

(No. 2793.)

“HAYLE” (S.S.) AND “LEADER.”

The Merchant Shipping Acts, 1854 to 1876.

In the matter of a formal Investigation held at the Sheriff Court, Aberdeen, on the 5th, 6th, 7th, 11th, and 12th days of January 1886, before W. A. BROWN, Sheriff Substitute, of Aberdeen, Kincardine, and Banff, assisted by Captain KNOX, R.N., and Captains BEASLEY and WILSON, as Assessors, into the circumstances attending the loss of a schooner, name unknown, through collision with the British steamship “HAYLE,” of Aberdeen, off the Bell Rock, North Sea, on or about the 6th day of December 1885, whereby loss of life ensued.

Report of Court.

The Court, having carefully inquired into the circumstances attending the above-mentioned shipping casualty, finds, for the reasons stated in the annex hereto, that there was reasonable certainty upon the evidence that the vessel which was lost was the “Leader,” of Inverness, and that the collision was caused through the default of the mate who had charge of the watch in not having a proper look-out, and being himself absent from the bridge. The Court suspended the mate’s certificate for six months, and made no order as to costs. The Court recommends that a mate’s certificate should be granted to the mate, William Murray, who held a master’s certificate.

Dated this 12th day of January 1886.

(Signed) W. A. BROWN, Judge.

We concur in the above report.

(Signed) HENRY KNOX, Captain R.N., } Assessors.
THOS. BEASLEY,
R. WILSON, }

Annex to the Report.

The case was commenced within the Sheriff Court House, County Buildings, Aberdeen, on Tuesday the 5th of January 1886. Mr. Charles Duncan, Advocate, Procurator Fiscal, appeared for the Board of Trade; Mr. L. M’Kinnon, Yost., Advocate, Aberdeen, for the owners of the S.S. “Hayle;” Mr. J. B. Sutherland, S.S.C., Leith, for the master of the “Hayle;” Mr. John Stewart Watt, Solicitor, Aberdeen, for the mate of the “Hayle;” Mr. J. D. Mackie, Solicitor, Aberdeen, for Andrew Walker, A.B. of the “Hayle;” and Mr. Charles Ruxton, Advocate, Aberdeen, for the owners of the “Leader.” Fifteen witnesses having been called, Mr. Duncan handed in a statement of the questions upon which the Board of Trade desired the opinion of the Court. The parties having been heard on behalf of their respective clients, and Mr. Duncan having replied, the Court adjourned to give judgment on the following day, the 12th inst., when the case was concluded. The facts of the case are as follows:—

The “Hayle,” official No. 58671, is an iron screw steamer built at Hayle in the year 1867, and registered at Aberdeen in the same year as of 373·40 gross and of 236·69 register tonnage, and was fitted in 1880 with one pair of inverted compound direct acting surface condensing engines of 60 horse-power, with four watertight bulkheads, and was rigged as a schooner. She is the property of Mr. Thos. Adam, junior, and several others, he having been appointed managing owner on 28th October 1875. She had a deck-house amidships, under which is the galley, and on which the wheel and compass were placed, and carried two boats, which were secured side by side on the main hatch on shocks, and had davits on each side fitted with tackles for getting them over the side.

On the 5th December 1885, at 10.15 p.m., she left Aberdeen in good order bound for Sunderland, in water

