first consideration to be borne in mind is that the "Pisagua" purports to have done what, by the Regulations for Preventing Collisions at Sea, she ought to have done, *i.e.*, she kept her course and speed. The "Oceana," on the other hand, rightly or wrongly is immaterial for the moment, deviated from those Regulations. The only explanation which could be offered on her behalf was, of course, that "special circumstances," within the meaning of Articles 27 and 29, had arisen, and that an onus lay upon the "Pisagua" to take action to avert collision.

The points of divergence in the story are: as to the efficiency of the "Pisagua's" starboard light, and as to her alleged starboarding when there was danger of collision. The side lamps of the "Pisagua" were examined at Dover by a Board of Trade Surveyor, who gave evidence to the Court. He saw German certificates, with the requirements of which they complied. They were not, he said, up to the standard of the English rules, inasmuch as they were not provided with reflectors, and the circular burners were only $\frac{1}{16}$ of an inch in diameter, instead of at least $\frac{1}{8}$ of an inch. He would not, however, say that they failed in the requirement of the collision Rules that the light should be visible at a distance of at least two miles.

The supernumerary second officer stated that he saw the flare at the same time as the green light, and in another place that he only saw the green light after the flare had burned out. In his opinion, the green light must have been obscured or dim. He also denied that the gong was struck before the flare was made. Mr. Newman's evidence is open to the comment that he can hardly be expected to admit failing to pick up a good light. Conclusive in favour of the German ship is the evidence of the third officer of the "Oceana" that he first saw the "Pisagua's" green light two miles away, that it was a good light, that it never varied in brilliancy, either before or after the blue flare was shown, and that the gong was struck to indicate its presence on the port bow of the "Oceana" both before and after the flare-up. The quartermaster Morris corroborates the third officer that the light was a good light, which did not vary in brightness, and that the gong was struck immediately it was perceived from the fore-castle. He estimated the distance at from three-quarters of a mile to a mile; but admitted that it was the merest guess. The lascar lookout bore out the evidence of the third officer and of the quartermaster.

On the point of the alleged starboarding of the "Pisagua," Mr. Naylor has the full support of Mr. Newman, the supernumerary second officer, who says: "She appeared to be opening her starboard side out." Here, again, the evidence from the German ship is supported by Mr. Lilley, who said the bearing of the green light did not alter from the time he first saw it until the collision.

In addition to the divergencies between the story of the chief officer and that told by the German officers there are the points at issue between the chief officer and the pilot as to the time and effect of their respective orders, and the smaller point at issue between the man at the wheel and the chief officer as to whether his first order was "port" or "port five degrees." The supernumerary second officer supports the chief officer's version, the quartermaster standing by supports that of the steersman. The Court accepts the chief officer's statement. It seems more in accordance with the vacillating policy he seems to have adopted. If, as the helmsman says, he had not time

to bring the ship's head five degrees to starboard before he received the pilot's order, the practical result of the order "port five degrees" was the same as if it had been simply "port." The pilot's account of what happened is as follows:—

Q. "Now, after you had been in the chart room for some time, what called your attention?

A. "By the order given to port five degrees.

Q. "Did you go out immediately?

A. "Yes.

Q. "What did you do?

A. "I asked him what the helm was ported five degrees for, and I was told for a light on the port bow.

Q. "And then?

A. "I had a look at the light, and, while looking at it, I made out a large green light, and I immediately gave the order to hard-a-port the helm, or, rather, port and then hard-a-port. Those were the exact words I used.

Q. "When you saw this green light, was it a good green light?

A. "A big green light.

Q. "Anything wrong with it, as far as you could see?

A. "No, not as far as I could see, only that it was close to us.

Q. "Why did you not starboard?

A. "Well, the ship was on the touch of the port helm to port five degrees, and, from the position of the ship, it appeared to me that to keep the helm hard-a-port was the only thing to do.

Q. "Why did you not stop or reverse her?

A. "There was not time for anything.

Q. "Now, what was the next thing?

A. "I would like to say that giving the helm hard-a-port, stopping the ship would stop her from coming round very considerably. I was trusting to her speed to come round sharp on her port helm.

Q. "You wanted to run up alongside of her, if you could?

A. "I wanted to keep clear of her.

Q. "And what was the next thing that happened?

A. "The collision.

Q. "What distance do you think the green light was when you saw it?

A. "I should not like to say; it was close.

Q. "Well, you see, we do not know what your idea of close is, Mr. Penny.

A. "Well, it was not half-a-mile, not according to my judgment.

Q. "Have you any idea of the time from the time you came out and saw the light till the collision?

A. "It was very quick. I have no idea of the time.

Q. "Did you ask your questions and give your orders as fast as you could after you came out from the chart room, one after the other?

A. "Yes.

Q. "No interval between?

A. "No.

Q. "And how much do you think the ship went off, under the helm, after you gave the order?

A. "Very little.

Q. "Have you any idea?

A. "No.

Q. "Was it much or little?

A. "Little.

Q. "A point, or two points?

A. "Barely.

Q. "Barely two?

A. "I do not believe she went two points."

There is here a clear statement of the shortness of the interval between the chief officer's order to port five degrees and the pilot's order hard-a-port, and between the latter and the collision; and there is also

indicated a method of checking this statement, i.e., that the ship had not swung two points on the port helm when the collision occurred.

As to the statement itself, the pilot was emphatic. In answer to the Court he said as follows:—

Q. "When you first saw the "Pisagua," did you think the collision was inevitable?

A. "I did. I could not see anything to stop a collision.

Q. "Then you gave your order hard-a-port to minimise the result as much as possible?

A. "I thought there might be a chance of doing something, but I could see that there was a collision to take place.

Q. "And you thought that hard-a-port would in all probability render it as little harmful as possible?

A. "Yes.

Q. "And that was your opinion at the time, and is that your opinion at the present moment?

A. "That is my opinion now."

If the statement is accurate that the "Oceana" only paid off between one and two points, the pilot's account is amply confirmed. The master said that the ship would swing about a point and a half under port helm in three-quarters of a minute, and he put the time between his hearing the order hard-a-port and the collision, at from ten seconds to half a minute at the most. Smith, the helmsman, a most intelligent witness, and evidently a steady seaman, said that he did not suppose she went off more than a point and a half, from the time the first order to port was given, till the moment of impact. Captain Dahn said, "Shortly after we burned the blue flare she deviated slightly to her starboard side. Shortly after that she suddenly deviated more to starboard. It was only for a short moment. Then the collision happened."

