

(No. 274.)

“QUEEN OF THE SOUTH.”

The Merchant Shipping Acts, 1854 to 1876.

In the matter of the formal Investigation held at the Town Hall, Greenock, on the 7th and 8th of May 1879, before H. C. ROTHERY, Esquire, Wreck Commissioner, assisted by Captain HOLT, I.N., and Captain WARD, as Assessors, into the circumstances attending the loss of the sailing ship “QUEEN OF THE SOUTH,” of Dumfries, about three miles west of Chiltepec, in the Gulf of Mexico, on the 27th of February 1879.

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 cause of the stranding and loss of the said vessel on the 27th of February last was the insufficiency of the anchors and chains which she had on board.
- 2. That the master, after he had lost his two bower anchors and chains on the 6th of January last off Frontera took every means in his power to replace them.
- 3. That the master made every proper endeavour to rejoin his ship after she had been driven off the coast on the said 6th of January.
- 4. That the mate acted in a seamanlike manner and did his duty thoroughly, when left in charge of the vessel off Frontera, whilst the master was on shore, and until he rejoined her at Chiltepec on the 17th of the said month of January.
- 5. That proper measures were taken to get the vessel over the bar of the Chiltepec River on the 14th of February last, and that her stranding on that occasion was owing to the wind having fallen and come ahead.
- 6. That there is no evidence that the orders and suggestions of the pilot were on that occasion disobeyed or disregarded.
- 7. That whether the master was or was not affected with liquor on the said 14th day of February, the stranding was not due to any misconduct on his part, and even if it was no serious or material damage was done to the vessel thereby.
- 8. That the master, and not the mate, is responsible for the quantity of drink given out to the crew on that occasion, which affected one at least of the crew.
- 9. That the master took all reasonable and proper measures on the 26th and 27th of February last to ensure the safety of the vessel and the lives of those on board.
- 10. That the vessel was navigated throughout with proper and seamanlike care.

The Court further finds that neither John Anderson, the master, nor Malcolm Mathieson, the mate, has been guilty of any act or default which would justify either the suspension or cancellation of their certificates, and it accordingly returns to them their certificates.

The Court makes no order as to costs.
Dated the 8th day of May 1879.

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

We concur in the above report.

(Signed) G. TREFUSIS HOLT, } Assessors.
 C. Y. WARD, }

MINUTES OF PROCEEDINGS taken before HENRY CADOGAN ROTHERY, Esquire, Wreck Commissioner, and Captain HOLT, I.N., and Captain WARD, Assessors, at the Council Chamber, Town Buildings, Greenock, on Wednesday and Thursday, 7th and 8th May 1879, upon the inquiry into the stranding and loss of the British sailing ship “QUEEN OF THE SOUTH.”

Mr. David Turnbull, writer to the Signet, appeared for the Board of Trade.
Mr. Alexander Cameron, solicitor, appeared for the master.
Mr. Turnbull was heard to open the case for the Board of Trade, and called evidence.

On the conclusion of the evidence Mr. Turnbull handed in a copy of the following questions, upon which the Board of Trade desired the opinion of the Court:—

- “1. What was the cause of the stranding and loss of the vessel on the 27th February 1879, near Chiltepec, in the Gulf of Mexico?”
- “2. Whether the master took proper measures to replace the two anchors lost off Frontera, and whether the captain made proper endeavours to get on board his vessel between the 4th and 16th January?”
- “3. Whether the mate acted in a seamanlike manner and did his duty thoroughly when left in charge of the vessel off Frontera, while the master was on shore, and until the master joined the vessel at Chiltepec?”
- “4. Whether on the 14th February proper measures were taken to get the vessel over the bar, and what was the cause of her stranding at that time?”
- “5. Whether the orders or suggestions of the pilot were on that occasion disobeyed or disregarded?”
- “6. Whether during the day of the 14th February the master was drunk or was in any way the worse of liquor?”
- “7. Whether on that day the master or mate gave out or attempted to give out an exorbitant quantity of drink to the men?”
- “8. Whether on the 26th and 27th February the master took proper measures to ensure the safety of the vessel and the lives of the crew?”
- “9. Whether the vessel was navigated throughout with proper and seamanlike care? and
- “10. Whether the master and mate are or either of them is in default?”

And he also stated that “in the opinion of the Board of Trade the certificates of John Anderson, master, and of Malcolm Mathieson, mate, should be dealt with.”
Mr. Cameron was heard for the master.
The Mate was heard in his own behalf.
Mr. Turnbull was heard in reply.

Judgment.

The Commissioner.—This is an inquiry into the circumstances attending the total loss of the British sailing ship “Queen of the South,” of Dumfries, off Chiltepec, in the Gulf of Mexico, on the 27th of February last. The circumstances of the case, so far as they concern the present inquiry, are as follow:—

The “Queen of the South” was a barque of 351 tons gross and 336 tons net register. She was built at Sunderland in the year 1855, and at the time of her loss was the property of Mr. Alexander Duff Maclaren and Mr. Donald Maclaren, both of Greenock. It seems, however, from the copy register now before me that these gentlemen had mortgaged their interest in the vessel to a Mr. Alexander Gauld, of Greenock, agent for the Commercial Bank of Scotland, to secure an account current with current rate of interest.

