[BEFORE CHIEF JUSTICE MEEDHAM.]

PIDWELL v. THE HUDSON BAY CO.

THIRD DAY.

Capt. James Wilde, sworn-Have been a seafaring man since 1841; have been in the service of several steamship companies; never knew or heard of one of those vessels swinging to test her compasses before leaving port; on arriving at a port chronometers and compasses are sent to an optician's for adjustment; when the ship is ready for sea they are brought on board by the optician; in leaving a harbor the master takes his that chain does not affect the compass; the Indians on this coast are good look-outs, and the luggage; I By Mr Waiker—In foggy weather a heavy ticket. The plaintiffs construct that into be-

swung; don't believe they are ever swung; pledge my reputation as a mariner on that opinion; a compass varies according to the direction of the head of the ship; don't bee of the steamship Active, taken before a Compass varies a hair:

| London |

order, but I had used them before and found them all right; I should not hesitate a moMouat throughout; heard the course which line with the keel of the vessel, or by taking

should take the bearing of Fort Point on the of Point Reyes; a 1/4 of a point in the same tician merely is not the generally conceived skill in the management of their vessels. It evidence of Capt Monat was entitled to serishould take the bearing of Foir Foir to the proposite side; I was a master mariner for seven months, in a 189 ton sailing vessel; all seven months, in a 189 ton sailing vessel; all Reyes; the tendency of the current and a S. at that time the optician was considered able then they are liable. That skill varies according to give months are liable. There are various then they are liable. There are various the line of Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship on Point Reyes; a 1/4 of a point in the same direction would take the ship of the point Reyes; a 1/4 of a point in the same direction would take the ship of the point Reyes; a 1/4 of a point in the same direction would take the ship of the point Reyes; a 1/4 of a point in the same steamers have standard compasses; most.

W. wind would be to throw the ship nearer to do it justice; the change is since the applications of particular and a standard compasses. There are various had taken her true course she would have captains consider a tell-tale in their cabin a the Point; it is my duty to be well acceptains consider a tell-tale in their cabin a the Point; it is my duty to be well acceptains captains consider a tell-tale in their cabin a the Point; it is my duty to be well acceptains consider a tell-tale in their cabin a the Point; it is my duty to be well acceptains consider a tell-tale in their cabin a the Point; it is my duty to be well acceptains consider a tell-tale in their cabin a the Point; it is my duty to be well acceptains consider a tell-tale in their cabin a the Point; it is my duty to be well acceptains consider a tell-tale in their cabin a the Point; it is my duty to be well acceptains consider a tell-tale in their cabin a the Point; it is my duty to be well acceptains consider a tell-tale in their cabin a the Point; it is my duty to be well acceptains consider a tell-tale in their cabin a the Point; it is my duty to be well acceptains consider a tell-tale in their cabin a the Point; it is my duty to be well acceptains consider a tell-tale in their cabin a the Point; it is my duty to be well acceptains consider a tell-tale in their cabin a the Point; it is my duty to be well acceptains consider a tell-tale in their cabin a tell-tale in the Point; it is my duty to be well acceptains consider a tell-tale in the Point; it is my duty to be well acceptains consider a tell-tale in the Point; it is my duty to be well acceptains consider a tell-tale in the Point; it is my duty to be well acceptains consider a tell-tale in the tell-tale in the Point; it is my duty to be well acceptains consider a tell-tale in the tell-tale in the Point; it is my duty to be well acceptains consider a tell-tale in the tell-tale in the

To the Court—There might be a little passes should be corrected and the error found before going to sea; a quantity of iron sailing vessel, caused by the iron work; I on board the steamship might make all the Point Reyes 9 or 10 miles; there was no all a steamer, then a limited amount of knowledge of a steamer.

vessel swung to her compasses; have carried for the captain's convenience to check the winds; saw no reason to complain of Capt. half a cargo of iron from England to the course of the ship; as soon as the compass Monat's course. East Indies, and also to the West Indies; is fixed on board and all the errors found out the iron was below the deck, and I never I should say it is adjusted; I would not confound it to affect the compasses: Know of the ship; as soon as the compass Mouat's course.

Capt. Revely, examined by the Solicitor is bound to know all that is reasonably necessary for the purpose for which he is emproper instruments.