From the evidence the Court is satisfied that the orders followed each other rapidly, and that the collision happened almost immediately after the order hard-a-port. The pilot, in giving that order, was influenced by his knowing that the ship had a swing on to port, and that no order to starboard could then have averted the collision, which was, indeed, inevitable.

The chief officer alleges that, after the collision, the pilot took hold of his hands and said, "I am awfully sorry for you, old chap, this is all my doing. I took the cue from you." The pilot was unable to deny having used the words, his mind being, apparently, a blank as to what did happen immediately after the collision. Indeed, it was obvious he was suffering considerably from shock when he came before the Court. It may very well be that, seeing the chief officer's distress, he did make use of some words to suggest that he would take the responsibility. He seems subsequently to have made some remark to the supernumerary second officer that he would accept the blame. Whether he did use such words or not is really immaterial.

The evidence reveals no excuse for the chief officer's order. The Court was reluctant to deal with his certificate, on account of his long service and good character, but felt it absolutely necessary to mark its sense of his bad seamanship.

The Damage done to the Ships.

The "Oceana" was struck on the port bow, about 18 feet before the foremast, and, apparently, at an angle of from four to five points with the keel. Her plating was torn away for about 30 feet, and all her boats on the port side, with the exception of No. 10, on the poop, were carried away. The cabins in the vicinity of the blow were wrecked. The carpenter, who was in his bunk in one of them, was pinned by the leg against the side of the bunk, and so seriously injured that his leg had eventually to be amputated.

The supernumerary second officer, who was sent by the master to ascertain the damage, observed from the main deck that the tops of the waves were breaking in through the rent in the ship's side. This officer was ordered to sound No. 1 hold, by the captain, and a quarter of an hour after the collision found 14 feet in it. Twenty minutes later he found 22 feet, and later, 33 feet. The engine room and stokehold were reported dry by the chief engineer 20 minutes before leaving the ship (about $3\frac{1}{2}$ hours after the

collision). At 7.30 a.m. the ship was stated to have had a list of nine degrees to starboard.

Mr. Blackett, marine surveyor, who was called for the Company, gave his opinion that the proximate cause of the "Oceana" foundering was the collapse of the two bulkheads abaft No. 2 hold, which formed the athwartship bunker. The Court is unable to accept this view; in the first place, because the whole trend of Mr. Blackett's evidence on the question of bulkheads was to show that he considered them unreliable when subjected to a pressure of water on one side; and secondly, because there was nothing to indicate that these bulkheads did, in fact, give way. The Court considers it more probable that the filling of the compartments abaft No. 1 was due to the water finding its way gradually up through the hatches of No. 1 and down through the hatches abaft them. This gradual filling is borne out by the time which elapsed before foundering.

According to the evidence of Mr. Blackett, who examined the "Pisagua" after the collision, at Dover, and who produced a plan based upon his measurements, that ship struck the "Oceana" with her port bow, at an angle of about 53 degrees with the former's keel, crushing back her own bow 17 feet, the damage extending to well to starboard of her stem, and laying bare the collision bulkhead to well below the water line. The bowsprit was bent back to port. The collision bulkhead, though bared to the sea, remained practically intact. It was shored up from abaft, and was carefully watched. In this condition the "Pisagua" was eventually towed into Dover harbour.

Steps taken to Save Life.

When the vessels had drifted clear of each other, both the master and chief officer became possessed by the idea that the "Oceana" was sinking rapidly, and, with this thought in his mind, the master gave the order, concerning the passengers and the boats, which was misunderstood or wrongly interpreted by the chief officer, the evidence as to which is set out in the answer to Question 11.

The chief officer got the No. 1 lifeboat lowered from the hurricane deck to the spar deck. Passengers were then put into her, and two able seamen, Chantler and Carter, were in charge. The chief officer said that at this time the ship was stopped and had no way on. He says that after the boat was lowered, he hailed the man in charge to know if they were alright, and that he got the answer, "Yes." Chantler and Carter denied this, and said they were not hailed by the chief officer at any time.

There was no officer in No. 1 lifeboat, and only one Lascar seaman. Therefore, even in this first boat the system failed, as neither of the two English seamen rightly belonged to this boat. On reaching the water the boat, almost at once, took a sheer outwards from the ship's side. The after fall was let go, but no painter had been passed forward, and the forward fall jammed. There is no doubt at all that at this time the "Oceana" had considerable way on. Almost immediately the boat capsized. Had she been handled properly, with a painter fast inboard, this would probably not have occurred, although it was a risky manoeuvre to put the boat in the water whilst the "Oceana" was going ahead at such a speed. All the passengers and crew, with the exception of Miss Macfarlane and the two white seamen, were washed out of the boat, and were not seen again. A list of those thus lost is appended to this report. The seaman Carter climbed up the fall, and the other man, Chantler, managed to get aboard the "Oceana," by a rope's end, when the submerged boat sheered towards the ship's side again. He left Miss Macfarlane in the boat in a semi-conscious state, and even when he got aboard the ship he never reported the position of this lady to anyone. The Court strongly condemns this conduct.

In coming to the conclusions as to the vessel's speed at the time this boat capsized, and, in fact, as to the whole of the movements of the engines after the collision, the Court accepted generally the times and orders as given in evidence by the engineers:—

Collision occurred at 3.50 a.m.

Stand by, 3.51 a.m.

Stop, 3.52 a.m.

(Full) ahead, 3.54 a.m.

Stop, 3.58/59 a.m.

(Full) astern, 3.59 a.m.

Stop, 4.2 a.m.

