

of the vessel did not justify the plaintiffs' removal of the steamer from the defendants' dock. To use the words of the Court, "It did not render the steamer unable to complete her loading while afloat in the dock; it only rendered the performance of the contract by the plaintiffs more onerous to them by reason of the loss of the use of the vessel during the neap tides."

SHIP—DAMAGE TO CARGO—BILL OF LADING, EXCEPTIONS—PERILS OF THE SEA—NEGLIGENCE OF MASTER—CONDITION AS TO CERTIFICATE OF SURVEYOR—DUNNAGE INSUFFICIENT.

The Cressington (1891), P. 152, was an admiralty action for damages to cargo, brought by the consignee against the shipowner. The charter-party and bill of lading excepted "perils of the sea . . . and other accidents of navigation, even when occasioned by the negligence . . . of the . . . master." The bill of lading also contained the words, "all other conditions as per charter-party," and the latter contained the condition, "Vessel to be properly stowed and dunnaged, and certificate thereof, and of good general condition, draft of water and ventilation to be furnished to charterers from H. H. Watson, surveyor." Under this condition a certificate was furnished by the surveyor, which did not mention specially dunnage, but stated that the vessel "is entitled to full confidence, can carry a dry and perishable cargo." Two points arose in the case. During heavy weather a rivet worked loose and occasioned a leak, which occasioned damage to the cargo. After the weather improved the master negligently omitted to stop the leak; it was nevertheless held that this was a "peril of the sea," and an accident of navigation, and that the negligence of the master in respect of it was covered by the exception. The other point arose from the fact that, owing to the vessel not being properly dunnaged, some of the cargo was damaged by the water in the water-ways. For this damage the defendants were held liable, the certificate of the surveyor not being conclusive.

Notes on Exchanges and Legal Scrap Book.

LEADING QUESTIONS.—Leading questions are such as instruct a witness how to answer on *material points*.

In cross-examination they are allowed. They are not allowed in the examination-in-chief except by leave of the Judge, in case the witness appears to be hostile to the party calling him, or in the interest of the opposite party, or unwilling to give evidence, and a more searching mode of examining him is necessary to elicit the truth.

Questions are objectionable, as leading, not only when they directly suggest the answer which is desired, but also when they embody a material fact, and admit of an answer by a simple negative or affirmative, though neither the one nor the other is directly suggested. In this case, as well as those where direct leading questions are put, the evidence, so drawn from the witness, is not his