Mr Ring—There is found it to affect the compasses; Know sider it sufficient to have the compass ad marine; have been to sea 15 years, and was ployed; and if the vessel is lost through his want of skill even if every possible care is

Have been out of full practice for nearly 20 years; the compass I have was never known to vary as much as one point owing to local attraction; I don't think that the alterations on the Labouchere made much difference in the compass; never had my wheel moved from the aft to the for'ard part of the ship, but I have had houses built over my wheel; I call a deviation what is caused by local to San Francisco; I think it was imprudent attraction; deviation is a new idea to a not to use the deep sea lead after she struck, seen Royal Naval vessels swung in the inner

Objected to by counsel for plaintiff, and his Lordship ruled that the experiments must be produced in Court. In Mme. Lafarge's case, his Lordship said, her life was declared to be forfeited by te-ts sworn to by scientific men, but she came forward and proved that the tests were all false.

considered cross-bearings necessary; if Capt Mouat was mistaken in a point or two it was of no consequence, because he could get another bearing in a short time by another its no use putting such questions to me, they half a point I should not consider it necessare above my comprehension [laughter] sary to return to port, and if a for came on I might have been 1½ points out; I believe | are above my comprehension [laughter] sary to return to port, and if a fog came on I that Capt Mouat, from my experience of him, was correct in his observation; had I been in Capt Mouat's place I should have acted as he did.

Mr W: lker offered to produce the American Consul to show the American law with regard to passengers leaving American ports, but after a short consultation with Mr Ring, Mr Walker subsequently declined to call the witness.

The evidence of Capt Edward Stamp, taken by Commission—The evidence stated that it was not the duty of a master of a wooden merchant ship to swing his ship; have seen iron ships swung ; have no faith in magnets; do not know of the atmosphere producing any variation in compasses; high coast ranges produce variations in the compass; have travelled with Capt Mouat frequently and know that ships are lost through logs and stress of weather; have known two iron ships that I commanded to be swung; two wooden ships th t I commanded were not swung to my knowledge; the Isabel was not swung; the compass at the wheel is incorrect, the compass aft is correct : remember the Labouchere when she had her wheel aft; have known a piece of iron not larger than a knitting needle to affect a compass 2½ points; as master of the Labouchere I should have considered it my duty to have tested the accuracy of the compasses, in con-

Mr Ring objected to the evidence, and his Lordship decided to exclude the evidence as a To the Court—Swinging the ship is the matter of legality, but subsequently decided to admit it by consent of both sides.

Mr Adams was then sworn-Saw some

lieve the Isabel's compass varies a hair; don't go in for swinging ships, nor do I beWitness considered it to be the duty of the lieve in important deviations; I should have master of a steamer leaving a port to bend adjusted my compasses before leaving port his sails and test his compasses; there is no tained the examination. on the Labouchere, and taken my bearings from some well known headland; If I had captain and officers do their duty; would not passes to my satisfaction before leaving Engagement of the captain and officers do their duty; would not passes to my satisfaction before leaving Engagement of the captain and officers do their duty; would not passes to my satisfaction before leaving Engagement. time I should have taken the bearings before trust an Indian on the lookout; I did not leaving port, and if I had not time I should swing the Active when I took command of here. have taken them on the way out; it all de-her; the currents off Point Reyes are gove . Capt. Oldfield, of H.M.S. Malacca, sworn every expense incurred previous to the arrival

witness—Not if I knew they were out of Malacca; have heard most of the evidence standard compass; too many of these pre-cautions are nonsense; there is only a trifling local attractions, etc; scientifically I have a for the information of the captain. difference between the compasses of a sailing knowledge of the manner in which ships are handled in the merchant service; the comfor plaintiff, and the objection was sustained to local attractions; a vessel running past a found an error would have swung the ship; I twice, and, strange to say, on two very is any doubt on the subject. Several gentlepass; I know a current on this coast that point in the harbor or anywhere else where casion. It was for the jury to say how far sets to the northward and runs about a knot it might have been; the comparisons taken these contradictory statements were entitled an hour; at the speed at which the Labou- by Captain Mouat would not have satisfied to credence? What was the character of (of taking stretches) was prudent; it might steering compasses would have caused me to each case. When Capt. Mouat was examinhave been more prudent to have gone back swing her; with regard to the bearing taken at ed first, shortly after the wreck, the facts sailor who has been away from the sea as and, if there was the slightest doubt as to dock at Southampton. Re-examined by Mr Walker—I have made the snip's position, before she struck, as well; the snip's position, before she struck, as well; the variation of the compass is well known McCreight—Have heard of the Labouchere's to review the evidence given by Capt.