The engines were never used again after the order at 4.2 a.m.

According to the chief officer's evidence, the first intimation that he had of the accident to No. 1 lifeboat was when he was going towards the cutter to see her ready for lowering. Then he noticed the capsized boat being dragged through the water. The evidence as to the events at this point was very conflicting, but it appears that the chief officer at once reported the accident to the master on the bridge. The master asked what steps were being taken to pick up the people in the water, and the chief officer told him that he was sending away the cutter in charge of the third mate. This seems to have satisfied the master, for beyond giving an order for the cutter to search for the "people in the water," he did not then or afterwards give any further order or make any enquiries as to the fate of these unfortunate persons until he got on board the "Alert." The chief officer returned to the cutter and found her lowered to the rail, the third mate in charge, with certain members of the crew and a number of passengers in her. He stopped the lowering of the boat until, as he said, "the way was off the ship." As this was some few minutes the Court was unable to understand how it was he failed to appreciate that the cutter was not in a proper condition to act as a rescue boat. The full capacity of the boat was 25 persons, and at this time there were 17 people in her. It was setting her an impossible task to order her away to pick up 17 more, nor was there a necessity for this, as Nos. 3 and 5 lifeboats were by this time ready for lowering. In fact, No. 3 was put into the water within a few minutes. To return to the cutter; she was cleared of the falls and, after getting clear, it was noticed that a lady was clinging to the submerged No. 1 boat. This proved to be Miss Macfarlane. The boat was pulled towards her and she was taken on board. Beyond rowing about for about five minutes near the ship, no further action was taken by the third mate towards picking up the drowning people. He shortly after gave orders to pull away towards Beachy Head. His explanation was, that he thought other boats would be sent to rescue them, but the Court blames him for making such very slight attempts to save anyone, and also for pulling to the shore without orders to do so. About this time the cutter started to leak badly, and recourse was had to caps and boots for baling purposes, until the proper baler was found. About two hours after leaving the "Oceana" the Eastbourne lifeboat came up with the cutter, took everyone off and cast her adrift, as by this time she was about half full of water, and the general opinion was that she would not have remained afloat much longer. The lifeboat landed these people at Eastbourne.

Very shortly after the cutter had been despatched the No. 3 lifeboat was put into the water in charge of Quintrell, A.B., and a crew of lascar seamen. There seems to have been no reason why this boat was not sent away in search of the people in the water. In fact the chief officer said that he did give Quintrell orders to this effect. But the man, in court, denied ever receiving such orders. The Court accepted Quintrell's statement. There was nothing to prevent his carrying out such an order. He had a proper crew, the weather and sea conditions were favourable. Having no order he remained alongside some 30 or 40 minutes. The chief officer should certainly have ordered this boat away at once and should have seen his order was understood and put into execution.

Before leaving this most painful feature of the whole occurrence, the failure to take proper and adequate measures to pick up the persons thrown into the water, it should be remarked that no use was made of the lifebuoys fitted with lights. This was an occasion when one of these buoys would have been especially useful.

The next boat to be lowered was the No. 5, and then came the trouble with No. 7 boat. It appears that the second class passengers were roused up after the collision by a steward and were then left to their own devices for a considerable time. This was probably in part due to the fact that the purser had gone away in the accident boat. Neither an officer nor white seaman went to assist in handling this No. 7 boat until some 40 minutes after it was put into the water.

Two of the passengers, Captains Porter and Little, assisted their fellow passengers into the boat and it was lowered by lascar seamen. After lying alongside for about 40 minutes two European seamen appeared, and got into the boat. It was then pulled away for the "Sussex," which by this time had appeared on the scene. One of the white seamen had sustained an injured arm, and the necessary rowing was done by Lascars and passengers. This boat got alongside the "Sussex," and all on board were transferred to that steamer. The "Sussex" then lowered one of her own boats, and brought off from the "Oceana" more members of the crew. When another of the "Oceana's" lifeboats came alongside she was manned for another trip by men belonging to the "Sussex." By this means, and also by the aid of a motor boat from Newhaven, most of the remaining members of the crew were transferred to the "Sussex."

The master, pilot, several of the officers and other European members of the crew finally left the ship about 7.20 a.m. in No. 10 lifeboat, and went on board the tug "Alert," after they had made fast the tow ropes on the "Oceana."

Steps to save the ship.

After the collision the "Oceana" was headed towards the land, and the engines were finally stopped shortly after 4 o'clock. The soundings taken by the supernumerary second officer a quarter of an hour after the collision in No. 1 hold of 14 feet, followed by later ones of 22 and 33 feet, indicated that this hold was rapidly filling. No soundings in No. 2 hold were taken, nor was any attempt made to do so until some time had elapsed. Then it was found that the water was up to the cap of the sounding tube on the main deck, and it was not removed. The Court considers that this omission to ascertain the amount of water, if any, in No. 2 hold was a matter of moment. With a little exercise of ingenuity some means could have been devised for obtaining this sounding. Had it been ascertained that, as the Court is inclined to believe, the water was but slowly leaking into that hold either from No. 1 hold or from damaged side plates, the use of both pumps on No. 2 hold might conceivably have kept the ship afloat, long enough to have reached a port, or at any rate for some considerably longer time than was the case. As it was, the pump on No. 1 hold with its large rent was performing useless work.

The watertight doors below were closed by the engineers; those in the "passenger deck" were closed under the direction of the chief steward. He was unable to reach the foremost door on the port side owing to the wreckage of the cabins obstructing the way.

