

sufficient to show the breach of a duty owed him by the defendant and inconsistent with due diligence on the part of the defendant, and that the injuries were thereby occasioned, and where in such an action the jury have failed to find the defendants guilty of the particular act of negligence charged in the declaration as constituting the cause of the explosion, a verdict for the plaintiff cannot be sustained, and a new trial should be granted. Appeal allowed with costs. New trial granted without costs.

*Lajoie*, for appellants. *Trenholme*, Q.C. and *Ryan*, for respondent.

Quebec.] GLENGOIL STEAMSHIP CO. v. PILKINGTON. [Dec. 9, 1897.

*Maritime law—Affreightment—Carriers—Charter party—Privity of contract—Negligence—Stowage—Fragile goods—Bill of lading—Condition—Notice—Arts. 1674, 1675, 1676 C.C.—Contract against liability for fault of servants—Arts. 2383 (S); 2390; 2409; 2413; 2424; 2427 C.C.*

The chartering of a ship with its company for a particular voyage by a transportation company does not relieve the owners and master of liability upon contracts of affreightment during such voyage where exclusive control and navigation of the ship are left with the master, mariners and other servants of the owners and the contract had been made with them only.

The shipper's knowledge of the manner in which his goods are being stowed under a contract of affreightment does not alone excuse shipowners from liability for damage caused through improper or insufficient stowage.

A condition in a bill of lading, providing that the shipowners shall not be liable for negligence on the part of the master or mariners, or their other servants or agents is not contrary to public policy nor prohibited by law in the Province of Quebec.

Where a bill of lading provided that glass was carried only on condition that the ship and railway companies were not to be liable for any breakage that might occur, whether from negligence, rough handling, or any other cause whatever, and that the owners were to be "exempt from the perils of the seas, and not answerable for damages and losses by collisions, stranding and all other accidents of navigation, even though the damage or loss from these may be attributable to some wrongful act, fault, neglect or error in judgment of the pilot, master, mariners or other servants of the shipowners; nor for breakage or any other damage arising from the nature of the goods shipped," such provisions applied only to loss or damage resulting from acts done during the carriage of the goods and did not cover damages caused by neglect or improper stowage prior to the commencement of the voyage.

Appeal dismissed without costs.

*Atwater*, Q.C., and *Duclos* for appellants. *Macmaster*, Q.C. (*Farquhar MacLennan* with him) for the respondents.