

iiiiiiIn the Matter of License No. 94008 and Merchant Mariner's Document
No. Z-521891

Issued to: CARLTON H. FARRELL

DECISION AND ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

714

CARLTON H. FARRELL

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 19 June, 1953, an Examiner of the United States Coast Guard at New York, New York, suspended License No. 94008 and Merchant Mariner's Document No. Z-521891 issued to Carlton H. Farrell upon finding him guilty of negligence based upon a specification alleging in substance that while serving as Night Engineer on board the American SS QUEMADO LAKE under authority of the license above described, on or about 22 February, 1953, while said vessel was at Bethlehem Steel Shipyard, Brooklyn, New York, he neglected to maintain a proper water level in the port boiler and this caused severe damage to the boiler.

The Record presented here is not sufficiently developed for me to safely make "Findings of Fact" as required by law. Technical details of boiler construction and operation, which may affect the result, have not been shown; and a memorandum filed on Appellant's behalf now raises for the first time several factual points which Appellant contends explain the cause of this disaster.

I do not approve a practice which permits an Appellant to raise on appeal defenses which were available and should have been

presented to the Examiner at the hearing; but I find Appellant had requested that testimony be taken from the oiler and fireman on watch at the time. Although arrangements were made to obtain such evidence, it is not in the Record - nor is its absence explained.

While Appellant had agreed that Mr. Earl King should act as his counsel at proceedings conducted during Appellant's absence from New York, he did not agree, on this Record, that Mr. King might send some substitute to act as Appellant's counsel.

In my opinion the ends of justice will be served best by remanding the whole record for further proceedings looking to a full discovery of the facts attending this incident and its cause.

The Order of the Examiner dated at New York, New York, on 19 June, 1953, is REVERSED, VACATED AND SET ASIDE. The Record is remanded to said Examiner for such further proceedings as may be deemed necessary.

A. C. Richmond
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 30th day of November, 1953.

***** END OF DECISION NO. 714 *****

[Top](#)