thing with regard to the merchant service; compasses to deviate on shore I should do not know nor have I heard that the top think it right and prudent to swing my ship. To the Solicitor General—I have never of the binnacle has been taken off and a By request of the Court, Mr McGrath, thread attached to the compass because the R.N., ascertained that an error in one point magnets were sluggish, but it was not on account of the fog [laughter]; the atmosphere Point Reyes. has no effect on the compass-lightn ng has ; Witness was here shown a scientific word should have anchored, and if correct I should on the subject of compasses, the statements not have anchored: there is good anchorage contained in which be said he did not wholly endorse. The Malacca went on the Fraser

To a Juror—Of a clear night the Farra-Sands the other day, but that was because the sand was there. Great merriment I This finished the evidence. Supposing Capt. Mouat, owing to the thick fog and drizzling rain, did not know his way back to San Francisco, it was his duty to were certainly wasting a great deal of time. have ascertained where he was by his lead; if a ship is in a dangerous position it is well fendants commenced their addresses shortly to have the pumps ready; to sound, it is after 3 pm, and continued until nearly 6 necessary to slacken speed.

To the Solicitor General—All my evidence until this morning. is in regard to a merchant seaman's duty : the " Malacca " is waiting to be swung; I know something of the swinging of the "Sir James Douglas" about three months ago there were very slight variations; she is steered aft, and is a wooden ship; she took about two hours to swin ..

To the Court It would cost \$20 or \$30.

probably, to swing the Labouchere. To the Solicitor General-Capt. Inglis. sworn-Am master of the ship Egmont; have been a master mariner for 12 years ; am certificated by the Board of Trade; have heard of the Labouchere's description and alterations; in my judgment the duty of the master in regard to the circumstances would be to swing the ship.

The counsel for the defence objected to

to prove what goods were delivered at Point and correcting the courses indicated by the goods; that they did not promise to carry five of his compasses to Mr Tennent, at San

easiest and best method

Examination continued-I have seen a Reyes in a boat do not remember Capt should take nearly the same time; once

don docks because steering from the docks to the Downs there is plenty opportunity to detect the inaccuracies of the compass by

To the Solicitor General-The Egmont is a sailing ship.

Mr Ring objected and his Lordship sus-

His Lordship—Then you think that a prudent mariner would go to sea without comparing his compasses?

Capt. Oldfield, of H.M.S. Malacca, sworn of the ship and examined by Mr McCreight—Am a Post of the ship at Victoria. There is no evidence that a bill of lading was necessary for the compass being 1½ points out was the cause of the disaster."

Capt. Oldfield, of H.M.S. Malacca, sworn of the ship at Victoria. There is no evidence that a bill of lading was necessary for the property. Such is not the custom. These was the cause of the disaster."

Mr Ring here rose to make a suggestion; admitted, the ship should have been swung points must be found for the plaintiff, and but his Lordship declined to hear him, saying ment; I don't think the alterations on the be says the ship went upon after leaving the cross bearings on the passage out knowing A shipower was bound to have his ship, its tackle and appears in good and enfision. Labouchere made any difference in the comGolden Gate, and have marked the plain the position of the ship; a good bearing can its tackle and apparel in good and sufficient the example of the best English pleaders at

ship in part to the fog and current.

have been eight years connected with the customs of the Colony, and have been out of nautical practice during that time.

Point Reyes 9 or 10 miles; there was no allowance made for current, which probably ledge of sailing is alone necessary. But if would account for five miles; the other five she is destined for both sail and steam, a portion of his evidence relative to the leeway

point at the rate of 8 knots, a simple bearing would have taken all the compasses on deck material points his last evidence differed taken of that point would not test the comchere was going I think the wind or current me; it I found the slightes deviation I would the man? What influences were brought to adopted by Capt Monat after the ship struck the half point difference found between the

experiments to show the effect of iron on on this part of the coast; the Labonchere, alterations, and think it would have been exunder favorable circumsta ces, might have pedient to test the compa ses because their ment thereon. He said that because Mouat C.oss-examined by Mr Ring—The eviboard a man-of-war I should have the ship lence I have given relates to the usage in swung; in a merchant steamer I should have respective positions were removed; if on dence I have given relates to the usage in swung; in a merchant steamer I should have Her Majesty's service; I know little or no- been satisfied with bearings; if I found the

lones light can be seen 26 miles distant. The counsel for the plaintiff and the dewhen his Lordship deferred his summing up