After the collision rockets were fired from the bridge of the "Oceana," and in response to these signals the Newhaven steamer "Sussex," bound from Dieppe to Newhaven, bore down and reached the scene of the accident at 5.15 a.m., standing by on the "Oceana's" starboard side and near her for about three and a half hours. She took most of the crew and passengers on board. At 5.45 a.m. the steamship "Queensgarth," having also seen the signals of distress, appeared on the scene. The "Queensgarth," of Liverpool, was a screw steamer of 1,007.25 tons register. Her indicated horse-power was 1,450, giving her a speed of 10½ knots. She was on a voyage from Southampton to Shields, and, being in water ballast, had a draught of 14 feet 3 inches aft and 9 feet 2 inches forward. She was commanded by Mr. H. Adams. On closing the "Oceana" he was hailed by the megaphone, presumably by the captain, and asked if she would tow the vessel to Dover. The captain of the "Queensgarth" replied, "Certainly." Captain Hide then requested the "Queensgarth" to go to windward and fetch one of his boats, a mile and a half away. The "Queensgarth" steered for this boat, but finding she was more or less broken up, returned to the "Oceana" at about 6 a.m. with the intention of taking her in tow when she had transferred her passengers to the "Sussex," as arranged on first closing her. At about 6.30 a.m. the tug "Alert" arrived on the scene, and passed a tow line to the "Oceana's" poop, where it was secured. The "Queensgarth" then backed in close to the "Oceana's" stern, and offered to throw a line on board, but it was refused. The "Queensgarth" then passed two manilla 6-inch ropes to the "Alert's"

bow, at about 7.15 a.m., and began to tow in conjunction with the "Alert." The ropes parted. They then hauled in and made fast a good 7-inch rope from the "Alert"; that also parted. It was now about 9.15 a.m. The "Alert" went on towing alone until the "Oceana" sank at about 10 a.m., about one and a quarter to two miles to the westward of the "Royal Sovereign" shoal, and about 12 miles to the eastward of the place of collision. From the evidence of the captain of the "Oceana," confirmed by a calculation made by the Court, the distance covered through the water by towing amounted to about three and a quarter miles, the remaining eight and three quarter miles (making in all 12 miles, the distance from the position at the collision to that of foundering) being due to the set of the flood tide. The master of the "Oceana" asserts that his reasons for not at once accepting the services of the "Queensgarth" were that in the first place she was in light draft and had no proper facilities for towing, and secondly that a regular tug, the "Alert," was available. The master, although at first inclined to tow inshore, yielded to the advice of the pilot and decided to make for Dover. The chief officer on the other hand twice suggested to the master that they should make direct for the shore, and there is little doubt that the vessel would have been successfully beached at nearly high water in a fairly sheltered position, where, with a rise and fall of tide of from 15 to 20 feet, there would (weather permitting) have been a fairly reasonable chance of her ultimate salvage. The chief engineer stated that he would have been quite willing to have remained in the engine room with his subordinates to work the engines in conjunction with the towing vessels. He considered that the two bulkheads before the stokehold, enclosing the partly filled cross bunker, and the watertight doors of which he had had closed, were extremely unlikely to give way. Even if the water had found its way along the decks to the engine room, it would have been a gradual process, and other pumps could have been used to keep it under.

The "Oceana" eventually sank at 10 a.m., about two miles to the westward of the "Royal Sovereign" in about 12 fathoms of water. A witness, master of the motor launch "Britannia," of Eastbourne, who was lying 150 yards off her at the time, said, "She went down very gently. Her bow went down and she had a list to starboard before she sank. She went down, I should say, with her bow on the bottom, and she settled down."

At the conclusion of the case for the Board of Trade the questions were read, witnesses were called for the owners, and counsel addressed the Court.

An application was made by Mr. Hayward, Mr. Dumas, and Mr. Lewis, that the owners should be ordered to pay their client's costs. This was resisted by Mr. Aspinall, both on the merits of the case, and on the grounds that the Court had no jurisdiction to make an order for the payment of costs, other than by a party to the Board of Trade, or by the Board of Trade to a party, the only cases provided for by the form annexed to the Shipping Casualties Rules; and that the Peninsular and Oriental Company, not having been served by the Board of Trade with a notice of investigation, were in no sense a party upon whom an order for costs could in any circumstances be made. It was admitted, however, that the company was a party appearing by leave of the Court under Rule 5.

The following wreck reports were placed before the Court for its information, by the Board of Trade:—

The "Furius."—Judgment in this case was given by the Wreck Commissioner on the 11th of February, 1886. The owner of the "Furius" was ordered to pay costs to one of the underwriters who had appeared by counsel (and also to the Board of Trade), on the ground that the refusal of the owner to give information as to the cost of the ship and other relevant matters had unnecessarily prolonged the enquiry. This decision was given on Section 436 of the Merchant Shipping Act, 1854 (repealed), and Rule 21 of the Shipping Casualties Rules, 1878. The section enacted, "The said justices or magistrate may make such order with respect to the costs of any such investigation or any portion thereof as they or he may deem just . . .," and the Rule laid down, "The judge may, if he thinks fit, order the costs and expenses of the proceedings, or any part thereof, to be paid by either the Board of Trade, or by any other

party to the proceedings." These provisions are practically identical with the existing law, Section 466 (8) of the Merchant Shipping Act, 1894, and Rule 16 of the Shipping Casualties Rules, 1907. The form of order is the same in both sets of rules, but the existing Rule, unlike that of 1878, provides for "such variations as circumstances may require."

The "Shamrock" and "Marchioness of Bute."—Judgment dated 15th April, 1909, by the Sheriff Substitute of Forfarshire. In this case, the owners, who were not made parties by the Board, but appeared by leave of the Court, were ordered to pay costs to the Board of Trade.

The "Alice" and "Melissa."—Judgment dated 15th November, 1910, by the Chief Divisional Police Magistrate, Dublin. Here the parties in default were ordered to pay costs to the Board of Trade, which in turn was ordered to pay the same amount to the parties absolved from blame.

The Court made no order against the Peninsular and Oriental Company, for reasons stated in its judgment (see *post*).

Questions.

1. At or about 3.45 a.m. on the 16th March last, were the sailing ship "Pisagua" and the steamship "Oceana" proceeding in such directions as to involve risk of collision within the meaning of Article 20 of the Regulations for Preventing Collisions at Sea? If so:—

(a) Did the "Oceana" take proper steps to keep out of the way, and, if the circumstances of the case admitted, avoid crossing ahead of the other ship, and, if necessary, slacken her speed or stop or reverse as required by Articles 20, 22, and 23 of the said Regulations? Did she comply with Article 28 of the said Regulations?

