

(No. 412.)

"**ABERFOYLE**," (S.S.), and
"**KEWADIN**," (S.S.)

The Merchant Shipping Acts, 1854 to 1876.

IN the matter of the formal Investigation held at the Town Hall, North Shields, on the 10th, 11th, and 12th of March 1879, before H. C. ROTHERY, Esquire, Wreck Commissioner, assisted by Captain H. D. GRANT, C.B., R.N., and Captain BEASLEY, as Assessors, into the circumstances attending the loss of the sailing ship "**KEWADIN**," of Folkestone, through collision with the steamship "**ABERFOYLE**," of Aberdeen, about six miles from Scarborough, on the 23rd of February 1879, whereby loss of life ensued.

Report of Court.

The Court, having carefully inquired into the circumstances of the above-mentioned shipping casualty, finds, for the reasons annexed,—

(1.) That the collision was due to the "**Kewadin**," not having been seen by those on board the "**Aberfoyle**," until they were close upon her, and to the helm of the "**Aberfoyle**" having been thereupon put to starboard, instead of to port.

(2.) That the failure to see the "**Kewadin**," until she was close upon them may have been due partly to the position of the "**Kewadin's**" lights, which rendered them liable to be obscured by the drooping of the foresail, partly to there not having been a good and efficient look-out on board the "**Aberfoyle**."

The Court, taking all the circumstances into consideration, and for the reasons annexed, returns to William Edward Mayes, the master of the "**Kewadin**," and to William Jolly Potts, the chief officer of the "**Aberfoyle**," the only persons against whom charges have been brought, their certificates.

The Court makes no order as to costs.

Dated the 12th of March 1879.

(Signed) H. C. ROTHERY,
Wreck Commissioner.

We concur in the above report.

(Signed) HENRY D. GRANT, }
Captain, R.N., } Assessors.
THO. BEASLEY, }

MINUTES of PROCEEDINGS taken before HENRY CADOGAN ROTHERY, Esq., and Captain H. D. GRANT, C.B., R.N., Captain T. BEASLEY, Assessors, at the Town Hall, North Shields, Wednesday, 12th March 1879, upon an inquiry into a collision between the "**KEWADIN**" and "**ABERFOYLE**."

Mr. de Hamel appeared for the Board of Trade.

Mr. Roche appeared for the master of the "**Aberfoyle**."

Mr. Duncan appeared for the chief officer of the "**Aberfoyle**."

Judgment.

The Commissioner.—This is an inquiry into the circumstances attending a collision between the brig "**Kewadin**" and the screw steamship "**Aberfoyle**," which occurred on the 23rd February last, off Scarborough, resulting in the total loss of the "**Kewadin**" and her cargo, and the death of one of the crew. The proceedings have been somewhat unusual, for whilst the master, mate, and owners of the "**Aberfoyle**" have all been separately represented before us, no one has appeared for the "**Kewadin**." The owner of the "**Kewadin**" has, for some reason or other, not thought fit to appear, and the master, I presume, has not had the means to do so. This obliged the Court to watch the proceedings very narrowly, to see that they suffered no injury by their not being professionally represented. I ought, however, to say that the gentlemen who represented the "**Aberfoyle**" do not appear to have in any way abused their privileges; but it would certainly have been much more satisfactory to the Court if there had been some one to defend the interests of the "**Kewadin**." The circumstances are as follow:—

The "**Kewadin**" was a brig belonging to Folkestone, of 278 tons gross, and 266 tons net register. She was built at Charlottetown, Prince Edward's Island, in the year 1866, and, at the time of her loss, was the property of Mr. John Bloom, of Folkestone, shipowner, Mr. Bloom being also the managing owner. She left Shields at about

L 367. 3. 70.—4/79. Wt. 47. E. & S.