On the 15th of March 1878 the vessel, after having been surveyed by Lloyd’s, was reported as fit for the conveyance of dry and perishable goods, and received an A 1 in red certificate, equivalent to the second description of the first class, and on the 17th or 18th of April she left London with a general cargo bound to Trinidad. Having discharged her outward cargo she took in a cargo of sugar, with which she returned to Greenock. She then took in a cargo of coals, with which she left on the 15th October last bound to St. Thomas, and having there discharged her cargo she received directions to proceed to Frontera, in the Bay of Campeachy, for orders. She accordingly left St. Thomas on the 15th of December, and on the 3rd January following arrived off the mouth of the Tabasco River, up which Frontera is. There she remained at anchor, the master not being able to land until the vessel had been visited by the authorities; but on the following day the Custom House boat came alongside, and the captain then went ashore in her for the purpose of clearing his vessel, leaving instructions with the mate, that if it came on to blow he was to drop the starboard anchor, and then pay out chain equally on both anchors.

Frontera, I should state, is about 12 miles up the river, and the master, not being able to obtain a clearance for his ship on the 4th, which was Saturday, had to stay on shore over the Sunday. During the night, and early on the following morning, Monday the 6th, the wind came on to blow so strongly that the mate, in obedience to the instructions which he had received from the master, dropped the starboard anchor, and then paid out chain upon both

anchors. The wind, however, continued to increase, and at about 8 a.m. the port cable parted in the hawse hole, upon which the whole of the starboard chain was paid out, but after a short time that also parted. The vessel was then adrift, and the mate, thinking that it would not be possible to beat out to sea, prepared to run the vessel on shore; but the boatswain, who was at the helm, called out that he thought she would clear the spit, upon which the mate ordered all sail to be set, and she went clear and stood out to sea. She continued beating about until the 12th, when she again came to anchor off the mouth of the Tabasco River. It was, however, still blowing so strong that they were not able to send a boat over the bar to bring the captain off, nor could he get over the bar to them. He, however, signalled to them from a ship, which was lying inside the bar, but they could not understand the signals.

Having lost both bower anchors and most of her chain cables, the mate had only the spare anchor and about 30 to 35 fathoms of chain remaining on board; and finding, as the night approached, that the wind was increasing, he determined to put to sea again. This time, however, the ship got to leeward of her port, and finding that he could not beat up again to windward he ran into Chiltepec, which is some 24 miles farther to the west.

In the meantime the master had received orders to load a cargo of timber at Chiltepec, and not seeing the ship return, and thinking that she might have been driven to leeward, he engaged a stevedore and proceeded with him in his boat down the coast until they reached Chiltepec, where he found his vessel safely anchored inside the bar. Having rejoined his vessel the master at once discharged the ballast, and commenced taking in his cargo. The bar of the Chiltepec River is, however, so shallow that only a portion of the cargo could be taken on board in the river, and it was necessary then to go outside to load the remainder. The master accordingly consulted the pilot, who was to take his vessel out, as to the depth to which he might load his vessel, and was told at first that he could not load her below 10 feet; but subsequently he was told that he might load her down to 10 feet 4. The master, however, tells us that he only loaded her down to 10 feet forward and 10 feet 3 aft, and that he had done this by the end of January; but knowing that he would have to lie outside the bar whilst he took in the remainder of his cargo he would not leave the river until he had received on board another anchor and chain, which he had purchased from a Swedish or Norwegian vessel named the "Frederik," which had been recently wrecked outside the bar. Owing to the state of the weather some delay occurred in getting possession of this anchor and chain, but on the morning of the 14th they were put on board, and the vessel then proceeded down the river. The river having a tendency to silt up, the pilot went ahead for the purpose of sounding and laying down buoys to mark the channel; and having done so he returned to meet the vessel, when the wind, which had at first been favourable and off the land, headed them, upon which he ordered the anchor to be dropped, which was immediately done. What then occurred has been the subject of much controversy; according to the mate and some of the crew, the pilot was very unwilling to cross the bar, but was overruled by the master and the stevedore, who was also on board; according to the master everything was done with the consent and under the directions of the pilot. Be this however as it may, the anchor was again raised, and they proceeded to cross the bar, but the wind having become light and from seaward, the vessel's head paid off and she took the ground on the western spit. The kedge anchor was thereupon carried out, and an attempt was made to haul her off into the deep channel, but the anchor came home, and notwithstanding all their efforts she remained fast. At about 4 o'clock the captain went on shore with the stevedore and pilot, and an agreement was then entered into with the stevedore that he should obtain the requisite assistance in men and tackle to get the vessel off; and that if he succeeded in getting her off he should receive 500 dollars, but if not he should have nothing. Accordingly on the attempts being renewed on the following day the vessel came off, and was thereupon taken up the river; but on its being found that she had not sustained any damage by grounding, she on the following day again proceeded down the river, and after touching two or three times she passed safely out, and was anchored in from four to five fathoms outside the bar.