(b) Did the "Pisagua" exhibit the lights required by Article 5, and did she keep her course and speed, or otherwise comply with the provisions of Articles 21, 27, and 29 of the said Regulations?

2. Was a good and proper look-out kept on board both vessels?

3. Were both vessels navigated with proper and seamanlike care?

4. What was the cause of the collision of the steamship "Oceana" with the sailing ship "Pisagua"?

5. Did the loss of the "Oceana" occur as a direct consequence of the collision or in consequence of some other cause?

6. Was the steamship "Oceana" supplied with proper boats and life-saving appliances? Were they in good order and condition and fit and ready for use?

7. Were the means and apparatus existing on board the "Oceana" for getting out and lowering the boats adequate, and were they in good working order?

8. Were the arrangements for manning and getting out the boats of the steamship "Oceana" in time of emergency proper and sufficient? Did the members of the crew know their respective boat stations? Was proper supervision exercised to see that each boat had its allotted crew?

9. After the collision between the steamship "Oceana" and the sailing ship "Pisagua," were prompt and proper measures taken by the master and officers of the steamship "Oceana" for the safety of the passengers?

10. Were the boats sent away in good and seaworthy condition and properly manned and equipped?

11. What was the cause of the capsizing of No. 1 starboard lifeboat and the loss of life? Were prompt and proper measures taken to render assistance?

12. Were all proper steps taken after the collision to prevent the loss of the steamship "Oceana"?

13. Was the loss of the steamship "Oceana" caused by the wrongful act or default of the master, pilot, chief officer, supernumerary second officer, and third officer, or of any of them?

14. Was the loss of life caused by the wrongful act or default of the master, chief officer, and third officer, or of any of them?

Answers.

1. At about 3.45 a.m. on the 16th of March last, the sailing ship "Pisagua" and the steamship "Oceana" were proceeding in such directions as to involve risk of collision within the meaning of Article 20 of the Regulations for Preventing Collisions at Sea. That being so:—

(a) The "Oceana" did not take proper steps to keep out of the way of the "Pisagua," but attempted to cross ahead of her. She neither slackened speed, stopped, nor reversed. Had she altered her course to pass starboard to starboard, these evolutions would not have been required, and if they had been carried out at the time the helm was actually ported to cross the bows of the sailing vessel, the collision would not have been averted.

The "Oceana" failed to make the sound signal required by Article 28 of the Regulations.

(b) The "Pisagua" did exhibit the lights required by Article 5, and, in addition, in order to attract attention, showed a flare-up light, as allowed by Article 12.

The weight of evidence is to the effect that the "Pisagua" kept her course and speed, but, if the respective courses and bearings were as stated either by those on the "Oceana" or by those on the "Pisagua," the Court fails to see how the collision could have occurred, and can only assume that there is some considerable inaccuracy in either or both of those statements.

No departure from the rules on the part of the "Pisagua," within the meaning of Article 27, was necessary, and there was no neglect upon her part, within the meaning of Article 29.

2. A good and proper look-out was kept on board the "Pisagua." A good and proper look-out was kept from the fore-castle-head of the "Oceana," but not by the chief officer and the supernumerary second officer on her bridge.

3. The "Pisagua" was, the "Oceana" was not, navigated with proper and seamanlike care.

4. The collision was caused by the "Oceana" wrongfully attempting to cross the bows of the "Pisagua."

5. The loss of the "Oceana" was a direct consequence of the collision, but, in so answering this question, the Court does not wish it to be inferred that, although she was most seriously damaged, it was not possible to beach the ship in some fairly sheltered position to the eastward of Beachy Head, with a view to ultimate salvage.

The Court, in this connexion, directs attention to its answer to the twelfth question.

6. The Court will divide its answer into four parts, dealing first with boats, secondly with boat equipment, thirdly with lifejackets, and fourthly with life-buoys.

Boats.

The "Oceana" carried boats considerably in excess of the Board of Trade requirements, both as to number and class. They gave accommodation for the total number of passengers and crew allowed to be carried; and those which remained after the collision were sufficient for all the persons actually on board. All the boats, save the starboard cutter (the accident boat), were in good condition, and all were ready for use. The evidence shows clearly that the starboard cutter leaked badly.

At Tilbury, before the voyage commenced, the boats were inspected by two Board of Trade surveyors, one of whom was an engineer surveyor, and the other a ship and engineer surveyor; neither of them, by profession, was acquainted with the practical handling of boats.

The Court does not consider the inspection was adequate. Six boats were put into the water, one after the other, and the surveyor left immediately the last one was down. He must, in the case of several boats, have had the scantiest opportunity of observing whether they leaked or not. Mr. Harris explained his rather perfunctory inspection by saying that he thought he was sent to see the boats lowered,

and not to examine them at all. This was stated to be due to a misunderstanding between him and Mr. Campbell. It is much to be regretted that such a misunderstanding was possible.

There seems, to judge from the view put forward by Mr. Campbell that the life of a lifeboat well taken care of and kept dry would be more than thirty years, and from his statement that "the boats have been properly taken care of both inside and out," to be an assumption that the care which it is well known is generally exercised as to boats in the Peninsular and Oriental fleet, rather exempts the surveyors from exercising the searching supervision which is part of the tradition of Board of Trade officers. Such an assumption may well, in particular cases, prove dangerous.

While not expressing an opinion as to the period of time a boat remains serviceable, as build, material, and care of a boat must largely determine its life, the Court suggests that, when ships' boats reach a certain age, say 15 years, the examination of them should be more searching, with a view to detecting possible defects which may be covered by paint, or not noticeable under an ordinary examination, and that, as the age of the boat advances, the inspection should be correspondingly more frequent and minute.

Boat Equipment.

Rule 5 of the Life Saving Appliances Rules requires that all boats shall be provided with oars, plugs, thole-pins, sea anchor, baler, rudder and tiller or yoke, painter, boat-hook, and a vessel filled with fresh water. Four of the section (A) or section (B) boats must, in addition, have each:—two hatchets, attached by lanyards, mast and sail, a line becketted round the outside, a compass, oil for use in rough water, and a trimmed lantern with oil for eight hours.