5 p.m. of the 22nd February last, bound with a cargo of coals to Torquay, and having a crew of eight hands, all told. On leaving the Tyne she was first steered S.E. by S., until Whitby Lights were sighted, bearing $3\frac{1}{2}$ points on the starboard bow. When finding himself further from the shore than he expected, the master altered his course one point to the south. He continued on a S.S.E. course until Whitby Lights bore W. by S., distant from 6 to 7 miles, when the vessel's course was again altered a point to the south, and she was steered S. by E. to pass Flamborough Head. At 4 a.m. the chief mate was called, and the captain, who had until then been on deck, went below, leaving the deck in charge of the boatswain, Whitby Lights then bearing N.W. by N., distant about 14 miles. The wind was from the N.N.W., nearly dead aft, and the vessel was running under all plain sail, and going at the rate of between 6 and 7 knots an hour. As soon as the mate was dressed, and had taken his coffee, he went on deck and relieved the boatswain. It was then about 4.20 a.m., and in about five minutes afterwards he observed the mast-head light of a steamer about a point on his port bow. A quarter of an hour afterwards the mate observed her red light, upon which he ordered the man at the wheel to keep the vessel off a point, so as to give the approaching steamer a better view of his red light. After keeping her for about five minutes on a south course, he brought her back again to S. by E.; and at this time the red light of the steamer bore about a point and a half on his port bow. The vessel continued to approach until the red light of the steamer was about two and a half points on his port bow, when her green light suddenly appeared; upon which the mate immediately called the master, who came up on deck, followed by the boatswain. They all then immediately began shouting to the steamer to port her helm, but she continued her course, still showing her green light; and just before they came together the mate of the "**Kewadin**" ordered the helm to be put hard-a-port, but before it had had time to take any effect the steamer struck her on the port bow, just forward of the fore-rigging, cutting into her as far as the fore-hatch. In about three minutes the "**Kewadin**" foundered, but the whole of the crew, with the exception of one man, had in the meantime succeeded in clambering over the steamer's bows on to her deck.

The case of the "**Aberfoyle**" is as follows: She is an iron screw steamer belonging to the port of Aberdeen, of 1,036 tons gross, and 738 tons net register, and is fitted with two compound surface condensing engines of 120 horse power combined. She was built at Sunderland in the year 1877, and is the property of Messrs. Adam, of Aberdeen, shipowners, and others, Mr. John Birnie Adam being the managing owner. She left Almeria, in Spain, on the 12th February last, bound to Leith, and having on board a cargo of lead and esparto grass, and a crew of 21 hands, all told. On the evening of the 22nd she passed to the east of the Dudgeon, distant about a mile, when a course was steered N. by W., which the captain told us would carry him to the Farn Islands. At a little before 2 a.m. the following morning they passed Flamborough Head, the weather, we are told, being perfectly clear. At 4 a.m. the first mate's watch commenced, consisting of himself, the boatswain, and three able seamen. The mate went to the upper bridge, one of the able seamen went to the wheel, which was amidships, and the boatswain stood by to help him in case of need, another man was stationed forward on the look-out, and the third was knocking about the deck. Shortly before five o'clock they had to port to avoid a vessel, or, as one of the witnesses said, two vessels, and the mate had given the order to bring her back again to her course, when the look-out man reported a vessel with no lights on the starboard bow. The mate was at this time standing on the port side of the bridge; he immediately went over to the starboard side, and with his glasses saw an object, which he took to be a vessel with her sails, as he told us, all in one. Thinking that she was on the port tack, and that she was heading to the northward and eastward, he ordered the helm to be starboarded, and the order was at once obeyed. Very shortly afterwards the look-out man reported that she was showing her red light, and the mate then, finding that he could not clear her by porting his helm, ordered the helm to be put hard-a-starboard and the engines to be stopped and reversed full speed; it was, however, too late, for she struck the "**Kewadin**" on the port bow, just forward of the fore-rigging, cutting right into her as we have already stated.

Let us now see what was done by those on board the "**Aberfoyle**" to save the crew of the "**Kewadin**." It seems that the master of the "**Aberfoyle**" had been awakened by the stopping of the engines, but before he could get on deck the collision took place. On coming on deck, and seeing what had occurred, he at once ordered