It was now Sunday the 16th, and on the two or three following days timber was sent down the river and taken on board, but on Thursday the 20th a northerly gale sprang up, which compelled them to put to sea again. They remained beating about not daring to return until the afternoon of Saturday the 22nd, when she again came

to anchor outside the bar. On the following day, Sunday, a raft of timber was sent down and taken on board, the crew having consented to work on that day. On the Monday, however, the sea was too rough to allow them to take in any cargo; but on Tuesday a raft of timber came down and was taken on board, and the same on Wednesday. On the 26th as night closed in the weather appeared to be unsettled, it being dark all round the horizon with lightening in the distance but clear above. The master and mate consulted together and came to the conclusion that it was not likely to be serious, but everything was got ready to run out to sea in case of need, and a watch having been set, all hands turned in. At about 10 or 11 o'clock the weather appeared to be getting worse, and accordingly Andro Seland, the watchman, called the master, and he and the mate then came on deck and again consulted together, but they still thought that it would not be anything and they accordingly remained at anchor, the vessel continuing to ride with the spare anchor down and from 20 to 25 fathoms of chain cable out. At about 12, however, the vessel gave a surge and parted her chain, and all hands having been at once turned up, the other anchor, which had been purchased from the wreck of the "Frederik," and which was lying over the starboard bow, was let go, but it did not hold, and the vessel continued to drag towards the shore. Seeing that it would be impossible to beat out to sea, the master came to the conclusion that the best course to take was to run the vessel on to the beach. Before doing so, however, he called all the crew aft and informed them of what he proposed to do, and asked them if they saw any objection to it. No objection having been made, and indeed the crew having so far as appears expressed their approval of the course which it was proposed to take, the chain was slipped, and the vessel's head was laid for the shore, and after beating over a bank she ran stem on to the main beach. By daylight the wind had come off the land, and the sea having gone down considerably, the master went on shore to report the casualty, leaving the mate and crew on board. But at about 11 o'clock the wind again came away from the northward, and the sea beginning to rise it was found necessary to cut away the main and mizen mast, the sea then making a clean breach over her, and the vessel being broadside to the sea. Finding that the vessel was bilged and full of water, the mate determined to abandon her, and a boat having been launched under the lee they all got into it and succeeded in reaching the shore in safety, but the vessel herself went to pieces and was entirely lost, together with everything on board.

Now the first question upon which the opinion of the Court has been asked is, what was the cause of the stranding and loss of the vessel on the 27th of February last, off Chiltepec? and to this I think that we shall have no difficulty in finding an answer. It seems that when the "Queen of the South" left this country she had two bower anchors, each of about 13 cwt., besides a spare anchor of about the same weight, and a stream and two kedges. Attached to each of the bower anchors was a chain cable about 90 fathoms long. Some question was raised as to the condition of these cables; it was admitted that the last 45 fathoms of the port cable, and the last 60 fathoms of the starboard cable were new and good, but the upper part of both were said to have been old and corroded. How far this may have been the case we have now no means of knowing; it must, however, be observed that they were seen and passed by Lloyd's surveyors in the March preceding, and may, therefore, be assumed to have been sufficient for the purpose. As I have already stated, she lost her two bower anchors off Frontera on the 6th of January, and at the same time the whole of the chain cables, except about 30 to 35 fathoms of the upper and therefore old portions, so that when she was lying off Chiltepec she had only the spare anchor, with something like 30 to 25 fathoms of the old cable, besides the anchor and chain which the master obtained from the wreck of the "Frederik," and which weighed only about 10 cwt. These when the wind came on to blow proved insufficient to hold her, and she was consequently driven ashore, but whether anyone, and if so who, is to blame for the casualty must depend upon the answers to the other questions which have been submitted to us.

The second question upon which our opinion is asked is, whether the master took proper measures to replace the two anchors lost off Frontera? The master has told us that he did use every exertion to obtain other anchors and chains, but that he could get none either at Frontera or Chiltepec, except the anchor and chain from the wreck of the "Frederik," and that for that he had to wait inside the river for 14 days, after he was ready to cross the bar. The only witness who contradicted the master's evidence on this point was the steward, who said that the "Frederik"

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had another anchor and chain, which was very much larger than that purchased by the master; but this was denied by the captain, who told us that the anchor to which the steward referred was not larger than one of his kedges, nor the chain larger than his mooring chains. The steward's evidence on this point I should observe was not confirmed by any of the other witnesses, all of whom said that, so far as they knew, there was no other anchor or chain that the master could have procured, except that which he obtained from the wreck of the "Frederik." And seeing the way in which the steward gave his evidence, and to which I shall presently have occasion to refer, we must reject this man's evidence, and must hold that the master did do everything in his power to replace the two anchors which he had lost.

