

"964. Carriers by water shall be liable for the loss of or damage to goods entrusted to them for conveyance, except that they shall not be liable when such loss or damage happens:—

- (a) without their actual fault or privity, or without the fault or neglect of their agents, servants or employees; *c.f.*
- (b) by reason of fire or the dangers of navigation; or,
- (c) from any defect in or from the nature of the goods themselves; or,
- (d) from armed robbery or other irresistible force. R.S., c. 82, s. 2."

It might be contended that the result of the revision was to exempt the shipowner from loss by fire, even though it resulted from his actual fault or privity, in view of the apparent deliberate transposition of the parts of the old law.

The old Canadian statute was in accord with The Merchants Shipping Act, sec. 502, which, of course, is still operative. By that section, the shipowner is only discharged from loss by fire, etc., "happening without his actual fault or privity." Therefore, in respect to sec. 7 of the new Act, and, more particularly, in regard to British ships, while we have the new Act in terms exempting shipowners from liability for fire, without exception as to its happening as a result of his actual fault or privity, we find the governing Imperial Act limiting the exemption from liability in that respect. The probability is that sec. 7, in respect to British ships, would be construed in accordance with the terms of The Merchants Shipping Act.

The question may be a little more difficult of solution in respect to the owners of Canadian registered and foreign ships.

In respect to them there would appear to be, for our courts, a bald and unconditional exemption from liability for all the causes mentioned. However, sec. 4 and the last clause of sec. 7 would probably bring about the adoption, under the new Act, of the principle laid down in both England and the United States, under the somewhat more formal legislation in those countries, that the shipowner will not be allowed to rely upon exceptions, when his own negligence or the negligence of his servants has brought the excepted cause of loss into operation, unless, of