engines to be set easy ahead, so as to keep the vessel in the cut, and thus afford an opportunity to the crew of the "Kewadin" to escape, and he at the same time ordered the boats to be got out. The "Kewadin," I should observe, was at this time on the "Aberfoyle's" starboard bow, and the men therefore naturally went to the two boats which were on that side, some of them going to the life boat, some to the dingy, which was further aft. Whilst the men were so engaged the captain went forward, and seeing that the "Kewadin" was sinking, and that the water was over the deck nearly as far as the mainmast, he ordered the engines to be reversed full speed, so that they might not be sucked down with her, and they were hardly clear before the "Kewadin" sank. In the meantime the "Aberfoyle's" crew, as well as those who had escaped from the "Kewadin," were busy getting the boats out, and the dingy being the smaller boat was first got out and lowered, but no sooner was it in the water than it was found that the plug was out, and that she was rapidly filling. Efforts were at once made to stop up the hole, but in the meantime the lifeboat had been lowered, and the captain observing that there were only two hands in her, ordered the men in the dingy to get into the lifeboat, but before they could do so the lifeboat had pushed off, having in her two of the "Aberfoyle's" crew and the captain of the "Kewadin." We are told that the lifeboat got away in from seven to ten minutes from the collision; not, in our opinion, a very long time, seeing that the whole of the watch on the deck of the "Aberfoyle" consisted of only five men. The lifeboat continued to pull about, trying to find the man whose cries for assistance had been heard, but they could see nothing of him, and in about half an hour they returned to the steamer. She did not, however, proceed on her voyage, but remained until daylight, when, having searched all the pieces of wreck, and the master of the "Kewadin" having expressed himself satisfied that nothing more could be done, the "Aberfoyle" at about 7.30 a.m. proceeded on her voyage to Leith, and there landed the "Kewadin's" crew.

At the conclusion of the evidence Mr. de Hamel stated that the Board of Trade desired the opinion of the Court upon the following questions:—

"1. What was the cause of the collision between the brig 'Kewadin' and the steamship 'Aberfoyle' on the 22nd February last, and of the loss of the life of Charles Lewis, ordinary seaman of the 'Kewadin.'"

"2. Whether the collision between the said vessels was caused by the wrongful acts and defaults of William Edward Mayes, the master of the 'Kewadin,' and William Jolly Potts, the chief officer of the 'Aberfoyle,' S.S."

"(1.) As regards William Edward Mayes, the master of the 'Kewadin,' in neglecting to comply with Article 5 of the Regulations for preventing Collisions at Sea, contained in Table C. of the Schedule to the Merchant Shipping Act Amendment Act of 1862.

"(2.) As regards William Jolly Potts, the chief officer of the 'Aberfoyle' S.S., in neglecting to comply with Articles 15 and 16 of the said Regulations, and also in neglecting to keep a proper look-out on board the same steamship as required by Article 20 of the said Regulations."

Lastly we are told that "in the opinion of the Board of Trade the certificates of William Edward Mayes and William Jolly Potts should be dealt with."

After the questions had been given in, the Court was addressed by the advocates for the owner, master, and mate of the "Aberfoyle" on behalf of their respective parties, and it has also heard what the master of the "Kewadin" had to say in his defence. But unfortunately it has not had the advantage of hearing Mr. de Hamel, as he was called away before the termination of the proceedings, on important Government business. The Court, therefore, is left to conjecture what are the particular grounds on which it is thought that the certificates of the master of the "Kewadin" and the chief officer of the "Aberfoyle" should be dealt with.

Now, the charge against the master of the "Kewadin" is for not complying with Article 5 of the Regulations for preventing Collisions at Sea, "contained in Table C. of the Schedule to the Merchant Shipping Act Amendment Act, 1862," by which, I presume, is meant the Regulations made in pursuance of that Act under an Order in Council, dated the 9th of January 1863. That article directs that all sailing vessels when under weigh "shall carry the same lights as steamships under weigh, with the exception of the white mast-head light," or, in other words, that they shall carry the coloured side lights; and I assume, therefore, that the charge attempted to be set up against the "Kewadin" is, either that she did not carry the lights, or, at all events, that they were not properly fitted and burning.

When the chief mate was under examination, it certainly seemed as if the case that was going to be set up was that the "Kewadin" had had no lights at all, or, at all events, that the port-light was not burning. Mr. Bramwell, however, in our opinion, very properly abandoned that position, and it would certainly have been very difficult to maintain it after the evidence of the witnesses from the "Kewadin," and, I will add, after the evidence of some of the witnesses from the "Aberfoyle" herself, notably that of the look-out man, who admits that he saw the red light before they ran into her. It is said, however, that the red light of the "Kewadin" was in some way or other obscured; and it therefore becomes necessary that we should carefully inquire how the side lights on board this vessel were fixed.

It seems that the screens in which the lamps were placed were supported on stanchions rising from the deck, and passing through the rail abreast of and outside the fore-rigging. The foremost stanchion, we are told, was about abreast of the foremost shroud, the after stanchion was between the second and third shroud, the lamp itself being therefore about abreast of the third shroud. The height of the lamp above the deck has, in our opinion, been very satisfactorily shown to have been about 8 feet; for, first we are told that the rail was from 3½ to 4 feet above the deck, and that the light stood about 4 feet above the rail; and this is confirmed by the evidence of a very intelligent witness, named James Jones, the look-out man on board the "Kewadin," who told us that, as he stood on the fore-castle deck, which was raised about 4 feet above the main deck, he had to stoop a little in order to get a good square look at the light. He showed us how he would have to stoop for that purpose, which would bring his eye about 4 feet above the deck on which he was standing, and therefore about 8 feet above the main deck.