L. 367. 2571. 180.—1/86. Wt. 408. E. & S.

ballast, with a crew of 12 hands, including the master, who holds a certificate of competency as master. The tide at the time was about three-quarter flood, weather fine, and wind blowing fresh from the N.N.W. The course on leaving Aberdeen was S. $\frac{1}{2}$ W., and the fore-trysail and jib were set, the man on the look out being placed on the bridge; Ross, A.B., being at the wheel. The master, whose watch it was after leaving Aberdeen, told us that he remained on deck, paying occasional visits to the cabin, until about five minutes to twelve p.m., when he went below, leaving the boatswain in charge of the watch. At midnight the boatswain was relieved by William Murray, the mate, who also held a certificate of competency as master, while George Adams, A.B., went to the wheel, and Walker, A.B., on the look-out on the bridge, the latter being sent shortly after midnight to hand the jib down, it being of no use, as the wind was shifting from one quarter to the other; after doing which he shifted the fore-trysail sheet from port to starboard, and then returned to the look-out on the bridge. At 2 a.m. Walker went to the wheel and Adams to the look-out, but before doing so Adams went off the bridge for a few minutes, somewhere between 2 a.m. and five minutes past 2, alleging that he did so in order to pull off his oilskins and get his comforter. The mate, No. 85,425—Adams, A.B., being still absent—left the bridge, according to his own account, between 5 and 10 minutes past 2 to get, as he says, a drink of water from a pump, situated under the bridge at the after part of the deckhouse, thus leaving no one but Walker at the wheel on deck. Shortly after this Walker saw a green light on the port bow and shouted, at the same time putting the helm hard-a-starboard, “Green light “on the port bow,” and stamped on the deck over the galley, but states that, although he looked round, he saw nothing of the mate until after the collision, this being contradicted by the mate, who alleges that, hearing Walker shouting out, he ran up to the bridge and put the engine room telegraph to “Full speed astern,” and then, after assisting Walker to starboard the helm, ran to the fore-castle, in order, as he states, to throw a line. The mate states that he then found a schooner under the bows of the vessel, saw a man clinging to the rigging, and the second engineer, whose watch it was in the engine room, says that he got the order by telegraph “Full speed astern,” and felt the shock of the collision at the same time. The master, who had been below up to this time, states that he was awakened by the shock of the collision and, on rushing to the bridge in his shirt, found his vessel in collision with a schooner, and the engine-room telegraph standing at “Full speed astern,” which he altered to “Easy “ahead,” with the view of keeping the vessels together, porting the helm at the same time, in order to follow the schooner in the event of the vessels separating. After doing this and ordering Walker, the man at the wheel, to assist in clearing away the boats, the captain states he went below to put on some clothes, leaving the helm in charge of the steward, also an A.B., who had come up from below, and that, on his return, the latter pointed out to him the place where the schooner had gone down on the starboard bow, at a distance of from 20 to 50 yards from the vessel. After the master gave directions to lower the boats the crew attempted to launch the pinnace, but in doing so stove her. They then succeeded in launching the long boat, in which three of the crew took their places, and which was kept towing alongside by a rope from the bow, the crew having directions from the master to look out for anything floating in the water. The captain, finding that his vessel was making water and going down by the head, sent the chief engineer down to examine the watertight compartment in the fore-hold, and found that, though a great quantity of water had come in abaft the collision bulkhead, the bulkhead was leaking very little, notwithstanding the large hole the vessel had in her starboard bow.

About this time the “Lady Cathcart,” which had left Aberdeen shortly after the “Hayle,” came up and was hailed by her, and requested by the master to remain by his vessel as he had been in collision, and his vessel was in a sinking state. The “Lady Cathcart” stood by the “Hayle,” having made three requests to be released from attendance, until daylight, after which

she proceeded on her voyage, the "Hayle" making her way to Arbroath, where she arrived safely.

The evidence leads very strongly to the conclusion that the vessel with which the "Hayle" collided was the schooner "Leader," of Inverness, a schooner of 99.58 register tonnage, which left Sunderland bound for Lossiemouth, on 4th December at 2 p.m., with a crew of 6 hands and a cargo of coals and cement, and has not been heard of since.

Such being the facts of the case, we proceed to answer the questions on which our opinion is asked.

1. Whether the vessel run down by the "Hayle" was the "Leader," of Inverness?

Ans.—The Court is of opinion that the identity of the vessel with which the "Hayle" collided as the "Leader," of Inverness, is, upon the evidence, an inference of reasonable certainty.

2. Whether the "Hayle" complied with the Regulations for Preventing Collisions at Sea?

Ans.—The Court is of opinion that the "Hayle" did not comply with Article 17 of the Regulations for Preventing Collisions at Sea.

3. Whether the "Hayle" was properly and sufficiently manned, and whether the master was justified in permitting a man who had been at the wheel for two hours to relieve the man on the look-out?

Ans.—The Court is of opinion that it has not been established that the undermanning of the "Hayle" was the cause, or contributed to the cause, of the collision in question. In the view of the Court, however, the vessel would be undermanned in the captain's watch if he did not practically act as the officer of the watch. Beyond this the Court does not feel itself warranted on the evidence laid before it to express an opinion on the question of the undermanning of the "Hayle" generally.

The master of the "Hayle," in the opinion of the Court, was justified in permitting a man who had been at the wheel for two hours to relieve the man on the look-out.

