

# "WILLODALE" INQUIRY

## Counsel's Submission of Case Against Owners

### FINDINGS AT DATE TO BE NOTIFIED

At yesterday's hearing of the Court of Inquiry into the foundering of the British steamer *Willodale* it was announced that the findings would be made known in open Court at a date to be notified. After counsel for the Ministry submitted that a case had been made out against the owners, evidence was given on their behalf by Mr. C. E. Heath, who said there had been no complaints regarding the vessel's stability. The *Willodale* sank during bad weather in the Bay of Biscay on Apr. 4, 1947, while on a voyage from Bordeaux to Cardiff with pitwood. The inquiry is being conducted by Mr. J. V. Naisby, K.C., as Wreck Commissioner, assisted by three assessors, Mr. H. A. Lyndsay, Captain J. P. Thomson and Commander D. V. Setton. The previous proceedings were reported in LLOYD'S LIST of Sept. 21, 22, 23 and 24.

Mr. Peter Bucknill represented the Ministry of Transport, and Mr. David Meurig Evans appeared for the owners, the Bromage Shipping Company, Ltd. The dependants of the master (Captain Hill) and chief officer (who lost their lives) were represented by Mr. P. F. Broadhead (instructed by the Mercantile Marine Service Association and the Navigators and Engineer Officers' Union). Mr. Neil Maclean (instructed by the National Union of Seamen) appeared for the dependants of the 10 members of the crew who lost their lives.

The formal questions were submitted to the Court by Mr. Bucknill. One of them asked: Was the loss of the *Willodale* contributed to by the wrongful act or default of her owners, her master or ship's officers?

The COMMISSIONER: Do you submit, Mr. Bucknill, that a *prima facie* case has been made out against either the owners, master or the ship's officers?—I am instructed to submit that a *prima facie* case has been made out against the owners alone.

Counsel added that he would go further into the submission at a later stage if the Court considered it necessary.

Mr. MEURIG EVANS then intimated that he would call the manager of the firm which owned the vessel.

### DIRECTOR QUESTIONED

Mr. CHARLES EDGAR HEATH, of Penarth, said he was a director of the Bromage Shipping Company. There were also two other directors, Mr. E. R. James and Mr. Neville Humphreys, and the latter was the registered manager. Witness joined the firm in 1929. He had managed numerous ships for the Ministry of Transport during and since the war. The *Willodale* was purchased by the firm at the end of 1929. She was taken over by the Ministry of Transport in 1940. Before that year the master was Captain J. H. Williams.

Mr. EVANS: Did you ever have any vestige of complaint from him or any other officer in relation to the stability of the ship?—Absolutely none.

Mr. Heath also said that Captain Hill took over the *Willodale* in 1946, and he discussed with him the condition of Bordeaux docks. The substance of the discussion was simply to ensure that the *Willodale* was not loaded so as

to put her down to a depth which might prejudice her safely leaving Bordeaux docks.

Mr. EVANS: Up to the time when the vessel left South Wales for her last trip had there been any suggestion from the master as to her stability?—There was no mention by the master or the chief engineer regarding her stability.

The witness was also questioned about a letter he wrote to the master wishing him a good voyage and adding: "You will be on the summer mark and will act on the lines already advised." Mr. Heath explained that this meant the lines already advised on each pitwood voyage.

Asked by Mr. Evans if, looking back, he could think of anything which suggested that the *Willodale* was unstable, when loaded, Mr. Heath replied: "Nothing whatever." He had held that opinion up to the time of the loss of the ship.

In reply to Mr. MACLEAN, WITNESS said that no member of the crew ever complained to him about the ship listing.

He added: "From my long experience of this ship I had no doubt but that she was fit to carry pitwood." He left the inspection of the lifeboats to Mr. Bullen (the ship's superintendent), the master or the officers.

Mr. MACLEAN: Having heard the evidence at this inquiry, do you still feel that you could not have thought of more efficient means of securing the loading uprights?—I am only concerned with the regulations and I consider the system was an efficient means within the regulations.

And you still think that?—Yes. Definitely.

Further questioned about the letter he sent to the master, the witness told Mr. Broadhead: "The letter was sent because the master had not the knowledge of his chief officer on timber matters and he might have taken risks in loading."

Mr. BUCKNILL: What did you mean by the phrase in the letter "You no doubt have a copy of the Timber load line regulations"? Were you wondering whether he would load too much deck cargo?

WITNESS: Captain Hill had never carried timber in this ship on summer marks and the whole purpose of the letter was to warn him of the variation in timber loading. I thought it incumbent upon me to leave no doubt in his mind in the matter and as to what he could do with regard to the height of the deck cargo.

Do you think it was a good plan to have Mr. Bullen as marine superintendent? Was he doing full justice to it?

—Mr. Bullen is a member of the firm of T. A. Reed, Ltd., who have had the privilege of acting for more important firms than ours. His father is a man of profound experience, and, if I must answer, I would say without hesitation that I think it was a good plan.