It seems that the vessel at the time of the collision had her foresail set. It was a square foresail, and we are told that it had a roach in it. The wind too being nearly aft, but with a little on the starboard quarter, the yards were nearly squared, but with the port clew hauled a little further aft. From the evidence too of the witnesses, it appears that the clews of the foresail came down abaft the screens and a little below the level of the lights, that on the port side being hauled a little lower down than that on the starboard side. We are also told that, when the sail was full and was bellying out with the wind, the foot of the sail at the centre stood about 10 feet above the deck, whence it descended on each side, until at the clews it was, as I have said, below the level of the lamps. So long, indeed, as the sail was full, it would, no doubt, stand well above the lights; but, if from any cause the wind was taken out of the sail, it would, in the opinion of the assessors, be very liable to fall before the lamp and obscure it; but, when the sail filled again, it would rise and show the light.

Now, we are told that at the time of the collision the vessel had a large square mainsail set, but that one of the clews was hauled up for the purpose of letting the wind get to the foresail. It is obvious, however, that the vessel being nearly before the wind the portion of the mainsail which remained set would take away a large portion of the wind from the foresail, so that the latter would be very likely from time to time, as it lost the wind, to fall down and thus obscure the lamps; and it would be the port light which would thus be more especially liable to be thus obscured, it being the starboard clew of the mainsail which had been hauled up, at the same time that it was the port clew of the foresail that had been hauled somewhat lower down. What then more natural than that, as the vessels approached one another, the wind might have gone out of the foresail, and the sail would then fall down before and obscure the light, which might account for its not having been then seen from the "Aberfoyle." When, however, the "Kewadin's" head was hauled up a point, the sail would naturally fill, and rising show the light again, so that it would then be seen by the look-out man. This is, of course, mere conjecture, but it may reconcile the evidence as to the light not having been seen by those on board the "Aberfoyle" when the "Kewadin" was first made out. But, whether this be so or not, we are clearly of opinion that the position of these lamps outside the fore-rigging, and with the chance of the sail falling down before them and obscuring them, was not a proper position in which to place them, and that to that extent therefore the master of the "Kewadin" is to blame. They should have been placed forward of the fore-rigging, and quite clear of the foresail. We do not, however, think that it is a fault for which we should be disposed to deal with his certificate.

But although the lights of the "Kewadin" may have been so placed as to make it possible, nay probable, that;

under certain question is, board the "Kewadin" been seen taken the what, I pre the "Aberfoyle" 16th, and 2 Collisions at

And first look-out be is quite clear between the The mate s about half this point l vessel alter I think it i until a very that when on the upp we are told in front an there for t screen affo position he board bow, starboard s As to the l keeping a w was just ab his coffee, forward. ing aft, bu The boats getting hi coffee at th took it the these men their coffee may, poss "Kewadin admitted t

The nex was made of the "A He tells u she was h and that her. It w that with

tion, it cer-
o be set up
at all, or, at

Mr. Bram-
y abandoned
very difficult
ses from the
e of some of
notably that
the red light
that the red
ay or other
ary that we
n board this

lamps were
om the deck,
d outside the
are told, was
fter stanchion
e lamp itself
shroud. The
our opinion,
about 8 feet;
3½ to 4 feet
t 4 feet above
nce of a very
look-out man
, as he stood
t 4 feet above
rder to get a
d us how he
h would bring
which he was
e main deck.

he collision had
d we are told
ing nearly aft,
the yards were
d a little fur-
witnesses, it
down abaft the
lights, that on
n than that on
when the sail
d, the foot of
bove the deck,
he clews it was,
nps. So long,
ubt, stand well
the wind was
on of the asses-
and obscure it,
e and show the

he collision the
hat one of the
tting the wind
that the vessel
of the mainsail
e portion of the
would be very
nd, to fall down
uld be the port
liable to be thus
e mainsail which
t it was the port
somewhat lower
t, as the vessels
ave gone out of
down before and
r its not having
When, however,
a point, the sail
e light again, so
t man. This is,
econcile the evi-
seen by those on
vadin" was first
ot, we are clearly
mps outside the
sail falling down
a proper position
t extent therefore
ne. They should
gging, and quite
r, think that it is
l to deal with his

vadin" may have
y probable, that;

under certain circumstances, they would be obscured, the question is, whether, if there had been a good look-out on board the "Aberfoyle," the vessel herself might not have been seen in sufficient time for those on board to have taken the necessary steps to avoid a collision, which is what, I presume, is meant by charging the chief officer of the "Aberfoyle" with not having complied with the 15th, 16th, and 20th articles of the Regulations for preventing Collisions at Sea.