The Court feels strongly that all lifeboats, and not merely four of them, should have all the outfit set out in Rules 5 and 6. Rule 6 says that "in order to be properly equipped" all boats of sections (A) and (B) shall have the additional equipment therein set out, and the Court is at a loss to understand why what is thus expressly declared to be proper equipment should be dispensed with for some boats. It would be small consolation for people adrift in the fifth or sixth boat to know that four other boats had been properly equipped, especially if the four other boats had been destroyed.

The Court trusts that, when the Rules are under revision, this matter will be dealt with.

The inadequacy of the provision made by the Rules is evidently patent to the Peninsular and Oriental Company, for the ideal aimed at by their servants seems to be the complete equipment of all boats with necessary appliances. There was, however, an absence of axes in the boats of the "Oceana." It appeared that the apprehension of having them stolen when in port has led to a practice of not keeping them in the boats. In the present case, this was most unfortunate. It is highly probable that, had an axe been at hand, No. 1 lifeboat might have been cut adrift in time to prevent her overturning. Rule 6 of the Life Saving Appliances Rules says that the axes are to be kept one in each end of the boat attached by a lanyard. A literal compliance with this rule is essential. If there is danger of the axes being stolen when in port, they should be removed immediately upon arrival, and replaced when the ship leaves port.

The Court considers the Board's surveyors ought not to have passed the boats of the "Oceana" without observing this breach of Rule 6.

Lamps were placed each evening in the two emergency boats only, the remainder being kept, ready trimmed, in the lamp room. The Court, while appreciating the convenience of this method, thinks that here too the rule ought to be literally observed. The same remark applies to compasses.

Lifejackets.

The ship was furnished with 562 lifejackets, those for the crew being in boxes on the upper deck, and those for the passengers on racks in the cabins. These were sufficient, and there is no reason, save the fact of the tapes of one jacket breaking, to suppose they were in other than good condition.

Captain Porter found that he had put on his life-

jacket wrongly. More serious than this, as evidencing a want of instruction in a person who should have known exactly what to do, was the fact that a steward tied Miss Thurlow's lifejacket around her body without placing the tape over her head, the effect of which would have been to turn her face downward in the water had she unfortunately been thrown into the sea. The Court feels very strongly on this matter. It is nothing less than tragic that an appliance designed to save life should sometimes, by misapplication, be the occasion of its loss. The name of such an article may seem a small matter, provided the article is itself good and efficient, and it may, by some, be deemed pedantic to press for a change from the term "lifebelt" to the term "lifejacket," but the Court is satisfied from its own experience and that of others, that the word "belt" has sometimes been responsible for the appliance being placed around the waist. In connection with this the Court cannot do better than quote from its own report in the case of the "Eastern Counties" (report dated 11th January, 1912):—

"The impression on the minds of the uninstructed is that the belt, like most articles bearing that name, is something to be placed around the waist, the consequence being that they are found floating with their faces in the water. Some unfortunates have even thought a lifebuoy to be the belt which is to go around the waist, the effect of placing it so being to turn them head downwards. Were the alternative term "lifejacket" always used, this source of mistake would be eliminated, and the Board of Trade might consider whether a beginning could not well be made by using the term officially. The Court observes that the term "lifebelt" occurs in the Life-Saving Appliances Rules, 1902, and it is no doubt copied extensively therefrom.

"The Court suggests, further, that a useful method of informing the minds of seafarers as to the proper method of adjusting lifejackets would be to put up in a conspicuous part of the ship an illustration of the way the lifejacket should be put on and fastened. Illustrations of the manner of using the rocket apparatus are already exhibited in this way and form part of the 'Official Notices' issued to shipmasters, and attached to their official log books."

It is to be noted that the term "lifejacket" is used in the Merchant Shipping Act, 1894, Section 427.

The Court recommends that the suggested illustration of the method of adjusting the lifejacket should, in passenger ships, also be placed in the cabins, and that, if possible, passengers should be instructed, by actual practice, how properly to wear the appliance.

Lifebuoys.

There were 17 lifebuoys carried on the ship. These were ranged around the rails of the bridge, the hurricane deck, and the poop deck. Four were fitted with lights; of these two were on the poop, and two were on the navigation bridge.

Some of the crew were, and some were not, conversant with the method of dealing with these buoys to ensure illumination upon their reaching the water, but none had received instruction in the matter. It is most desirable that things like this should not be left to chance. Some of the men will have the intelligent curiosity to examine the appliance, but others will not trouble to do so unless their attention is expressly drawn to it.

To summarise the foregoing:—All boats save one were in good condition. They were sufficient and ready for use. All the other life-saving appliances were sufficient, in good condition, and fit and ready for use.

7. The means and apparatus existing on board the "Oceana" for getting out and lowering the boats were adequate and in good working order.

8. The arrangements for getting out the boats of the "Oceana" in an emergency were proper and sufficient. The arrangements for manning them were, having regard to the crew, proper, but not sufficient. In the Court's opinion there should be at least two white men, skilled in boat handling, in each boat, when lowered. Among other advantages this would give increased confidence to passengers. The "Oceana" carried 19 officers and white seamen, a number not

sufficient to meet this requirement. But the total of the white crew was 67, and the difficulty might be met by instructing members of the crew, other than seamen, in handling boats.

The evidence is that most of the crew knew their boat stations.

Proper supervision was exercised in allotting crews to the boats at the commencement of the voyage, but there was a failure to see that each boat sent away after the collision had its allotted crew.

9. After the collision certain measures were taken by the master and officers for the safety of the passengers, but those measures, although promptly started, were not promptly carried out. The measures taken to assist the second-class passengers were especially dilatory. No. 7 boat, on the poop, in which most of them were accommodated, was lowered with only two lascar members of the crew in her. She waited at the gangway some 40 minutes before any white seamen came into her, and she was eventually pulled to the "Sussex" with the assistance of passengers. In this connection the Court specially commends the readiness with which Captains Porter and Little made themselves useful in difficult circumstances.

