

THE
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No. 18

MEREDITH, C.J.

APRIL 23RD, 1909.

WEEKLY COURT.

COLBECK v. ONTARIO AND QUEBEC NAVIGATION
CO.

Damages—Breach of Charterparty—Hire of Ship for Season—Failure of Owners to Fulfil Contract—Measure of Damages—Principle of Assessment.

Appeal by defendants and cross-appeal by the plaintiff from the report of the local Master at St. Catharines, dated 1st February, 1909, upon a reference to assess damages for the breach of a charterparty.

McGregor Young, K.C., for defendants.

W. M. German, K.C., for plaintiff.

MEREDITH, C.J.:—The action is brought to recover damages for the breach by the defendants of a charterparty entered into between the plaintiff and defendants, bearing date 24th April, 1908, by which the defendants chartered to the plaintiff from 20th May, 1908, to 20th September following, the steamship "Niagara" belonging to the defendants.

The consideration for the charterparty was \$2,000, which was agreed to be paid by the plaintiff as follows: \$500 on taking over the steamship, \$500 on 10th July, 1908, \$500 on 10th August, 1908, and \$500 on 1st September, 1908.

By it the defendants agreed to fit out the steamship in proper condition ready for delivery at the port of Picton, and to deliver it to the plaintiff there on or about 20th May, 1908, and that it would pass both American and