And first, as to whether there was or was not a good look-out being kept on board the steamer, I think that it is quite clear that only an extremely short time elapsed between the "Kewadin's" being seen and the collision. The mate said that the steamer had only time to alter about half a point; and although he is contradicted on this point by the man at the wheel, who tells us that the vessel altered her course three points before the collision, I think it is abundantly clear that the helm was not ported until a very short time before the collision. Now, it seems that when the "Kewadin" was first seen, the mate was on the upper bridge, standing at the port side of it, where, we are told, there was a weather sheet or screen, extending in front and at the side of it, and no doubt he would be there for the purpose of getting the shelter which the screen afforded. It is clear, however, that from that position he could not see what was occurring on the starboard bow, and he tells us that he had to go over to the starboard side before he could make out the "Kewadin." As to the look-out man, he, no doubt, says that he was keeping a good look-out, but then he tells us also that it was just about coffee time, and that he was looking out for his coffee, and, if so, he would be looking aft rather than forward. I don't mean that he would be physically looking aft, but his thoughts would be aft rather than forward. The boatswain, too, was at the time away from the wheel, getting his coffee, and it was his practice to bring the coffee at that time to the officer on the upper bridge, who took it there. Everything seems to point to the fact that these men might at the time have been thinking more of their coffee than of looking out for vessels ahead, and this may, possibly, account for their not having seen the "Kewadin" so soon as they should have done, it being admitted that the night was a beautiful clear night.

The next question is, whether, after the "Kewadin" was made out, and before the red light was seen, the mate of the "Aberfoyle" did right in starboarding his helm. He tells us that he thought, when he made her out, that she was heading to the northward and eastward off shore, and that by starboarding his helm he would go astern of her. It was rather a hasty conclusion to come to, seeing that with the wind in the quarter in which it was, if she

had been heading to the northward and eastward her starboard light ought to have been visible to the "Aberfoyle." We strongly suspect, however, that this is an afterthought, and that he was so close to the "Kewadin" before he sighted her that, seeing her on his starboard bow, he probably thought that the only possible way in which a collision could be avoided would be by starboarding. On the other hand, however, as soon as the red light was reported, he took the only proper measures in his power, namely, to hard-a-starboard the helm, and to stop and reverse his engines. Possibly, if he had stopped and reversed the engines full speed as soon as the "Kewadin" was first seen, the collision would have been avoided.

On the whole, we are disposed to think that if greater care and vigilance had been shown by those on board the "Aberfoyle," this collision might possibly have been avoided. We are, however, disposed to give the chief mate the benefit of the doubt whether the light of the "Kewadin" may not have been obscured by the dropping of the foresail, so that he might not have been able to see her in sufficient time to avoid her, and we shall, therefore, not deal with his certificate. At the same time we must express our very strong opinion that the chief mate was wanting in one of the most important of an officer's duties, in not going in the boat, more especially when he saw that there was an unwillingness on the part of the men to get into her. It seems to us that it was a case in which it was incumbent upon one of the officers to go in the boat, in order properly to direct the search; and who more proper than the chief mate, who was the officer of the watch, and who was dressed and ready for duty? The second mate, no doubt, was there, but he had only come up after the collision had occurred, and was, no doubt, not half dressed. We think that where human life is at stake, it is of the utmost importance that officers should set a good example to their men, and by prompt and energetic action do all they can to save the lives of those who may be in peril.

Our decision is that the certificates of the master of the "Kewadin" and the chief mate of the "Aberfoyle" be returned to them, and, of course, also the certificate of the master of the "Aberfoyle," against whom there is no charge of any kind.

There will be no order as to costs.

(Signed) H. C. ROTHERY,
Wreck Commissioner.

We concur.
(Signed) HENRY D. GRANT,
Captain R.N., } Assessors.
THOS. BEASLEY, }