

THURSDAY NOVEMBER 28 1935

CERTAIN THEORIES, BUT LOSS UNKNOWN.

COUNSEL'S CASE FOR OWNERS IN LA CRESCENTA INQUIRY.

GREATEST ECONOMY IN INSURANCES.

OFFICERS' SOCIETIES AND REGULATIONS.

AT the Board of Trade inquiry into the loss of the tanker *La Crescenta* which was resumed at the Institution of Civil Engineers, Westminster, yesterday, counsel for the officers, seamen and the owners, respectively, addressed the court on behalf of their clients. On behalf of the owners, Mr. Naisby said certain theories had been put forward, but the cause of the loss was still unknown; fire, flooding and the human element were all possibilities. While there had been economy in the upkeep of the ship, the greatest was in insurance, of which the owners took well over half.

La Crescenta, an oil tanker of 5,880 tons gross, 400ft. length, 53ft. beam, 32ft. 10ins. depth, was built in 1923 by the Furness Shipbuilding Co., Ltd., Haverton Hill-on-Tees, and owned by the Crescent Navigation Co., Ltd. (Messrs. Harris and Dixon, Ltd., managers, London). She was lost in December, 1934, with her crew of 29, during a voyage from California to Japan with a cargo of crude oil.

Lord Merrivale, Wreck Commissioner, presides over the court, and is assisted by Commander H. Stockwell, Commander J. R. Williams, Mr. Edmond Wilson (marine engineer), and Mr. E. H. Mitchell as assessors.

The parties to the inquiry are as follows:—The Board of Trade, represented by the Solicitor-General, Sir Donald B. Somervell, and Mr. G. St. C. Pilcher (instructed by the solicitor to the Board of Trade); the Crescent Navigation Co., Ltd. (the owners of *La Crescenta*) and Mr. Sydney Graham, represented by Mr. J. V. Naisby (instructed by Messrs. Middleton, Lewis and Clarke); Mr. R. F. Hayward and Mr. Harold Griffin (instructed by Messrs. G. F. Hudson, Matthews and Co.) for the relatives of the dead officers, and the following officers' and engineers' protection societies who are represented on the National Maritime Board:—Officers (Merchant Navy) Federation, the Imperial Merchant Service Guild, the Mercantile Marine Service Association, and the Marine Engineers' Association, Ltd.; Mr. Vere Hunt and Mr. Peter Bucknill (instructed by Messrs. Russell, Jones and Co.) represent the National Union of Seamen and the Transport and General Workers' Union; Mr. W. L. McNair (instructed by Messrs. Parker, Garrett and Co.) holds a watching brief for Lloyd's Register of Shipping.

BUOYANCY POINT.

At the opening of yesterday's proceedings, Lord Merrivale said that he had referred to his assessors, and it seemed important to know, assuming the engine-room and the boiler-room and the bunkers were flooded, what effect would that have had on the ship's buoyancy.

Sir Donald Somervell said he quite appreciated it. The evidence so far, perhaps, had finished at the point that if the engine-room was flooded the engines would stop, and he thought it right that there had not been evidence on the matter referred to, but he could put Mr. H. E. Steel (Board of Trade Ship Surveyor) in the witness box, who, he thought, could deal with the point.

Mr. Steel then went into the witness box.

Sir Donald Somervell.—Have you made any calculation as to what would be the effect on the buoyancy of the ship assuming that the space would be flooded?—I have not made any calculation quite so far as that. The calculation I had made was that if the engine and

boiler-rooms were flooded up to the level of the second deck, the after end of the upper deck would be awash. I have not calculated further than that. If, in addition to that, the 'tween deck space, that is the coal bunkers and the crew space, was flooded, then the whole of the after end of the ship would be under water.

STATE OF TANKS.

Mr. Hayward, continuing his address, said that the tanks had not been gas-free and inspected since August or September, 1932. He called attention to the engineer superintendent of the ship, Mr. Rogers, on the fourth day, stating that it was usual for a tanker to be overhauled every year-and-a-half or two years, and later spoke of the annual or biennial overhaul of the tanker.

"At the time of the loss of this vessel," Mr. Hayward proceeded, "it was 2½ years or thereabouts since the ship was so overhauled.

Lord Merrivale.—What was the period during which the ship was laid up?—The period during which the ship was laid up was about 12 months.