The next question on which our opinion is asked is, whether the captain made proper endeavours to get on board his vessel between the 4th and 17th of January? The master told us that when the vessel returned to the mouth of the Tabasco River on the 12th the sea was so rough that it was not possible to cross the bar; and in this he was confirmed by all the witnesses except the steward, who at first told us that when they returned on the 12th the sea was quite smooth, implying that the master would have had no difficulty in rejoining his vessel; but when asked why, if that was so, they had not sent a boat over the bar to fetch him off, stated that the sea would not allow them to do so. In our opinion it is clear that this man's word is not to be believed; and that the master made every endeavour to rejoin his ship after she had been blown off the coast on the 6th January. When, too, he found that she did not return to her anchorage he showed a good deal of forethought in engaging a boat and running down the coast to leeward, until he found her in the Chiltepec River.

The next question upon which our opinion is asked is, "whether the mate acted in a seamanlike manner and did his duty thoroughly, when left in charge of the vessel off Frontera, whilst the master was on shore, and until the master joined the vessel at Chiltepec?" and we have no hesitation in saying that he did. He seems to have shown a good deal of nautical skill in beating off the shore after both his anchors had parted on the morning of the 6th January. He was quite right in our opinion, after returning to his anchorage off Frontera on the 12th, to put out to sea when he found that the wind was again rising; and he was also right, when he found that he had drifted to the westward of his anchorage, to put into the Chiltepec River, seeing that he had lost both his bower anchors and had only the spare anchor with some 30 to 35 fathoms of old chain on board.

The next questions, which relate to the master's conduct on the occasion of the first attempt to cross the bar of the Chiltepec River, are, "whether on the 14th February proper measures were taken to get the vessel over the bar, and what was the cause of her stranding at that time?" and "whether the orders or suggestions of the pilot were on that occasion disobeyed or disregarded?" It is admitted that when the vessel attempted to cross the bar of the Chiltepec River on the 14th February she was in charge of a pilot, and that the order which he gave to drop the anchor the first time was promptly obeyed; but it is said that the order to raise the anchor again and to proceed to cross the bar was given in disregard of and in disobedience to the orders and suggestions of the pilot, and upon the authority of the master and the stevedore alone. Now upon what evidence does this rest? It seems that the master and the stevedore were on the poop together, the pilot being in the bows with the mate. The pilot could speak nothing but Spanish, and the stevedore, who was an Italian, acted as interpreter between the master and the pilot. Any communication then which the pilot might wish to make to the master would be shouted from forward to the stevedore, who would thereupon translate it to the master, who was standing beside him on the poop. None of the crew understood Spanish and they would therefore not be able to say with any certainty what were the orders or suggestions given by the pilot; but they said that from his manner they came to the conclusion that he objected to the raising of the anchor; he seemed, they said, to be excited. But, as Mr. Cameron very justly observed, foreigners, especially Mexicans, frequently employ what we should consider to be violent action when giving orders; and the fact that he may have used violent action when giving his orders by no means shows that he disapproved of the raising of the anchor. The master has distinctly sworn that everything was done in accordance with the pilot's orders as translated to him by the stevedore; and it is quite impossible on the loose and unsatisfactory evidence of the crew that we can hold that the attempt to cross the bar was made in contravention of the pilot's orders. That the pilot may have had some disinclination to cross the bar with the wind as it then was, light and baffling, and that

the master may have been urgent with him to make the attempt is quite possible; but would the master have been to blame for so doing? We think not. Consider for one moment the position in which the vessel was placed. She had already lost a great deal of time; she had been driven out to sea on the 6th of January very soon after her arrival on the coast, and the master had not been able to rejoin her until the 17th; she had been detained in the river for about 14 days, after the loading there had been completed, waiting for another anchor and cable. Was it not reasonable that the master should be most anxious to get over the bar and there complete his loading, so as to proceed on his voyage?

If, too, we look at the sailing directions for this part of the coast we shall see with what kind of difficulties this master had to contend. The "West India Pilot," speaking of the rivers on this part of the coast, says at page 375, "When the rivers are at their highest level the bar is at the shallowest, and when they are at their lowest point the channel being contracted is scoured out and becomes deeper. At the close of the rainy season in December there are at times only 7 feet of water; but the first norther will increase the depth to 10½ feet; and again a freshet may soon after reduce it to 7 or 8 feet. In the rainy season vessels have been detained inside the bar for two months waiting for sufficient water to cross it. The direction of the channel will also change with these fluctuations." When, too, we are told at page 379 of the same work that the bar of Chiltepec has only 7 or 8 feet water, it can readily be understood how anxious this captain must have been to cross the bar on the very first opportunity after the long detention which he had already suffered.

If then he was urgent with the pilot to make the attempt, we are far from saying that he would be to blame for having so done. Even though there may have been some risk of touching the bar in going out, we are disposed to think that he probably exercised a wise discretion in making the attempt; for it must always be remembered that the risk seems after all not to have been very great, for the vessel lay upon the bar for 24 hours without apparently having suffered any damage; and I am told by the assessors that probably every vessel as she goes out touches the bar; and the fact that the kedge anchor when laid out had come home so easily shows how soft the sand is of which the bar is composed. Whilst then we think that the master would not have been to blame for urging that an attempt should be made to cross the bar, we are by no means convinced that the pilot was not a consulting party to it; or that any of his orders or suggestions were either disobeyed or disregarded.

