

1923
Dec. 4.

QUEBEC ADMIRALTY DISTRICT
GEORGE HALL CORPORATION (PLAINTIFF);
AGAINST
THE SHIP *FIFETOWN*.

Shipping—Collision—Canal—Rule 22 of Rules of the Road for the Great Lakes—Unseamanlike manoeuvre—Negligence.

The *M.* was upbound on the Soulanges Canal, light in ballast, being high out of water forward, drawing 3 feet 2 inches forward and 12 feet 8 inches aft, and being 30 feet out of the water forward and only 15 feet aft; and the *F.* was coming down with the current loaded with grain. The night was fine and clear with southwest wind of 18 to 20 miles, blowing across the canal. The vessels had all regulation lights burning and the *M.*, before leaving Lock No. 3, saw the lights of the *F.* There is a slight bend in the canal about three-quarters of a mile above this lock and when the *M.* had rounded the bend the ships were four or five boat lengths apart. A two-blast signal was then given by the *M.* and answered by a similar signal from the *F.* Both ships were in mid-canal at the time and when they met and were passing, the bluff of the *M.*'s starboard bow, 25 feet abaft the stem, collided with the bluff of the *F.*'s starboard bow, about 15 feet abaft the stem.

Held: That under the facts as stated above the *M.* should not have attempted to pass the *F.*, which had the right-of-way under the rules, but should have moored to the bank until the *F.* had passed her; and to continue her course was not good seamanship on the part of the *M.*

2. That the *F.*, coming down the canal with the current had the right-of-way, under rule 25 of the Rules of the Road for Great Lakes.
3. That the burden of proof was upon the *M.* to establish that the collision was caused by the improper navigation of the *F.*

ACTION *in rem* for damages arising out of collision between the steamship *A. D. MacTier* and the steamship *Fifetown*.

November 15th, 1923.

Action tried before the Honourable Mr. Justice Mac-
lennan at Montreal.

A. W. Atwater, K.C., and *Lucien Beauregard* for plain-
tiff.

A. R. Holden, K.C., and *R. C. Holden* for defendant.

The facts of the case are stated in reasons for judgment.

MACLENNAN, *L.J.A.* (this 4th December, 1923) delivered
judgment.

This is an action *in rem* for damages arising out of a col-
lision between the steamship *A. D. MacTier* and the steam-
ship *Fifetown* on the night of 2nd October, 1923, in the
Soulanges Canal.

The *MacTier* was upbound light in ballast, her length
was 256 feet, beam 43 feet, drawing 12 feet 8 inches aft
and 3 feet 2 inches forward; she was 30 feet above the
water forward and 15 or 16 feet at the stern. The *Fifetown*
downbound was loaded with grain; her length was 230 feet
and her beam 30 feet. The collision took place between
locks Nos. 3 and 4 of the Soulanges Canal. The night was
fine and clear with a southwest wind of 18 or 20 miles
blowing right across the canal. Both ships had all naviga-
tion lights brightly burning. The master of the *MacTier*
before leaving lock No. 3 saw the lights of the *Fifetown*
coming down the canal. There is a slight bend in the canal
which ends about three-quarters of a mile above lock
No. 3, and when the *MacTier* had rounded the bend the
ships were four or five boat lengths apart, when a two-blast
signal was given by the *MacTier*, which was immediately
answered by a similar signal from the *Fifetown*. Both
ships were then in the middle of the canal, and when the
ships met and were passing the bluff of the *MacTier's* star-
board bow, 25 or 30 feet abaft the stem came into contact
with the bluff of the *Fifetown's* starboard bow about 15
feet abaft the stem. Each accuses the other of sheering
immediately before the collision. The evidence of what
took place between the two-blast signals and the collision
is most contradictory. . . . [His Lordship having here
discussed the evidence, proceeded]:—

I am advised by my Assessor that the effect of the wind
on the *MacTier* would be to swing her bow to starboard,
that when her port bilge fetched up on the canal bank, her
way through the water would be reduced and the shock

1923
GEORGE
HALL
CORPORATION
v.
THE SHIP
Fifetown.

MacLennan
L.J.A.

1923
 GEORGE
 HALL
 CORPORATION
 v.
 THE SHIP
Fifetown.
 MacLennan
 L.J.A.

would tend to give her a sheer to starboard even against her helm, and this would be aggravated by the force of the wind on her port bow. My Assessor also advises me that the *Fifetown* was navigated with proper caution and that the position of the damage to her disproves any claim to a sheer to starboard on her part, and further, having regard to the strength of the wind blowing across the canal and that the *MacTier* was high out of the water forward and of light draft and that the *Fifetown* was plainly in sight coming down, it was not good seamanship for the *MacTier* to try to pass the *Fifetown* and that she should have been moored to the north bank until the *Fifetown* had passed.

The *Fifetown* was coming down the canal with the current and, under Rule 25 of the Rules of the Road for the Great Lakes, had the right of way. The evidence clearly shows that the *MacTier* had constant trouble from the wind on her port bow and that for some considerable distance before the collision she was zigzagging between the south bank and the centre of the canal with her stern about midchannel. The burden of proof was upon the *MacTier* to establish that the collision was caused by the improper navigation of the *Fifetown*, and having regard to all the evidence and the advice of my Assessor, in my opinion the plaintiff has failed to establish its case and its action fails. There is no blame imputable to those in charge of the *Fifetown*.

Action dismissed.

Solicitors for plaintiff: *Atwater, Bond and Beauregard.*

Solicitors for defendant: *Meredith, Holden, Hague, Shaughnessy and Heward.*