And what 12 months was it?—That was from November, 1932, to November, 1933.

It is a period comprised in the period you are speaking of?—Yes, my lord, that is so.

What was the particular observation you made with regard to the tanks, Mr. Hayward?—The tanks had not been tested since the overhaul at Sunderland. Before the tanks can be tested and examined they have to be gas free. The tanks had not been gas free since that time.

THE REPAIR ACCOUNTS.

Mr. Hayward then dealt with the question of repairs—the statement of amounts expended on repairs. It did appear that an account was paid in January, 1930, of nearly £6,000 in respect of repairs at Rotterdam in 1929. Those were owners' repairs; they had to renew heating coils and so on; but of that the strengthening of the deck and engine repairs amounted to nearly half the total amount, namely, about £3,000. That was done in 1929. According to his analysis of the repair accounts in the year 1930, there was spent on the vessel £4,615, of which £2,707 were damage repairs, leaving ordinary repairs of £1,908. In 1931, he made the total of money spent on the ship in the way of repairs, which, of course, included drydocking, stores, deck and engines, and necessary survey, £538. In 1932, of the £8,900 odd which was spent, only £361 was spent on ordinary repairs to the ship. The large part of that figure, viz., £8,000 odd, was paid by underwriters in respect of the damage that the vessel had received in stranding at Bordeaux. The total amounts that were paid in that year were £8,971. Deducting the account paid by underwriters left £923, but of that amount no less than £562 was in respect of surveys, and for ordinary repairs, painting, ropes, &c., only the sum of £361. That, of course, was for the year during which she was laid up. During the year 1934, according to the accounts there was spent on the vessel—

Lord Merrivale (interrupting).—Are you overlooking November, 1933, Mr. Hayward?—No, my lord.

Mr. Hayward, continuing, said that the total of repair accounts for 1934—all the figures were subject to error in his arithmetic—was £1,652. Deducting from that £850, the value of repairs done by the Bethlehem Steel Co., one arrived at the total of repairs, including stores, rope, drydocking, painting, &c., of £712. It did not appear that that was a great sum to spend on a vessel having the hard treatment that that vessel was having, and being of the age she was.

Referring to Mr. Rogers' survey report made in October, 1930, in respect of heavy weather damage and some grounding damage at Glasgow, he found that six steel cargo hatch covers were bent and damaged, and if, as appeared to be the case, that was the result of heavy weather and it was quite clear the stresses and strains the ship was exposed to by either the movements or breaking of seas on deck must be very heavy.

HATCHES STOVE IN?

The hatches on the upper deck, continued Mr. Hayward, were a source of possible danger, and it would not have been permitted had the ship been granted a deeper freeboard. He submitted that it bore out a theory that probably those hatches were stove in at the time of the loss.

Mr. Hayward then dealt with Mr. Graham's evidence, in which he stressed the engaging of a crew of officers in the year 1932. "Why that was introduced," continued Mr. Hayward, into the evidence I am at a loss to understand."

Lord Merrivale.—He probably considered that character and conduct came into consideration. I think that was why it was introduced.

Mr. Hayward.—If it were introduced for that reason I can only say it appears to me whatever is the character of a particular person, he is not loath to take advantage of the fact he can get very good value for money, and evidence shows it was a very good crew.

Lord Merrivale.—If they were all men with certificates it would be an exceptional crew.

Mr. Hayward, continuing, said that Mr. Graham's company had in 1930 a reserve fund of £60,000, although they had been trading for a matter of seven years. They paid a dividend of 20 per cent. in 1930, and in addition to paying that dividend had debentures to the extent of £27,000, and in 1931 paid a dividend of 7½ per cent.

BOTH EMPLOYES.

He felt he ought to say a word about the responsibility in the case as between Mr. Graham and Mr. Holland. With regard to that, on behalf of the officers and engineers he represented, he ventured to submit that those lives who were in peril at sea were entitled to look to the registered managing owner as the person who was responsible in these matters, and the registered managing owner of the company was Mr. Sydney Graham. He did not know whether an attempt would be made to shoulder off the responsibility on to the weaker shoulders of a mere salaried employe, but submitted it would be against the interests of merchant shipping if responsibilities so grave, as in this case, should be allowed to be shouldered by a mere salaried employe of the standing of Mr. Graham.