I now come to a very serious and important part of the case, and on which there has been a great deal of contradictory evidence, namely, "Whether during the day of the 14th of February the master was drunk or in any way the worse of liquor; and whether on that day the master or mate gave out, or attempted to give out, an exorbitant quantity of drink to the men?" Now I think that we may at once acquit the mate of having given out, at all events on his own authority, an exorbitant quantity of drink to the men, for the master himself has told us that the mate was always opposed to giving the men anything to drink. On the other hand it is certain that one at least of the crew, I think it was Andro Selund, had more than was good for him, and that he had some words with the mate. Whether the captain also had more than was good for him is a matter of some doubt. The master denied it, but the mate and the rest of the crew are very positive on the point. When, too, the master admits that, although not accustomed to take spirits, he on that day took spirits on three separate occasions, the first time brandy and the other two times whisky, it certainly would lead one to think that the evidence of the crew is not wholly without foundation, and that the master may to a certain extent have been affected with drink, although, as they say, he was perhaps not wholly unfitted for his duties. On the other hand Mr. Cameron has produced an agreement which we are told was drawn up by the master the same evening, and which whether we look at the handwriting, or at its contents appears hardly to have been the work of a drunken man. It is the engagement made with the stevedore to get the vessel off the Sand, and provides that the stevedore is to receive 500 dollars if he succeeds in getting her off, but nothing if he does not, the stevedore finding the necessary hands and tackle. But whether the master was or was not affected by liquor it does not appear that any act or omission of his contributed to the vessel grounding upon the bar on that day, and even if it did it is not shown that any serious or material damage resulted therefrom to the vessel, and it would therefore not be competent for us on this ground, after the

decision of the Court of Queen's Bench in *ex parte Storey* (Law Reports, Q. B., vol. 3, p. 166), to deal with this man's certificate.

The next question on which our opinion is asked is, "whether on the 26th and 27th of February the master took proper measures to ensure the safety of the vessel and the lives of the crew?" The master has told us that, although the weather on the evening of the 26th of February appeared to be somewhat threatening, he came to the conclusion, after consultation with the mate, that it was not going to be anything serious; and he accordingly remained at anchor. The evidence of the mate was to the same effect. On the other hand Louis Chapelier, the cook and steward, tells us that he came to an opposite conclusion and thought that during the night it would blow a norther. Now in determining how far the master was bound to take the opinion of the steward in preference to that of the mate it may be well to see what was Mr. Chapelier's position on board the vessel, and what were his antecedents. The account which he gave of himself is that he was at one time an apprentice, then a common seaman, then captain of a small coasting vessel on the Coast of Australia; that he then went to the diggings, then he became a common seaman again, then he returned to the diggings again; and since that time he has been cook and steward on board Nova Scotia and United States vessels. I think then that the master is not to be blamed for adopting the advice of the mate on the prospects of the weather in preference to that of a gentleman of such very varied pursuits as this cook and steward. No doubt it would have been better, as it turned out, if the master had put to sea on the evening of the 26th instead of remaining at anchor; but seeing the inconvenience and loss of time which must necessarily result from it, we are not prepared to say that the master was not fully justified, finding his opinion confirmed by that of the mate, in remaining at anchor were he was.

It was said, however, that instead of riding by the port anchor only with some 20 to 30 fathoms of old chain out, he ought to have dropped both his anchors, but in that opinion we are by no means disposed to concur. Having only two anchors on board, namely, the spare anchor and the anchor which he had obtained from the wreck of the "Frederik," he acted in our opinion quite rightly in dropping only one, holding the other in reserve; for had he, whilst riding with both anchors down, been obliged to slip, or had he parted from them, he would have found himself adrift without a single anchor on board, with which to bring up; a position, it need hardly be observed, of very considerable danger.

Moreover, after the port cable had parted, and it was found that the starboard anchor would not hold, we are of opinion that the master took the proper seamanlike course by slipping the starboard chain and turning the vessel's head towards the beach. Had he not taken this course the vessel would probably have gone either stern foremost or broadside on to the beach, and in that case the lives of those on board would have been placed in considerable peril. We think, therefore, that the master took all proper measures for the safety of the vessel and the lives on board on the evening in question.

In answer to the ninth question, "whether the vessel was navigated throughout with proper and seamanlike care?" we can only say that there is nothing in our opinion to show that she was not.

Before I proceed to answer the last question on which our opinion is asked, namely, whether the master or mate, or both of them are in any respect to blame? it is proper that I should advert to two or three matters which have arisen in the course of these proceedings, and upon which, although no questions have been asked, it is desirable that the Court should express its opinion.

