

TUESDAY OCTOBER 16 1934

## LOSS OF COASTAL STEAMER.

### CARGO OWNERS' SUCCESSFUL CLAIM.

JUDGMENT was given for the plaintiffs by Mr. Justice MacKinnon in the King's Bench Division, yesterday, in the action for £537 damages brought against Messrs. Coppack Bros. and Co., shipowners, of Connah's Quay, Flint, by Messrs. Parkyn and Peters and Mr. Frank Parkyn, of St. Austell, in respect of the loss of a cargo of china clay carried in the defendants' steamer *Mourne*, which foundered off Par on the night of September 21-22, 1933.

Plaintiffs contended that the cargo was lost because the vessel was not in a seaworthy condition or fit to carry the cargo.

Defendants denied the allegation, and denied that there was any want of due diligence on their part in keeping the vessel in a fit condition to carry the cargo. They maintained that the loss was due to a peril of the sea, which brought them within the exception clauses to the charter-party.

Mr. Justice MacKinnon, in entering judgment for an agreed sum of £437 and costs, said the vessel began to leak within a few miles of the port and when the weather was not in any sense bad. It was significant that the crew spent the night in the vessel, and landed safely in port next morning. Those facts showed that the vessel must have been unfit to carry the cargo.

The question was whether the shipowners had proved that they exercised all due diligence in keeping the vessel seaworthy. The ship was 40 years old, and when bought in 1902 by the defendants, or their predecessors, was in a rather disastrous condition. In 1902 the whole of her structure forward of the engine-room was rebuilt. Though the plates under the engine-room dated from 1894, there was no evidence that they had ever been renewed, and those must have been the plates through which the water entered the ship in such quantity. It was only for the successive Lloyd's surveys every four years that she was drydocked, and the last of those surveys took place in 1929. One which should have occurred in 1933 was postponed by permission until 1934.

Since 1929 it was said that the bottom was examined once at Connah's Quay, when she took ground. That, his lordship was satisfied, was a very insufficient and unsatisfactory means of examination.

There was no evidence that the vessel struck any obstacle in the harbour at Par, and his lordship was satisfied that there was an inherent weakness in the plates.

*5/3 Mourne*



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