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Lord Merrivale interrupted to say that they were both salaried employees—one was employed as general manager and the other apparently as shipping manager.

Mr. Hayward, proceeding, said Mr. Graham was the controlling manager, and he submitted that, at any rate, Mr. Graham had a grave responsibility in the matter, and a large responsibility.

Proceeding, counsel referred to Section 475 of the Load Line Convention, during the course of which Lord Merrivale remarked that the court was not there to try persons. It was a Court of Inquiry into the cause of the loss of the vessel.

AN ALLEGATION AND PROTEST.

Continuing, Mr. Hayward submitted that the lamentable state of shipping called for a full inquiry with a view to bringing the industry up to date regarding the regulations. One reason why, in the view of those he represented, a full inquiry was desirable was the fact that although there were still living some of the officers, engineers and others who could very usefully have given evidence, in connection with the loss of a ship in which he had served, his clients had found it practically impossible to get them into the witness-box as witnesses.

Mr. Naisby interrupted to protest against matters of that kind being dragged into the inquiry.

Mr. Hayward, proceeding, said he would make it abundantly clear. That was an argument not connected with that inquiry at all. It was a general observation.

Lord Merrivale.—Don't you see, Mr. Hayward, these are matters about which there is no evidence. Mr. Naisby naturally protests in a case of this kind where there are findings to be made.

Mr. Hayward, in reply, said that so far as evidence was concerned he had finished with *La Crescenta*. Sir Donald Somervell said that the last thing the Board of Trade wanted to do was to prevent any proper matter being ventilated in the proper place, but it would be improper in that inquiry, for Mr. Hayward had put forward submissions not based on evidence, matters not relevant to that inquiry.

Lord Merrivale said Mr. Hayward should bear in mind the ordinary rules as to the judicial procedure.

QUESTION OF MANNING.

Mr. Hayward, continuing, said the case emphasised the need for a revision of the law with regard to manning.

"In this particular ship," he proceeded, "the ship was so lightly manned that even after the Board of Trade had stepped in and caused another man to be added to the crew, the owners desired to send her to sea with only nine efficient deck hands, and even with 10, including the mate, it became necessary for the three officers to work all day long in the tanks whilst the vessel was at sea, leaving the master to keep look-out on the bridge from 7.30 in the morning till 8 o'clock at night."

In regard to the engine-room, he said that it was a case for inquiry as to whether the regulations should be specific about the number of hands required, as they were about the number of hands required on deck. He also submitted that steel hatches in tankers were of great importance.

"These difficulties in merchant shipping and all the various matters—some of which I am able to touch on in this case—many have been touched upon and dealt with by your lordship in other cases. The time is ripe for a full inquiry, in which witnesses will be able to come without fear of displeasing anybody who may employ them or any potential employer."

Lord Merrivale.—So far as this court is concerned, we are at present dealing with the questions submitted on behalf of the Board of Trade for determination here.

Mr. Hayward.—On behalf of those I represent, I ask your lordship, in addition to your report on the loss of *La Crescenta*, to express the opinion of this court having regard to the knowledge gained in these four inquiries, that a full inquiry into the state of the Merchant Shipping Acts is desirable. If your lordship feels you can do that, that is what I ask your lordship to do.

CASE FOR SEAMEN.

NO CORROBORATION FOR ALLEGED AGREEMENT ABOUT CREW.

Mr. Hunt, in addressing the court for the National Union of Seamen and the Transport and General Workers' Union, said that they did not make any allegations whatsoever against the late master or officers of the ship.

Referring to the allegation by one of the witness for the owners that the Seamen's Union had agreed on the number of the crew, said a letter referred to had not been produced. That, he thought, cleared the position as far as the allegation that the Seamen's Union had ever at any time agreed upon the numbers of the crew on the ship.

Counsel submitted the ship was overloaded on several occasions, while no timber had been supplied for repairs since 1932.

Great importance must be attached to the hatches assuming the ship was overloaded.

It Mr. Gooch was correct the engine-room staff must have been short by having to borrow from the deck. He drew attention to the fact that the master and chief engineer had to repair the rivets in the ship and mend a leaky pipe in the pump-room.

