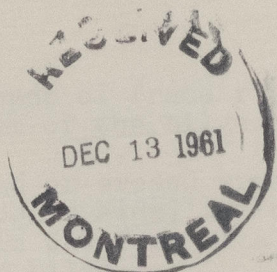


Regard, Brisset & Roycraft
Advocates

620 St. James Street West
Montreal

December 11, 1961.

Our File: 19400-16



Lloyd's Register of Shipping,
59 Victoria Square,
Montreal, P.Q.

Dear Sirs:

Re: Canada & Dominion Sugar Company Limited
vs Canadian National (West Indies) Steam-
ships Ltd. - S.S. "CANADIAN OBSERVER" -
Claim for damage to Sugar - Sept. 1956

We have been retained as counsel by the Canadian National Railways to defend a claim for damage to cargo presented by the Canada & Dominion Sugar Company Limited. This cargo was a cargo of raw sugar in bulk carried on board the "CANADIAN OBSERVER" in September, 1956 from Georgetown, British Guiana, to Montreal.

We quote hereinafter an extract from our report to Owners in which we commented on the cause of the damage:

"After the discharge of her cargo in Montreal, the vessel was dry-docked and the Port Warden, after examination, found that the leakage in No. 4 Hold was due to:

- a) One rivet missing in plate "D" 3, port side,
- b) A defective spot in plate "D" 2, starboard side.

"A survey was conducted by surveyors to Lloyd's Register of Shipping between October 4th and 7th, 1956 and the report issued on October 25, 1956 states the following:

'... found in the bilge strake at aft end of No. 4 Hold a small hole starboard side and one shell frame rivet missing port side.

'No. 4 Hold bilges cleaned thoroughly and found deep wastage or erosion in both shell and margin plates,

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' and on heads of frame rivets above the cement filler in the bottom of the bilge port & starboard. *as per*

'The wasted or eroded area in shell and margin (plates on the starboard side) is local about 2½" wide running fore and aft in the form of a groove with a smooth surface inside of bilge. *as per*

'Remaining hold bilges (Nos. 1, 2 & 3) port & starboard, cleaned and examined and only slight signs of local grooving found in shell and margin plates at after end of each bilge but heads of several frame rivets somewhat wasted. *as per*

'A molasses deposit was found in all bilges.' *as per*

The following permanent repairs were carried on:

'No. 4 Hold

'Shell plating "D" strake No. 2, 3 and part 4 (from aft) renewed port & starboard. Margin plates cropped and lower portion renewed port & starboard in way of shell repairs.' *as per*

" It is quite apparent from this report that there was a serious condition of wastage or erosion which had developed from the inside in the plating just above the cement filler at the bottom of the bilges on both the port and the starboard sides of the vessel in No. 4 Hold which condition resulted (and no doubt it is pure coincidence that it should have happened on the same voyage) in one shell frame rivet on the port side coming out during the course of the voyage and a hole developing in the plating on the starboard side by way of the wasted or eroded area.

" The area where the wastage occurred is one which is at all times except when the bilges are being cleaned or inspected, covered by the bilges' limber boards and it is an area which we imagine, is most of the time, if not at all times, wet. The experts seem to agree that the wastage or corrosion developed from the inside and not from the outside. This erosion or wastage process according to the experts was one which developed during a period of at least 8 to 12 months..."



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1949.
The "CANADIAN OBSERVER" was built in 1945 and was classed with Lloyd's. She underwent her first quadrennial survey in 1945, her second one in 1953, and at the material time she was, therefore, not due for another quadrennial survey until 1957. Her last annual survey before the cargo voyage, in which we are interested, was in August 1956. We assume that you have copies of the reports issued by the Acting Surveyors representing Lloyd's both at the quadrennial survey of 1953 and the annual surveys of 1954-5-6.

We are aware of the basic regulations of Lloyd's Register of Shipping, which, if fully carried out on a vessel, are, we believe, accepted throughout the world as an indication that the vessel is in a seaworthy condition.

Owners in this case appear, in our opinion, to have complied with all Classification requirements in order to fully maintain the seaworthiness of the vessel; we understand that the matter of drill testing at the time of her special survey in a vessel of the age of the "CANADIAN OBSERVER" is left to the discretion of the attending surveyor who normally judges the necessity of this operation on the conditions found upon inspection.

It is presumed that in this instance the bilges were inspected by the attending surveyor at the special and annual surveys, for which Certificates exist, and that no abnormal wastages were noted at that time. This is the point which we have to establish in order to successfully resist the cargo claim and we would appreciate if you would kindly look up your records and confirm that the attending Lloyd's surveyors can state that all survey requirements were carried out to their satisfaction.

SS(R) 5.49
SS(B) 9.53
mid. pt. No 9879

We are particularly interested in knowing whether an examination of the bilges and of the plating from the inside in No. 4 hold was made and whether the surveyors would be in a position to confirm that no wastage or erosion were noted or could be noted at the time in both the shell and margin plates above the cement filler in the bottom of the bilge.

6.50 1/2
3.50 1/2
9.53 1/2
Bilge exam'd 3.50
Bilge sealed & coated 6/50



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We are at your disposal if you wish additional particulars and would like to confer with us before giving us your report.

Yours very truly,

Beauregard Brisset & Leycraft

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