FOURTH DAY.

ance of the case or whether there were any Mouat did not do all that humanity could sugother suits depending upon this. Every gest to save the lives of his passengers. case was of importance. No man came into court with a case except it was im- entered and extended a protest before the minds as upon a piece of white paper. What portant to him; and no man defended a case Commissioners; in that protest he attributed you have here to do, do fearlessly; and I that was not of importance to the party de-fending it. Whether he was a poor man or weather; on the 4th of May, before the Coma rich man, a suit at law was always of im- mission, he attributed the loss to the comsequence of the alterations; but I should not have done so by swinging the ship.

The case for the defence here closed with the understanding that it should have the privilege of calling Mr Titcomb, a skilled

The case for the defence here closed with the majorated it.

Witness-Adjusting compasses means placing the understanding that it should have the privilege of calling Mr Titcomb, a skilled

The case for the defence here closed with the spirit of this evidence, but His Lordship plaintiff to recover the value of luggage belonging to his wife which was lost on the Labouchere on the voyage of that vessel from San Francisco to Victoria. The plaintiff als leged non-fulfilment of contract and negligible.

Reconsulting the ship to the sound, and attributed the compasses being out of order. He said he had abundance of time to get back to San Francisco to Victoria. The plaintiff als leged non-fulfilment of contract and negligible. leged non-fulfilment of contract and neglis house. By consulting the chart, he finally

witness, should be make his appearance before the case had been given to the jury.

EVIDENCE IN REBUTTAL.

R. H. Adams, recalled for the plaintiff—

steering the ship from one point to another and accretions the converse indicated by the goods: that they did not promise to carry five of his compasses to Mr Tennent, at San the goods; then, that there was a safe deliverance of their goods : that their ship was lost through accidents and dangers of sea; render the magnet a perfect one; he cannot further that goods were not shipped by a bill of lading; and, lastly, that they paid back steamer of 3500 tons swing both ways in one the passage money, which Mrs Pidwell acceptgoods or luggage brought on shore at Point day by a ship's company; the Labouchere ed as full satisfaction of all claims against the Mouat saying anything to Mrs Pidwell about round would take about six hours; the ob-Company. The defendants say, first, that ber luggage: I was on the beach when Capt Mouat arrived there; I was one of two pasBonita would give him no power, in my

Mouat arrived there; I was one of two pasBonita would give him no power, in my sengers to whom he told there was luggage opinion, to correct his compasses; one bearbearings from some well known headland; if there was anything there belonging to us; I think it was prudent to keep the ship going rying trade, had already made one trip, correct, and he should have taken crosstion; I was in Court yesterday when Capt.

Mrs Pidwell was not there when Capt Mouat that; balf an hour before Capt Mouat use the deep sea lead; he might have used other when the disaster occurred. It was his sails not being bent was negligence, yet Mrs Pidwell was not there when Capt Mouat half-hour stretches; it was imprudent not to and was completing the last half of ancame ashore and told us about the luggage, I the lead by slacking speed, and finding the cident, and should have acted similarly my-self under like circumstances; most steering weather is generally sluggish, because the ship has less motion; it has nothing to do spent, delivered her baggage to him, and respect to the place indicated by Capt Moua, but fail-ship has less motion; it has nothing to do spent, delivered her baggage to him, and respent to the place indicated by Capt Moua, but fail-ship has less motion; it has nothing to do spent, delivered her baggage to him, and respent to the place indicated by Capt Moua, but fail-ship has less motion; it has nothing to do spent, delivered her baggage to him, and respent to the place indicated by Capt Moua, but fail-ship has less motion; it has nothing to do spent, delivered her baggage to him, and respent to the ship has less motion; it has nothing to do spent, delivered her baggage to him, and respent to the ship has less motion; it has nothing to do spent, delivered her baggage to him, and respent to the ship has less motion; it has nothing to do spent to the ship has less motion; it has nothing to do spent to the ship has less motion; it has nothing to do spent to the ship has less motion; it has nothing to do spent to the ship has less motion; it has nothing to do spent to the ship has less motion; it has nothing to do spent to the ship has less motion; it has nothing to do spent to the ship has less motion; it has nothing to do spent to the ship has less motion; it has nothing to do spent to the ship has less motion; it has nothing to do spent to the ship has less motion; the ship has less motion to the ship has less motion; the ship has less motion to the ship has less motion; the ship has less motion to the Indians on this coast are good look-outs, don't know what became of the luggage, but compass will scarcely move at all; the man ing a contract to carry her and her baggage they are generally more acute in sight and I saw some carpet bags that had been torn steering can always see whether the compass to Victoria, and his Lordship said he was bound to tall the iner in soint of law that hearing than whites.