The purser was responsible for assembling the passengers for embarkation in the boats, and yet he took upon himself to go away in the accident boat without orders. He stated that he acted upon the impulse of the moment, being moved by seeing people from the overturned boat in the water, and by a remark from the third officer that he was short-handed. The Court is of opinion that, in leaving his special, and, at this time, most important duties, he committed a serious fault. His absence probably explains the regrettable lack of attention paid to the second-class passengers.

10. The Court is of opinion that all the boats save the cutter were sent away in good and seaworthy condition. Upon the condition of the cutter and the equipment of the boats, the Court refers to its answer to question 6. Several of the boats were not properly manned.

11. The causes of the capsizing of No. 1 lifeboat were, the lowering of the boat into the water, without a painter being made fast inboard, whilst the "Oceana" was going ahead, the inability to detach the forward fall when the boat reached the water, and the boat sheering out at an angle of about 30 degrees from the ship and being swamped, the swamping being the immediate cause of the loss of life.

The premature lowering of the boat was due to misunderstandings between the master and chief officer. The former stated in evidence that his orders to the chief officer were, "Get all hands on deck, get the boats swung out, and the people into them as soon as possible." On the other hand, the chief officer said that the orders he received from the master were, "Clear away the boats, get everybody on deck, and get the passengers out of the ship as soon as possible." The Court accepts the master's version of the orders.

Acting on the assumption that the orders he received amounted to an instruction to put the boats into the water, the chief officer proceeded to lower the boat. He had heard the master give the order to stop the engines, and did not know that subsequent evolutions of the engines would be ordered. The master did subsequently order the engines to be put ahead, and, as events showed, it would have been better for him to have advised the chief officer of this order. On the other hand, he had the right to expect that the chief officer would not put the boat into the water without a positive order, and it must have been obvious to the latter that the way was not off the ship when the boat was being lowered.

The measures taken by those on the "Oceana" to render assistance to the people thrown out of No. 1 lifeboat were quite inadequate. Some lifebuoys were thrown by Carter, who scrambled on board again from her. One Holmes light was said to have been thrown from the bridge some time after the accident, but it appears that no buoy was attached to this light. There is no evidence of this light having been seen, or of any lighted buoy having been thrown overboard. It is deeply to be regretted that one or more lighted buoys were not thrown directly the accident occurred. The ship was provided with four of these most important and useful life-saving appliances, but no officer or man near or about the scene of the accident seems

to have thought of using them. Had even one been dropped alight, the vicinity of the drowning people would have been indicated, and the rescue of some at least, if not of all, practically assured.

The accident boat was lowered by order of the chief officer, and the third officer was put in charge of her, but, before she reached the water, 17 persons, members of the crew and passengers, were in her. As a rescue boat, intended to pick up another 17 people, she was therefore practically useless, not only because her full capacity was only 25 persons, but because the large number of persons already in her would considerably hamper the rowers.

The evidence was conflicting as to the orders given to the third officer, but he was certainly in fault for not making any real attempt to rescue the people, other than Miss Macfarlane, and also for pulling away from the ship towards the land, without orders to do so. It was his duty to have called the attention of his superior officers to the fact that his boat was nearly full, and could only take six or seven more people with safety, and later, when he found his boat difficult to manage and beginning to leak, he certainly should have hailed the ship and made it quite clear he could not undertake the work of rescue.

It is difficult to understand how it was that the chief officer did not realise the loaded state of the intended rescue boat. He was superintending the lowering of the boat, he remained by her some few minutes, and should therefore have known that she was not in a fit condition to pick up 17 people. He admitted indeed that he knew 15 persons were in her. Knowing that, he should have sent away another boat on this errand. In fact No. 3 lifeboat was lowered very shortly afterwards with a proper crew, but remained alongside the ship about 50 minutes. No. 5 was also available. The chief officer states that he gave the quartermaster in charge of No. 3 instructions to pull astern and look for people in the water. Quintrell, the quartermaster, however, denies receiving such orders. The Court prefers to trust the recollection of the latter on this point, as he had nothing else to attend to, and consequently nothing to confuse his memory of what occurred.

The Court strongly condemns the action of quartermaster Chantler in leaving Miss Macfarlane in the waterlogged boat, and neglecting to report her position to anyone on board after he had himself climbed into safety.

The Court considers the master greatly to blame for making no inquiry until much later, when he was on the "Alert," as to the fate of the people who had been thrown into the water. Had he done so, he might have learned enough to have caused him to give further, more effective, orders with regard to them. In point of fact he seems utterly to have forgotten these unfortunate persons.

12. The Court considers that proper steps were not taken to prevent the loss of the "Oceana," inasmuch as an attempt should have been made to beach her, with a view to subsequent salvage. It is to be regretted that the master did not consult the chief officer and the chief engineer as to the advisability of making that attempt, and as to the time the ship was likely to remain afloat. In his decision to abandon her and go on board the "Alert," on the latter beginning to tow, he was not unnaturally dominated by the wish to avoid any risk to members of the crew, through the ship sinking suddenly; in his determination to tow to Dover he was largely influenced by the opinion of the pilot. It is in evidence that the chief officer twice suggested to the master towing towards the shore, and the master of the "Alert" also advised this course. It is also clear that the chief and second engineers were quite willing to remain on board and work the engines, and apprehended no immediate danger to life in doing so. The engine room and stokehold were dry and intact shortly before the ship was abandoned, and the fore part of the stokehold was well protected by the two bulkheads of the athwartship bunker, partly filled with coal.

With these facts in mind, the Court is of opinion that, had the proffered services of the "Queensgarth" been accepted, and fully used, directly the safety of the remaining passengers and crew had been assured, the engines of the "Oceana" being also utilized, the ship could have been beached immediately to the eastward of Beachy Head.

It is just to the master to say that, although the Court does not approve his decision, yet it is satisfied that he applied his mind to the problem before him, and arrived at what he thought was a sound determination.