Do you consider that Mr. Bullen was perfectly competent as marine and engineering superintendent?—The standard of service given to us by Messrs. T. A. Reed represents a satisfactory level.

Questioned by the COMMISSIONER, Mr. HEATH said that Captain Hill had a master's foreign-going certificate, and the chief officer had a similar chief officer's certificate.

The COMMISSIONER: Do I understand, as far as the management of the *Willodale* was concerned, you yourself accept full responsibility?—Yes.

As the gentleman, in fact, managing this ship, did you take steps to ascertain that the vessel was, shall we say,

not overloaded?—Not in any specific steps in any direct manner.

Asked whether he satisfied himself that the master and officer complied with the regulations, Mr. Heath said: "I was leaving it to the officers and master."

### POINTS FOR CONSIDERATION

Addressing the Court, Mr. MACLEAN said the four points to be considered were the state of the weather, the condition of the vessel, the state of the cargo and the stowing of the cargo. "Was it necessary," he asked, "for a seaworthy vessel to seek shelter? I suggest that the vessel was far from being in a 100 per cent. condition." He considered there was a responsibility on the owners, who had the assistance of an expert like Mr. Bullen, to explain to the personnel of the ship what stability and loading meant to the vessel.

When Mr. Maclean commented on the absence of lifeboat drill, the COMMISSIONER asked, "Are you suggesting that this had anything to do with the loss of the ship or with the loss of life?"

Mr. MACLEAN: I do not think that if the lifeboat had been 100 per cent. efficient it would, unfortunately, have made any real difference to this tragedy. I suggest, however, that it is another contribution towards the general picture. I am attempting to put before you, as fairly as I can, that there was a complete lack of supervision on the part of the managers to secure the highest modicum of safety for the officers and crew of this ship.

The COMMISSIONER asked whether it was not likely that the life-jacket of the deck hand Humphreys had the equivalent of two or three buckets of water on it as the result of the weather conditions.

Mr. MACLEAN agreed, but said this would not explain the fact that the life-jacket of the witness was torn.

### DELAY IN HOLDING INQUIRY

Mr. Maclean then submitted "a friendly suggestion" to the Ministry. He said: "I feel something might be done in future about the unconscionable delay between the tragedy and the holding of the inquiry. It may well be that there is a good explanation for the hiatus which occurs, but I do feel, in fairness to the Court and in particular to the witnesses, that some effort should be made to accelerate these inquiries. I do not think it is reasonable to expect witnesses to give all the evidence which might assist you approximately 18 months after the tragedy occurs."

Mr. BROADHEAD requested that the Court should recommend that owners in the case of a ship carrying deck cargo timber should advise the master with regard to the vessel's stability and the maximum height of the deck cargo he should carry. He was anxious that the Court should make recommendations which would enable similar disasters to be averted.

In his address for the owners, Mr. MEURIG EVANS said that up to 1940 the *Willodale* was a seaworthy vessel. Up to the time the owners received the vessel back from the Ministry in the middle of 1946 they had no reason whatsoever to doubt her stability, but had every reason to believe that she was a seaworthy vessel under normal loading conditions. It would be unreasonable, in his contention, to suggest that the managers of the vessel should anticipate trouble.

Dealing with the serious charge made against Mr. Bullen, counsel said: "It is stated that he was responsible, in whole or in part, for the loss of this ship and the loss of these lives. The

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most that can be said against him, in my submission, is that he made certain assumptions and calculations, which were slightly different to the calculations and assumptions made by Mr. Hawkins (chief surveyor, Ministry of Transport), who is a man of far greater standing. It would not be fair to condemn a man on evidence of that kind." Mr. Evans concluded by offering the sympathy of the owners of the vessel to the relatives of those who had lost their lives in the tragedy.

In his summary of the case for the Ministry of Transport, Mr. BUCKNILL said there had been evidence that a large sum of money had been spent on repairs to the vessel, even within less than a year of her loss. On the question of stability, counsel said it was a matter for the Court to consider whether the data supplied to the master might have misled him. He would not put the matter stronger than that.

"The question is whether the master was misled in a way that was culpable," Mr. Bucknill added. He agreed with the Commissioner that there was evidence that a good deal of care was being taken by the owners. They were not absolutely certain that matters were altogether right and were taking steps to rectify their lack of knowledge.

Another matter for the Court to consider was the condition of the watertight doors. In the Ministry's approach to the matter it was a very serious thing that they did give way, although the evidence on this was not very satisfactory.

In concluding the Inquiry, the COMMISSIONER expressed his sympathy and that of the assessors with the relatives of those who lost their lives. He thought this was a case in which the findings should be made known in open court, and they would be made known at a date to be notified.

#### "WILLODALE" INQUIRY FINDINGS

In our report, yesterday, of the findings of the Court of Inquiry into the loss of the *Willodale*, the last complete paragraph in the first column ended with the words "the vessel was not holding water." The phrase should have read: "the vessel was not waterborne."



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