4. Whether the master and mate, or either of them, took proper and sufficient measures to ensure that a good and proper look-out was kept on board the "Hayle"?

5. Whether the direction in which the steamer's smoke is said to have been blowing made a look-out on the forecastle necessary or expedient?

6. Whether there should have been a look-out stationed on the forecastle?

7. Whether the forecastle was in a condition for a man to be stationed on the look-out there, and who is responsible for its condition?

Ans. 4 to 7.—The Court is of opinion that in ordinary circumstances the look-out ought to be stationed on the forecastle. The Court, however, considers that on the night in question, having regard to the state of the weather and the direction in which the smoke of the "Hayle" was being carried, the look-out was better kept on the bridge than on the forecastle. The effect of the fore-try sail being set would necessarily have been to envelope the look-out on the forecastle with smoke, and thus obscure his view. The answer to these questions does not require the Court to express any opinion as to the condition of the forecastle.

8. Whether a proper look-out was kept on the "Hayle," and whether the watch was properly kept after midnight of the 5th December?

Ans.—In the opinion of the Court the first part of this question is answered by the answer returned to the first branch of question No. 3.

The watch was not properly kept after midnight of the 5th of December.

9. Whether the bulkhead between the fore and main holds was of sufficient strength and properly secured?

Ans.—The result shewed that the bulkhead between the fore and main holds was of sufficient strength and properly secured.

10. Was look-out properly kept on night in question from bridge?

Ans.—The Court is of opinion that look-out was not properly kept from the bridge on the night in question.

11. Whether by the collision the "Hayle" received such injuries as to make it at any time unsafe for her crew to remain in her, and whether the master had good reason to believe it necessary to leave her?

Ans.—The Court is of opinion that the master of the "Hayle" was unaware for at least ten minutes after the collision what extent of injuries his vessel had sustained, but that at the end of that period it was reported to him by the engineer, on examination, that although there was a large quantity of water in the forehold the bulkhead was intact.

12. Whether the vessel was navigated with proper and seamanlike care?

Ans.—The vessel was not navigated with proper and seamanlike care after midnight.

13. Whether her boats were kept so as to be at all times fit and ready for use, as required by sect. 292 of the "Merchant Shipping Act, 1854"?

Ans.—The Court is of opinion that the necessary gear for equipping the boats was placed on board the "Hayle." After a personal inspection however of the vessel, the Court considers that on going to sea the whole of the gear should be placed in the boats, and that the plug, which according to the evidence was a cause of some delay, should be made fast to the bottom of the boat by a lanyard.

14. Whether the master of the "Hayle" made every effort to render assistance to the crew of the schooner, and whether he complied with the requirements of sect. 16 of the "Merchant Shipping Act, 1873"?

Ans.—In the opinion of the Court it was the design of the master of the "Hayle" to render assistance to the ship with which his vessel had collided and her crew, and certain measures were taken with this view, including the attempt to launch the pinnace, which was unfortunately stove, the alteration of the ship's course, and the effort made to take the steamer to the scene of collision. In the view of the Court the launching of the big boat and lowering of part of the crew into it, were intended both for the safety of the steamer and the vessel that had been run down. There is no evidence before the Court that more effectual steps would have resulted in the rescue of life. In the opinion of the Court the master of the "Hayle" did not manœuvre his vessel with the best judgment at or near the place where the schooner was seen to go down; but in the condition of danger, uncertainty and agitation in which the officers and crew of the "Hayle" were naturally placed, the Court is not prepared to say that any blame is imputable to the master for this result. The view of the evidence taken by the Court is that no cries were heard after the long boat was lowered. In the opinion of the Court the master did not contravene the provisions of section 16 of the Merchant Shipping Act of 1873.

15. Whether the master and mate of the "Hayle" are, or either of them is, in default?

In the opinion of the Board of Trade, the certificates of the master and mate should be dealt with.

Ans.—The master is not in default. The mate, in the opinion of the Court, is in default in respect that prior to the collision he did not keep a proper look-out, and left his post when only the man at the wheel was on the bridge in charge of the vessel. In these circumstances the Court finds it necessary to deal with the mate's certificate, but having regard to his previous good character, as proved in evidence, limits the suspension of his certificate to a period of six months.

(Signed) W. A. BROWN, Judge.

We concur.

(Signed) HENRY KNOX,
Captain R.N., } Assessors.
THS. BEASLEY,
R. WILSON,