13. The "Oceana" was lost through the wrongful act of the chief officer, and not by the wrongful act or default of the master, pilot, supernumerary second officer, or third officer. The Court cannot, however, but condemn the pilot's action in suddenly assuming command at a critical moment, when he could not know what was in the chief officer's mind, but is satisfied from the evidence that the order the pilot gave in no way caused the collision.

14. The loss of life was caused by the error in judgment of the chief officer in lowering No. 1 lifeboat without a definite order from the master, by the omission of the master and chief officer to take adequate steps for the rescue of the persons thrown into the water, and by the failure of the third officer to make any sustained effort to save anyone but Miss Macfarlane.

Officers of the Peninsular and Oriental line, and the Company itself, could not complain if, with their long tradition and great reputation, they were judged by a higher standard than others. The Court has not done that, but has compared what happened in this case with what has been done in others, within its knowledge, where the difficulties were greater and the means of coping with them less. Further, allowance has been made for every mitigating circumstance which can fairly be urged on behalf of those concerned. But, after giving due weight to every consideration which has been presented in the course of the investigation, and making every allowance and qualification, the court is left with a feeling of disappointment and almost dismay, that the elaborate system built up by the Company through long years of experience in passenger traffic, should have failed at the moment of trial, in not particularly difficult circumstances. The measures taken to save life exhibited undue haste at their commencement, and yet were, on the whole, slow in execution. They were marred by misunderstanding and failure to observe rules. The deplorable result was the unnecessary loss of 17 lives. It remains with the Company's superintending officials to apply the lesson to be drawn from that loss. It is best summed up in the old maxim, "Practice makes perfect." If men are to act quickly and unitedly in an emergency they must know so well what they have to do that, at the moment of action, reflection is not required; and what they have to do should be reduced to the minimum. If the boats are kept fully equipped, necessary appliances will not be missing when sudden need for them arises. All this no doubt involves trouble, possibly some additional expense, and, with a new ship's company, may entail some slight delay at the commencement of a voyage, but if the confidence of the travelling public is to be retained, and it is presumably one of the chief assets of the passenger carrying lines, the trouble, expense, and delay will have to be faced.

The Lascars.

The Court feels it desirable to make some reference to a matter, which, though it does not arise directly out of the questions, has been animadverted upon during the progress of the case, namely, the conduct of the native members of the crew. These consisted of three classes:—

Lascar deck hands (*khalásis*),
Saloon hands, mostly Goanese stewards,
Engine-room crew.

The Court understands that the *khalásis* mostly come from the seaside towns north and south of Bombay, and are sailors by profession from their youth; that the stewards are largely Portuguese half-breeds from Goa; and that the firemen and greasers are a very mixed class, often including men of inland races. For them it is to be said they know practically nothing of the sea and sea life, beyond continuous existence in the engine room and stokehold of a ship.

The Court is satisfied, from the evidence of the officers and white crew, that the *khalásis* behaved quite well, and that, in this ship (and the Court's remarks, of course, have reference solely to this ship), they were efficient and disciplined. The Court is also

satisfied that the officers of the ship had observed the company's rule to make themselves conversant with Lascari. On the other hand, the quartermasters had to admit that their directions to a Lascar boat's crew would have to be given largely by signs, and this cannot be considered satisfactory in an emergency. Many of these quartermasters sail again and again in the Peninsular and Oriental Company's ships, they are of superior intelligence to the ordinary run of able seamen, and the Court is of opinion that, if their energies were stimulated by the prospect of some small extra reward, they would be equal to acquiring a working knowledge of the simple tongue used by the native seamen.

The unfavourable opinion of the *khalásis* formed by some of the passengers probably arose from their confusing the Goanese, who are not specially noted for their courage, with the Lascar seamen. In one case a Lascar was credited with an intention of scrambling first out of a boat, when, upon the testimony of the boatswain in charge, he was only endeavouring to get hold of the iron gangway of the "Sussex" to fend the boat off.

The engine-room hands were not brought into contact with the passengers, and there were no complaints against them. They seem to have stood patiently in the after-well deck until they were ordered out of the ship.

The lack of courage shown by the Goanese was, probably, partly a result of the ill-judged action of the purser in leaving his immediate charge and going in the accident boat, a step open to the worst construction by timid people.

Costs.

The Court has considered the application, made by counsel for the relatives of deceased passengers, that the owners of the "Oceana" should be required to pay the part of the costs of the investigation incurred by those relatives. The Court inclines to the opinion that such an order comes within the provisions of Section 466 (8) of the Merchant Shipping Act, 1894, and of Rule 16 of the Shipping Casualties Rules, but no decision is necessary on that point, as the Court makes no order in the matter. The whole of the circumstances were adequately presented by the Board of Trade, and while the part taken in the enquiry by Mr. Hayward, Mr. Dumas, and Mr. Lewis was quite proper and is fully appreciated by the Court, yet it cannot be said they were able to put forward any evidence or argument additional to those produced and used by the Board of Trade.

JOHN DICKINSON,

Judge.

We concur in the above Report.

ERNEST FLEET, }
C. B. GRAVES, } Assessors.
H. E. BATT, }

London,
25th June, 1912.

List of Lives Lost.

Lieut. C. J. Russell	...				
Mr. J. L. Macfarlane	...				
Captain E. V. Knox	...				
Rev. J. C. Leishman	...				
Mrs. Leishman and baby	...				
Miss Avern	...				
Wm. Tudenham	...			Deck Steward	...
J. N. de Benis	...			Barber	...
C. B. Mitchell	...			General Servant	...
Mrs. E. Newbury	...			Stewardess	...
J. Ismail	...			Lascar, Deck Hand	...
M. Bharam	...			Asiatic, Fireman	...
J. Continho	...			Steward	...
M. Pereira	...			General Servant	...
J. Gomes	...			General Servant	...
C. Colaco	...			Boy	...
					10
Total	...	...	...	...	17

(Issued in London by the Board of Trade on the 13th day of July, 1912.)