It seems that on the 8th of April last a letter was sent to the Secretary of the Marine Department of the Board of Trade, signed by the mate, the steward, and two of the seamen in these words: "We being some of the crew of the barque 'Queen of the South,' of Dumfries, wrecked at Chiltepec, in the Gulf of Mexico, on the 27th of February 1879, sent home by H.B.M. consul from New York to Liverpool, arrived here last night in the steamship 'Atlas' and the remainder of the crew arrived this morning in the 'City of Richmond.' We thought our duty to report to you of certain cases in regard to putting the vessel on the bar wilfully and intentionally. Next day had to pay a large amount of money to get her off, as she did not stick firmly as for good. Having lost our principal anchors and chains on our arrival on the 6th of January 1879 at Frontera de Tabasco in a heavy northerly gale, through which was the cause of the losing of the vessel, having no proper anchor and chains to hold the vessel. Having more to say about the whole affair, which we do not think it necessary to report until we receive your

answer, to which all the others will give their statement if required.

(Signed) MALCOLM MATHIESON,
Mate.
LOUIS CHAPELIER,
Steward.
ANDRO SELUND,
DUNCAN MACKENZIE, } Seamen."

This letter, without which, as Mr. Turnbull has observed, this inquiry would probably never have been held, distinctly charges the master with having wilfully and intentionally tried to throw the vessel away, and it will be necessary, therefore, to see on what grounds so serious a charge has been preferred.

And first, let us see what are the grounds alleged by Mr. Louis Chapelier, the cook and steward, who seems to have been principally instrumental in getting up this letter, and in whose handwriting it is, for charging the master with having wilfully and intentionally sought to cast this vessel away. Now the first ground alleged by him is that the master did not get proper anchors and cables. It is clear, however, that the master was in no way to blame for the loss of the two bower anchors, for they were lost when he was on shore, and when the mate was in charge of the vessel. And it has, I think, been clearly shown that, after they were lost, the master procured the best anchor and cable which he could find. We can see nothing, therefore, in this for which to blame the master. The next reason alleged was because he anchored the ship outside the bar; but I should like to know how the steward proposed to complete the loading of this vessel, except by anchoring her outside the bar. As a fact she grounded in the first attempt to take her across the bar; and on the second attempt touched twice or thrice, showing that she was quite deep enough; and I am anxious to know how the steward would propose to have taken her across the bar of the Chiltepec River if she had been fully laden inside. There is, therefore, nothing in this.

The third ground is that he omitted to stand out to sea on the night of the 26th of February, but remained at anchor at the mouth of the Chiltepec River; but I altogether fail to see how this could be any proof that he wilfully and intentionally tried to throw the vessel away. It might have been an error of judgment, but it is no proof of any intention to throw her away. The steward may have thought that the weather was going to be bad, but the master was, in our opinion, quite justified in acting on his own judgment on such a matter, supported as it was by the opinion of the mate.

The steward then said that he thought the master intended to throw her away "from the way in which he went on;" and I think he stated that he saw the master and the stevedore laughing after the ship had grounded on the bar. But whether they laughed or not, it is clear that they did all they could to get the vessel off, and that on the following day they did in fact get her off. I can, therefore, hardly understand how the master's acts on that day show that he had any wish or intention of wrecking her on the bar.

Another ground given by the steward for believing that the master wanted to throw away the vessel was because he told him, he said, to destroy the log-book. The whole story of this log-book is not very satisfactory. It seems that a few days before the casualty, the old log-book being full, a new log-book had been given out by the captain, and that some few entries had already been made in it. When then they were on the point of abandoning the ship the mate told the steward to go into the cabin and bring the log-book. Thereupon the steward went into the cabin, which was at the time more than half full of water, took the new log-book out of a drawer, and carried it ashore with him. The old log-book it seems had been locked up by the master and could not then be got at. In walking along the beach from the place where the vessel was wrecked to the village they had to wade through some water, and the steward then either dropped or threw the log-book into the water. He picked it up again, however, but it was wet, and some of the leaves, including those which had been written on, either fell out or were taken out. When then they got to the inn where they were going to put up the log-book contained none but blank sheets, and the master seems to have thought that there was no use therefore in keeping it; and what became of it is not very clear. It appeared also that some of the entries, which had been made either in this or in the old log-book had not been approved of by the master, and that he had torn out the leaves, and directed the mate to re-write them. Now a master has no right to tear any of the sheets out of a log-book; he may draw his pen through an entry which is incorrect, and of which he disapproves, but he ought not to tear the sheet out; and so far the master was

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to blame. But we are utterly at a loss to understand what were the entries in this log-book which would make the master wish to destroy it. Neither the mate nor the steward could give us any information, or could even offer a suggestion on the point. The entries had been made by the mate, and the master was in no way responsible for them. We cannot, therefore, see what motive the master could have had for wishing to have the log-book destroyed. But however this may be, we fail to see how the fact that the master wished to have the log-book destroyed, even if it was established, could show that the master had endeavoured "wilfully and intentionally" to throw the vessel away.

Lastly, the steward told us that he had heard the master several times say that he would give her all the chain he could, and if she would not hold he would put her on the beach; but we are unable to see how this would show that the master endeavoured wilfully and intentionally to throw her away. One can hardly understand why, if he wished her to be wrecked, he should give her all the chain he could, we should rather have thought that he would give her as little chain as possible. But if the master said he would give her all the chain he could, and that if she would not hold *he should be obliged* to put her on the beach, which the steward was at length compelled to admit that the master might have said, it is a remark which might easily have been made without any bad motive.