Cross-examined by Mr Wood—I left the West India service fourteen years ago; their vessels were not swung during my time there; I never heard of wooden steamships being swung; don't believe they are ever swung; pledge my reputation as a mariner on that pledge my reputation as a mariner on that it is a steering can always see whether the compass to victoria, and his Lordship said he was bound to tell the jury, in point of law, that it is sluggish or not; it is not a new practice to tie a string to the compass to keep it moving when sluggish; when alterations are made it is generally usual to swing a ship; the defendants are common carriers they made it is generally usual to swing as ship; the defendants are common carriers they improve exceptions—viz, the act of God and don docks because steering from the docks to the Compass to keep it moving when sluggish; when alterations are made it is generally usual to swing as ship; the defendants are common carriers they improve exceptions—viz, the act of God and don docks because steering from the docks to the Compass to keep it moving the defendants are common carriers they improve exceptions—viz, the act of God and don docks because steering from the docks to the Compass to keep it moving the defendants are common carriers they improve exceptions—viz, the act of God and don docks because steering from the docks to the compass to keep it moving the defendants are common carriers they were bound to deliver by that contract with the defendants are common carriers they improve exceptions—viz, the act of God and the was bound to tell the jury, in point of law, that it is sluggish or not; it is not a new practice to tie a string to the compass to keep it moving when sluggish; the defendants are common carriers they improve the compass to keep it moving the defendants are common carriers they improve the compass to keep it moving the defendants are common carriers they improve the compass to keep it moving the defendants are common carriers they improve

face of all the skill, prudence and forethought of the defendants, then they are not liable. wrong, and yet he says in another part of his The plaintiff had made out the point that the Company had not carried the wife of plaintiff These statements certainly do not agree In 'securely and safely" to the point of des- the wind up of his evidence Capt Mouat tinat on. The point of non-delivery was fully says-"I am still at loss to understand the passes to my satisfaction before leaving Eng. land; I had 500 miles of cable aboard coming ligence. The defendants were guilty of negligence in the compasses I should have attributed the loss to that; I do not think there was a established. The final question would be cause of the wreck; if there was a variation

To Mr Wood—Capt. Mouat acted rightly in taking the bearings by Point Bonita: if I had no doubt of my compasses, the bearings would satisfy me; if I were not certain, I were not certain, I were not certain, I were out 1½ points he would just come clear should take the bearing of Fort Point on the should take the bearing of Fort Point on the should take the bearing of Fort Point on the should take the bearing of Fort Point on the same ticien more in the same ticien th telltale compass is that placed in the cabin put the captain of a man-of-war in command of a scow, nor would you put the captain of By Mr Ring-I attribute the loss of the a scow in commend of a man-of-war. Thus, if a ship is described as a sailer or sailing To the Court—She might have laid her vessel, no amount of skill is n-c ssary with customs of the Colony, and have been out of nautical practice during that time.

Capt. J. Nagle, sworn—Have been fifty years connected with nautical matters; was 27 years a master; never saw a wooden the ship and ascertain the error; the telltale compasses; have carried to the captain's convenience to check the winds:

should have taken the compass to the old position and compared it with one in a new position; if I found any difference I should account for five miles; the other five miles might be accounted for by supposing bad steering or the deviation of the compasses; steering W.S.W. I consider the proper course where there are no currents or the captain's convenience to check the winds: saw no reason to complain of Capt. she is destined for both sail and steam, a knowledge of both is required. If a vessel of the ship.

knowledge of both is required. If a vessel of the ship.

His Lordship—Capt Oldfield says that higher class of man is required. The captain negligence. If the compasses were bad, the nothing about the currents off the Coast of California; have known Her Majesty's ships to go on shore here during a fog.