The question of fire extinguishers on a ship with such a highly inflammable cargo should be investigated carefully. He submitted that the fire extinguishers on the ship were in a deplorable condition.

ABSENCE OF SAND.

Mr. Wallace's evidence was of the utmost importance. He was the nearest man to the fire under the boilers. He only found one fire extinguisher. No sand had been supplied to the ship after 1930. Yet they had evidence that cement boxes were placed in various parts of the ship. The sand which Mr. Rogers had said was put on board for fire extinguishing, but it was used for cement boxes. Wallace looked for sand at the time of the fire. He found none; and he only found one fire extinguisher. That was quite sufficient comment on the fire equipment of the ship.

Oil fuel left powerful fumes about, and still there were no gas masks on *La Crescenta*. It was interesting to see that Mr. Binmore had admitted that it was a reasonable precaution to supply gas masks in tankers. And he also admitted that there were no B.O.T. requirements for that reasonable precaution. Again, one could not help glancing at the enforcement of the Board of Trade rules re the medicine chests. When the ship went down she was still short of sufficient medicine for the crew.

THE ELECTRIC WIRING.

The electric wiring, according to evidence, showed that the last report on the wiring fitting was in 1923, and that ship went down in 1934. The master was often aloft repairing the lamp wires. The electrical fittings should be inspected more fully and more regularly. He was relying on the Board of Trade representative, who said that there were no electrical inspections. If the electrical wires perished they were apt to catch fire.

Mr. Gooch's evidence—he was a former chief engineer on the ship—was comprised in the sentence, "During the whole time of my work on the ship I never had a moment of anxiety about the engines or repairs." That was how he considered the matter. He had said that the engine-room was in very good condition, when it was plain that there were very grave defects in that engine-room. He had said that the hull was in good condition at a time when the ship had to have 200 rivets to be caulked.

"I don't know how many thousands of rivets Mr. Gooch requires in a ship before he thinks she is not good." Also there was the fact that the suction valve did not work. He also thought it was only a trivial matter that all the burners went out in Kobe.

This chief engineer considered the Weir pumps as auxiliary machinery. As a matter of fact they were the most important auxiliary machinery—if they were not actually part of the main engine—because they were the pumps that kept the pressure up. The engine-room was in a state of rust and corrosion. He submitted that the evidence of Messrs. Wallace and Mooney was absolutely reliable, saying that there were frequent breakdowns, and the auxiliary machinery was in a bad condition.

CREW'S QUARTERS.

Overworked and exhausted men needed thoroughly good quarters to rest in. The evidence was entirely to the reverse. They attributed their discomfort to the fitting of the glass in the portholes.

Referring to overloading charges on previous voyages, Mr. Steel had said that there was an excess of 66 tons and 82 tons on voyages in 1930. According to the Board of Trade, this ship was allowed to load to 9,340 tons, summer marks; on August 23, 1932, she was loaded 9,357 tons cargo and bunkers, which was a small overloading of 17 tons, but it did not take into consideration the final total of loading.

Mr. Hunt declared that there was no communication received from the Board of Trade to the owners for one year; at least, on overloading questions.

The President.—But how is the Board of Trade brought into this question?

Mr. Hunt.—Here is a ship that must load to certain marks.

The President.—Before you cast reflections on a public department you must consider how the matter stands.

Sir D. Somervell.—This subject is introduced for the first time in a final speech.

The President.—Yes. There cannot be casual allegations now in a new direction.

Mr. Hunt.—I will only make one remark.

The President.—No! Not on the same lines.

Mr. Hunt then turned to the wireless transmission in the ship and pointed to the evidence of Mr. Reynolds, who said the emergency set had a range of 200 miles. There were no emergency wireless messages received from the ship. Whether that was a sufficient range in so large an ocean as the Pacific was a question for the court.

In the Board of Trade circular No. 1463 there were no requirements as to engine-room crew.

The President.—The sequel to your remark is that the Board of Trade leave the matter open. The people who man the ship have to see what is necessary.

Mr. Hunt.—Yes. But we submit that the owners do not know how many men are necessary, and they sent her to sea short of what was necessary. To eliminate this state of affairs these regulations should be inquired into further.

REPLY FOR OWNERS.

CAUSE OF LOSS UNKNOWN.