I have now gone carefully through all the reasons, which have been put forward by the steward for believing that the master endeavoured wilfully and intentionally to throw the vessel away, and they appear to us to be wholly insufficient to establish so serious a charge, which if it could be proved would justify the master being put upon his trial. There is, however, one other reason, which was given by the mate, and to which it is necessary that I should refer. He told us that in the evening of the 15th of February, after the vessel had come off the bar, he said to the captain that he thought she would never have come off, and the captain thereupon answered, "and so did I," adding, "and between you and me it would have been better for the owners if she had never come off, but I will go on shore and tell the pilot to put her on shore where she won't come off." Now whether the master ever did go and tell the pilot to put her ashore where she would not come off again, it is clear that the pilot never acted upon those instructions, for he took her on the following day safely over the bar, and anchored her in four or five fathoms of water. But is it likely, if the master had any such intention, that he would have so expressed himself to the mate, there being as it would seem anything but a friendly feeling between them. The presumption, in our opinion, is strongly against any such remark having been made by the master, as that he would go and tell the pilot to put her on shore where she would not come off again; but whether the captain said that it would have been better for the owners if she had never come off, may perhaps be more open to doubt. Let us see what the facts are.

It seems that this vessel, which is only 336 tons register, and was built in the year 1855, and is, therefore, now between 23 and 24 years of age, was purchased by her present owners at the end of 1876 or beginning of 1877, for the sum of 1,300*l.* to 1,400*l.*, and that she is now insured by them for 2,500*l.* How is it that she has never been insured so much above the sum originally paid for her has been fully explained to us by Mr. Bone, of the firm of Foulds and Bone, shipping agents, who has had the entire management of the vessel from the time she was purchased by the present owners. He told us that immediately after they had purchased her the owners had her remetalled, and the cost of remetalling and reclassing her, together with the docking and other expenses, amounted to between 600*l.* and 700*l.*, making with the original purchase money about 2,000*l.* He said that within six months afterwards she got aground, which obliged them to remetal her at a further cost of about 470*l.* It will be seen then that the sum at which she was insured was sufficient to cover not only the original cost price, but all the moneys which had been spent upon her since the beginning of 1877. It is clear, however, that this must be considerably in excess of her value, the last 470*l.* having been spent not to add to her value, but to make good damage which she had sustained. The captain told us that he knew nothing of these facts, but if he had, and had said that it would have been better for the owners if the vessel had never come off, he would probably not have been very far wrong. Whether indeed it is right that the vessel should be insured in a sum so much in excess of her value is a matter upon which we can all form our opinion.

One further circumstance should be mentioned which serves to show the very unsatisfactory relations which appear to have subsisted between the master and the mate,

and which may possibly account for the very serious charge of attempting to throw away his vessel which has been brought against the master. It seems that two or three days after the vessel had been safely taken across the bar of the Chiltepec River and anchored she had to be put out to sea to avoid being driven ashore, and it was only in the afternoon of Saturday the 22nd that she was able to get back to her anchorage. On the following day, the Sunday, a raft of timber came alongside, which the crew, at the master's request, consented to load, upon which the mate, who seems to hold very strong religious views on the subject of working on the Sabbath day, thought himself called upon to protest, and did so in rather forcible language; but perhaps it will be better to give the mate's own account of what occurred. He told us that he went forward and told the men that there was no necessity for them to work on the Sabbath day, and that it was all through weakness of mind that they had consented to do it; that he had sailed to different parts of the world, amongst Heathens and Christians, and had never been told to work cargo on the Sabbath day until that time. Not content with this, the mate then went aft and spoke to the captain about it, expressing himself apparently in very strong language. The captain replied that he thought that the man who was talking about it ought to be the first at the work, upon which the mate remarked that the work was "unholy and unnecessary," and the captain then told him that if he did not like it he could go below, the mate replied that he would go below if the captain wished it, but as the captain seems not to have expressed a wish that he should do so the mate remained on deck. The captain then said that he wanted to get on with the work so as to get the vessel out of danger, and the mate replied that perhaps that would not bring her any more out of danger by working on the Sabbath day. This is the mate's own account of what passed on the occasion, and he told us that he made no secret of his opinions, but spoke them out openly, so that the men who were about should hear him. He told the men, however, that they had consented to do it and that they must go on with it.

Now whether the mate thought that the work was unholy and unnecessary it certainly appears to us that it was not proper conduct for a man in his position to go and speak to the crew as he admits he did. If he thought that the master was doing what was wrong he might have taken him on one side and spoken to him about it, but instead of that he goes first to the men forward and speaks to them in the way in which he has described, and then goes aft to the captain and in a loud voice addresses to him observations tending to excite a spirit of disaffection on board.