This question was objected to by Counsel

This question was objected to by Counsel

The coast of the Coast of justed by an optician, but should have adjusted them according to all the variations; the more perfect they were with respect to have heard of the Labouchere's alterations, the more perfect they were with respect to have heard of the Labouchere's alterations, whether she did or not. I do not think there This question was objected to by Counsel magnets the more susceptible they would be would have made comparisons, and if I evidence. Oapt. Mouat had been examined whether she did or not. I do not think there

were fresh in his memory. He is examined again in this case (thirteen months afterwards) and gives a different statement of the circumstances, His Lordship proceeded Mouat before the Commission, and to comhad no Trinity House certificate was no House certificate except he was skilful, and the possession of one is the best evidence or a man's fitness. Capt. Mouat should have known there was a variation in his com passes; but he did not discover that there thinks a vessel ought to be swung; as owner was a variation until half-an-hour after he of the Labouchere that he should have taken left the Golden Gate, and he attributed it to some step of the kind. The jury were left the iron work around the pilot house; the tendency of the variation was to set the vessel in shore and take her on Point Reyes. Before the Commission, Mouat swore that all three of the compasses varied a point and a half. A point of variation was equal to

by S, to get her off shore. When he discovered the variation, why did he not shape her course further south? Because it was ashore. If, on the other hand, you think that blowing hard, was an additional reason for practical means—all that a prudent mariner laying her further south. The course of the would take-were adopted to see that the vessel was further followed by the Chief Justice, who showed that the steamer was running due north at the time she went ashore. At that time the Captain knew of The jury entered the box at 11½ o'clock allowance for wind or strong sea. When he and captain took all reasonable precaution in the Chief Justice proceeded to deliver found the deviation, why did he not come to the deviation in the compass, but made no negligence. If you hink that the owners a charge of which the following is a sypop-sis. His Lordship complimented the counsel on both sides for the skill with which the ship after she struck was good policy, they had handled the case, and it was, he according to the evidence; but the point said, the duty of the Court to tell the jury was immaterial in this issue. There was not that they had nothing to do with the importathe slightest reason to suppose that Capt.

tain portion of the evidence of Capt Stamp. The Solicitor General objected to this con-

Francisco, to be adjusted; but other witnesses say that all the optician does is to

allow for local attraction. Mr Nathan (a Juror)-I understood Capt. Monat to say that the compass he was steering by corresponded with the one in his

His Lordship-Supposing that to be accurately true, they ought all to agree; and the fact that two agree and one does not,

Mr Ring-But after she struck the pumps were working and the movement of the iron handle must have affected the compasses,

merriment). His Lordship—There is the suggestion for you, gentlemen of the jury. You may take it into consideration if you wish [a laugh]. Capt Mouat in his evidence said that the atmosphere affected his compass; he don't agree with his counsel as to the influence of the iron pump handle [a laugh]. Capt Mouat further and further said that he could not get back to San Francisco because his compasses were evidence that he knew how to adjust them.

been 13 miles south of Point Reyes. How was it Capt Mouat found himself on P int Reyes instead? The only theory tending to account for it was by the evidence of Capt Oldfield who thought that the wind and current might make a difference of five miles;

either the compasses were wrong or the steering was bad to bring the ship on Point Reyes. If there was bad steering there was owners were liable for not having provided

men called for the detendants swore that it was not usual to swing ships; there are no doubt cases of captains who would think it unnecessary to do so, but the skill required in the navigation of a schooner up the coast would not make much difference; the course have the vessel swung or taken cross-bearings; bear upon the witness? and under what state navigation of a passenger ship; and it is for the jury to say whether the witnesses were competent to take charge of a passenger ship, and if not, they were bringing in a class of knowledge of a lower sphere to adapt it to a higher sphere. Other gentlemen of the highest experience had testified that the rule of the Navy was to swing ships every year. But all admit that it was the only accurate test, and all, except Captain Oldfield, say they would not have gone to sea with but the single observation of Point Bonita. There are some men so lion-hearted, so selfconfident in their powers of avoiding danger that they would go to sea under any circumstances and in any condition [a laugh] A man of the highest stamp (he didn't mean a pun on the name)-Captain Stamp-says he