Mr. Naisby then put the owners case to the court. He said that Mr. Hayward's statement that the last time the ship was gas freed was in 1932 was inaccurate. She was drydocked after that and a surveyor's report was given.

The President.—Did this later report include gas freedom?

Mr. Naisby.—The report does not say that the tanks were gas free, but if the vessel was laid up for a year they would be gas free.

The criticism that there had been 6,000 rivets dealt with was no criticism, because that happened after she had been aground in the Gironde.

As for the new load line for tankers. It was not desirable commercially to have a vessel so marked for which they always had to charter on part cargoes. If the new load line had been taken all the charter-parties would have to be written up in quite an unusual form. Mr. Hayward had said that the hatch cover on the upper deck should be of steel if the new load line marks were to be used. That was a mistake. It was true that the owners' balance-sheet in 1930 showed a reserve fund of £60,000, but against that was the cost of *La Crescenta*, at £90,000.

THE MANNING.

The matters of manning were discussed with the National Union of Seamen, and no one had ever suggested that Mr. Holland had been wrong. No letter had been written to show Mr. Holland was wrong.

Of course, the chief question they had to consider was the cause of the loss of the ship. There was only one answer. The cause of the loss of the ship was "unknown." There was no evidence as to the cause of the loss. Certain theories had been put forward.

Mr. Naisby, continuing, said the fact no messages were received from the vessel by anybody else would seem to point to the fact that probably the loss quickly followed the action which caused it. It seemed to him that was the probability.

Lord Merrivale, interrupting, said there were two outstanding facts they knew. There was no mistake the wireless conversations did cease. They knew by what means the wireless could cease. A month afterwards there was found a large pool of oil. Those were facts about which there were no doubt.

Mr. Naisby, proceeding, said an explosion might take place. Perhaps it would not be out place to consider the possibility of how an explosion could take place on board the vessel. It might take place by reason of human agency, and there had been occasions known to have taken place by Act of God. There was another possibility—a magnified or electrified piece of material might have been put into a compartment where there was gas. Charged with electricity it might produce a flash.

HUMAN ELEMENT.

There was also the possibility of the human element. Referring to smoking, he said that there was always the possibility, and something of that kind happening, and the result might be an unfortunate catastrophe.

Referring to the patch of oil found on the water, he said that supposing an explosion occurred in, should they say, the colliery. It might well be that it might cause a large rent in the ship or blow her apart, and it might be some considerable time after the parts of the hull of the vessel were still laying on the bottom of the sea, some oil might become loose. Such an explosion might have been caused possibly by the manipulation of the wrong valve in the engine-room or something of that kind.

Referring to the possibility of fire, Mr. Naisby said, that was not a probable cause of the loss. One of the difficulties in the way of fire was the question of oil being found a month later, or maybe if a ship was burnt a certain part of her hull might go down and might still go to the bottom with some oil in her, but he thought it unlikely.

Another difficulty was that if there had been a fire there would have been an opportunity to send out wireless messages.

ENTRY OF WATER THEORY.

They might turn to the entry of sea water as a cause of the loss of the ship. That theory had been adumbrated by the Board of Trade. There must have been some damage to the wireless by the flying bridge being disturbed by the sea and the dynamo being carried away. The fact that any water got into the ship was pure theory. There was not the slightest basis of evidence that that was what did happen.

Dealing with the upkeep generally, and the upkeep with regard to fire, explosion, or the entrance of water, Mr. Naisby said that the owners were desirous of running the ship economically. If she was to continue running at all money had not to be wasted. "And as your lordship said a few days ago—'There is an economy which is merely good business.'" The greatest economy was in insurance, when the firm took up four-sevenths of the insurance value—well over half—of the ship.

Mr. Naisby.—The main attack is from Wallace and Mooney on the auxiliary machinery of the ship. They are hostile critics.

The President.—I shall have to seriously consider what sort of witnesses Wallace and Mooney were. No one suggests that they came here otherwise than as honest men. They were speaking of matters of quite recent observation.

Mr. Naisby.—I do not suggest they were perjurers. Wallace is a man who exaggerates very considerably. He has magnified the troubles on the ship. Wallace said Mr. Gooch was a liar.

The President.—Yes, he said so quite definitely.

Mooney, said Mr. Naisby, appeared to be a better type of man. His evidence was not so exaggerated.

The court adjourned until this morning.



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