But I would ask, is the mate right in saying that the work was unnecessary? Consider what the circumstances were. Here had this vessel arrived off the mouth of the Tabasco River on the 3rd of January; she had been driven out to sea on the 6th with the loss of both bower anchors and almost all her chain cable; and the captain, who was at the time on shore, had not been able to rejoin her until the 17th. Before the end of January all the cargo with which she could venture to cross the bar was on board, but she was obliged to remain for a fortnight waiting for another anchor and cable. On the 14th of February having got her new anchor and cable she attempts to cross the bar, strikes on the bank, and remains fast; she comes off on the following day, and on the 16th she gets safely across and anchors. On the 19th she is driven out to sea by a norther, and does not return to her anchorage until the afternoon of the 22nd; and then on the 23rd, when a raft of timber comes alongside, the mate thinks that because it is a Sunday it is "unnecessary" to take it on board. And in answer to the Court the mate stated as his reason for thinking that the work was unnecessary, that if they had not taken in that raft of timber on the Sunday he believed Providence would most probably have made it up to them by sending them two rafts on the Monday. I am not prepared to say that this may not have been so; at the same time it is a contingency upon which the captain would hardly have been justified in relying, with his vessel in a position of considerable danger, and with insufficient anchors and cables on board. It seems to us that it was his bounden duty under the circumstances to get his cargo on board as soon as possible, even though to do so he might have to work on the Sabbath; and we greatly regret that the mate should have sought to stir up differences between the master and the crew. How far this circumstance, coupled with the fact that some of the crew had probably lost their effects by the stranding of the vessel, may have led to this letter being sent to the Board of Trade, and to all the subsequent proceedings, is of course a matter of conjecture.

It remains then for me to say whether in our opinion the

master and mate are to blame for the casualty, and whether their certificates should be dealt with. Now whether the master was affected by drink on the 14th of February, and whether it was owing to his misconduct that the vessel grounded on the bar on that occasion, it appears to me, seeing that she sustained no damage by the grounding, that, on the authority of the case of *ex parte* Storey, we have no power to touch this gentlemen's certificate; and there is no other charge established against him. As to the mate, however strongly we may reprobate his conduct in signing such a letter as he did, and however difficult it may be to reconcile his extremely sensitive views as to the strict observance of the Sabbath with the bringing false and slanderous charges against the master, it is clear that none of these acts in any way contributed to the casualty; and we cannot therefore touch his certificate on that ground. In all other respects the man seems to have shown himself a good seaman, more especially when the vessel was in his sole charge after being driven off the coast on the 6th of January, and before the master rejoined her on the 17th. That this, too, is the opinion of the master is clear from the certificate which has been produced dated the 14th of April last, and in which the master says the mate is strictly sober, a good seaman, and very attentive to his duties, and that he could safely recommend him. We can see then nothing for which we ought either to cancel or to suspend the certificates of either of these gentlemen; and we shall therefore order them to be restored to them.

Do you ask for costs Mr. Turnbull?

Mr. Turnbull.—I do not.

Mr. Cameron.—I had not intended to ask for costs until after I had heard your statement your Honour.

The Commissioner.—If you have anything to urge why I should give you your costs I shall be ready to hear you.

Mr. Cameron.—I have merely to say that, seeing now (I could not and did not wish to say anything about them until I heard your Honour's decision) that the cause of this inquiry has been this letter, and that it has utterly fallen to the ground, I think that my client is entitled to his costs.

The Commissioner.—Against whom do you ask for them?

Mr. Cameron.—Against the Board of Trade.

The Commissioner.—On what ground?

Mr. Cameron.—On the ground that they, when examining

these men, might I think have seen, as your Honour has done, what their statements were worth. That is the sole ground upon which I ask for costs.

The Commissioner.—What have you to say Mr. Turnbull?

Mr. Turnbull.—I have merely to say in reply, your Honour, that the Board of Trade had no reliable grounds on which to doubt the accuracy of that letter.

The Commissioner.—I am clearly of opinion that this is not a case in which I can give the master his costs. The case was full of suspicion, and it was therefore necessary that there should be an inquiry. There can be no doubt, too, that when this vessel crossed the bar of the Chiltepec she was insufficiently furnished with anchors and cables, and that in consequence the vessel and those on board were exposed to considerable risk; I do not say that they were improperly exposed, but it was necessary that there should be a full and complete inquiry into the circumstances. Moreover, the captain has not been wholly exculpated from the charges which have been made against him. I must therefore, Mr. Cameron, refuse you your costs, but I shall not condemn you in costs.

One fact yet remains to be noticed. This inquiry has been held in what is little else than a private sitting room with a table in the middle. Now I hold that in cases of this description, where the certificate of an officer, which is the only means he has of gaining his livelihood, is at stake, and where a charge has been made against the master that he endeavoured "wilfully and intentionally" to throw the vessel away, it is of the utmost importance that the inquiry should be conducted in an open court to which the public and the reporters for the press have access, that they may see that justice is done. I do trust that if I should ever again have occasion to come to Greenock some better accommodation will be provided for us than this room, or we shall be compelled to hold the inquiry at Glasgow, where, I am told, a court will always be placed at our disposal, or if not, in my own court at Westminster.

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

We concur.

(Signed) G. TREFUSIS HOLT, } Assessors.
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