> to decide whether the adjustment of the compasses did not mean something more than sending them to an optician. The substantial question was, and or no, did t e Labous chere put to sea on the 14th of April, 1866, ound all outside the Golden Gate.
>
> a half. A point of variation was equal to without due precaution such as a prudent mariner would have taken to see that the and a half would be a variation of 9 miles compasses were correct. If Captain Mouat and a fraction. The captain laid her S W put to sea without taking such precaution, it is my duty to tell you that it was negligence -that through that negligence the ship went compasses were correct, then there is no negligence; and if you find that when he found the compasses to be incorrect he should have anchored, then his failure to do so is were wrong, then you must find for the defendants on the question of negligence. Gentlemen, you are called on to dismiss from your minds all previous prejudices-all you may have thought-all you may have read upon this subject. It has nothing to do with the case before you. Let it operate on your am sure that as Englishmen you will do it, Mr Ring here rose and asked the Judge to direct the attention of the jury to a cer-

> > stant interruption, or the weakening of any point that had been impressed upon the jury by the learned judge.
> >
> > Mr Ring contended that there was abund-

ant evidence in Captain to show that Captain Mona guilty of negligence, and w

read from the evidence, whe His Lordship said-Mr F you to desist from this cour cannot have the mind of t by these observations, or the away by any such remarks. evidence of Captain Stamp You will retire, gentlemen o consider upon your verdict. Mr Ring protested that he

ing to assist justice rather t His Lordship-Mr Ring, guilty of irregularities that desist now. The jury will find upon the main issue, le cal points to be settled after Ring's points shall be put be The delivery of the char

hours. The jury were then con

room. At 4 o'clock the jurors Court that they stood 5 to that a majority verdict be declined to accede to the req expiration of three hours ment, when a 6-8th verdict received, they returned into nounced that there was no change taking place in their The Chief Justice then

the jury that if they found the by a want of any amount o precaution and forethought must be returned for the pla thought that all due precaut forethought had been exerci find for the defendants.

The jury again retired, and journed un il 7 o'clock in the At 7 o'clock the Court ag and the jury having again into Court, announced that to come to a verdict. The was sure that they would not rive to a decision. The Chie wert categorically through the as follows: 1st. Were the defendants

Tiers? Answer-Yes. 2nd. Did the plaintiffs de to the defendants and contrac deliverance at Victoria?

Answer-Some of the i opinion that the goods were r The Court-If the plaintiff with her luggage as a passe received in an ordinary way livery. Answer-Some of the jury

fied that the luggage went on The Court-I shall read ove This is the first time I ever b any doubt on the subject. was then read over to the jury gage went on board the ship livery. Mr Wood-Captain Mouat

Mrs Pidwell's trunk ashore. Mr Ring-You have heard aid of that point, will you have to hear me? Chief Justice-No.

Mr Ring—No, my lord?
The Chief Justice—I say, N
Mr Ri g—I bear that.
The Chief Justice—Then ha ness to act upon it. The jury, after a short con ittled that the lugg ge was

but was not received by th agent; it was under the plaintiff's wife. 3rd. Did the defendants pror the plaintiff to Victoria? The Jury-Yes; but that she passage money back again.

The Chief Justice again dec
Mr Ring, saying he did not r

sistance.
4th. Did the defendants safely convey plaintiff's wife to Victori Mr Ring again demanded a the Chief Justice requested him Answer-No.

5. Did the defendants carry t The Foreman-Some of the bel eve the luggage was ever in the Company, that they had no liver except Mrs Pidwell. The question is—Was the la

was taken on board delivered at The Foreman-Some of the opinion that the Company did it, and consequently could not de After some further remarks fro Justice; the jury found that will tion of the one pa kage men evidence, the luggage was not Victoria.

The 5th issue, that the defen were indebted, was ordered to defèndants.

The 6th issue, that the defen guilty on the count for negligene The Foreman—That is the point the jury cannot agree—it is important the Chief Justice proposed to the evidence again to the jury, short deliberation the foreman that no result could be arrived reading was waived. On the 6th issue, the jury th

agreed 7th—That the plaintiff's wife were received on the condition th ity should attach to the defendan

The Chief Justice—There is a of any agreement of that kind thing before us is the ticket. says nothing of the kind. A Juror-A majority of the j

Company were not liable.

The Chief Justice—That is not
There was no agreement of the k
After a consultation, the fo nounced that some of the jury we of giving that issue to the detendant The Chief Justice-You have o

of this ticket to guide you. The aye or no, is there any written e such a contract ? The jury found that there was evidence of such a contract The Chief Justice-Is there ap

dence of such a contract?

The jury found that there was The next issue, did they receive tiff's wife upon the terms that I not be accountable for the baggas