

1918  
Feb. 20.

## QUEBEC ADMIRALTY DISTRICT.

FRANK WALROD,

PLAINTIFF;

v.

S.S. "CONISTON",

DEFENDANT.

*Collision—Tug and tow—Steamship—Narrow channel—Rules of road—Lights.*

A steamship was coming up the St. Lawrence River in ballast, at a great speed, and approaching a tug and tow in the bend of the channel changed her course with the intention of passing them starboard to starboard, contrary to art. 25 of the Rules of the Road. Thereupon the master of the tug ported his helm in an endeavour to avoid a collision. The steamer then tried to manoeuvre herself into position and collided with two barges at the head of the tow.

*Held*, the collision resulted from the steamer's failure, "when safe and practicable, to keep to the starboard side of the fair-way or mid-channel," as required by art. 25; even if the pilot of the steamer believed the tug and tow coming down the wrong side of the channel, good seamanship required him to stop or slow up, which he failed to do; that no blame could be imputed to the tug. The length of the tow and the absence of regulation lights on the barges cannot be said to have contributed to the collision when it occurred at the head of the tow.

**ACTION** for damages resulting from a collision.

Tried before the Honourable Mr. Justice MacLennan, Deputy Local Judge of the Quebec Admiralty District, at Montreal, January 12 and February 4 and 5, 1918.

*Geoffrion & St. Germain*, for plaintiff.

MACLENNAN, Dep. Loc. J. (February 20, 1918) delivered judgment.

The plaintiff is the owner of barges which were being towed down the River St. Lawrence and came

into collision with the S.S. "Coniston" coming up the river.

The plaintiff's case is that about midnight on the night of June 18, 1917, his two barges, "Estella Walrod" and "Dorothy and Harold", were, with other barges, in the tow of the tug "Virginia" descending the River St. Lawrence in the steamer channel in Lake St. Peter and collided with the SS. "Coniston". The wind was a moderate westerly breeze; the weather was fine, dark and clear, the current was running about 2½ miles an hour, and the tug and tow had a speed of about 6 miles per hour; the tug and tow carried, brightly burning, the regulation lights; the "Coniston" was coming up the river in ballast at full speed and gave a signal of two blasts and wrongfully directed her course to port with the intention of passing the tug and tow starboard to starboard, contrary to art. 25 of the Rules of the Road. On seeing the green light of the "Coniston" the captain of the tug ported his helm in an endeavour to avoid the collision and gave the signal of one blast of his whistle; the helm of the "Coniston" was then ported, but too late to avoid the collision, and she collided with the first and second pair of barges in the tow; the helm of the "Coniston" was starboarded at an improper time; there was no proper lookout on the "Coniston", and those on board neglected in due time to take proper means to avoid a collision with the tow. The "Coniston" should have permitted the tug and tow to have passed below curve No. 2 on Lake St. Peter before attempting to pass the same; her speed was excessive and the order to reduce speed was given too late; the collision and damages in consequence there-

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of were occasioned by the negligence and improper navigation of those on board the "Coniston".

The case of the defendant is that the "Coniston" was coming up the ship channel with all regulation lights burning brightly, and at about ten minutes before midnight those in charge saw two masthead lights placed vertically and the green light on the tug and white lights on the tow coming down the river at a distance of four or five miles, bearing about one point off the port bow. There was a strong wind from the south south-west bearing on the port side of the "Coniston", which was in ballast, and high in the water and was about mid-channel; the tug and tow appeared to be on the north side of the channel; the speed of the "Coniston" was about six knots over the ground. After rounding curve No. 2 the lights of the tug and tow appeared about two points off the starboard bow. Her green and masthead lights only were visible and the length of the tow appeared to be 800 feet. About two minutes past midnight, when the tug was apparently one mile distant, the "Coniston" gave one signal of two blasts, indicating that she would pass the tug starboard to starboard; there was ample room and opportunity to do so. The tug made no reply to this signal, but when at a distance of about 800 feet the tug suddenly ported her helm, shut in her green light and opened her red and immediately thereafter gave a signal of one blast. The engines of the "Coniston" were thereupon ordered full speed astern; she ported her helm and gave a signal of one blast. The tug passed clear of the "Coniston" on her port side, but the bow of the barge on the port side of the first pair of barges struck the "Coniston's" port bow slightly. The tow was com-

posed of 16 barges in 8 pairs of 2 each; and its total length exceeded 600 feet. The barges were not under any control, except that of the tug; they had no side lights nor lookout, and each carried one white light. The tug had only two masthead lights besides her side lights, and she was in charge of a captain, mate and engineer; she had no lookout, and the engineer was not on duty in the engine-room; the "Coniston" was in charge of a licensed pilot, two officers were on duty on the bridge, and there was a competent wheelsman and a lookout. The first officer who had been relieved from duty at midnight, was still on the bridge; the collision was not due to any fault on the part of the "Coniston" nor of those in control of her. The collision and any damages caused thereby were due to the fault of the barges and of the tug for the following reasons:

A.—The barges "Estella Walrod" and "Dorothy and Harold" were two of a tow of sixteen canal barges in eight tiers of two each, in violation of regulation No. 16 of the port of Montreal, which applies to the place where the collision occurred.

B.—The "Estella Walrod" and "Dorothy and Harold" were not under control and had no one in charge of helm or rudder. They did not carry the regulation lights, having no side lights as required by International Rule 5, and one white light, in contravention to said rule.

C.—The "Estella Walrod" and "Dorothy and Harold" were in tow of a tug employed by them which was improperly equipped and did not exhibit the regulation lights in violation of art. 3 of the International Rules.

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D.—The tow of which the “Estella Walrod” and “Dorothy and Harold” formed part was over 600 feet in length. The tug had only two mast lights.

E.—The tug which was employed by the “Estella Walrod” and “Dorothy and Harold”, and her tow, were on the north side of the channel. She was in a position to have passed clear of the “Coniston” starboard to starboard. When the latter was at a distance of about a mile she gave a two-blast signal, indicating that she would pass starboard to starboard. At that time the tug was bearing about two points on the “Coniston’s” starboard bow. The tug gave no response. At a distance of about 800 feet she improperly ported her helm and altered her course to come across the bows of the “Coniston”, and afterwards gave a one-blast signal. The tug did not slacken speed nor allow for the swing of its tow, the last three tiers of which were not loaded.

The tug “Virginia” was 115 feet long, 24 feet wide and on the occasion of the collision was drawing 11½ feet. She left Sorel early on the evening of June 18, 1917, to go down the river through Lake St. Peter with a tow of 10 loaded and 6 light barges. The plaintiff’s two barges were lashed side by side and were the second pair of barges in the tow. The tow line between the tug and the first pair of barges was 250 feet long. The barges were about 100 feet long and there was a distance of about 15 feet between each pair of barges. The steamer channel through Lake St. Peter is 450 feet wide and is dredged to a depth of 35 feet. The collision happened at the upper end of a bend in the channel which is known as curve No. 2 turning to the right going down stream about two points and a quarter. The channel above this bend runs in a straight reach

about 3 miles, and the reach below the bend is slightly over 3 miles in length. When the tug and tow had gone about half way through the upper reach, the "Coniston" was seen in the lower reach. The tug and tow were then in mid-channel and went a little to the right-hand, or starboard, side and continued on the south side of the middle of the channel, with the barges in tow directly behind the tug. The "Coniston" was then in the lower reach below the bend. The tug and tow continued to proceed down the right-hand, or south, side of the channel, and the "Coniston" entered the bend showing her mast-head and red side-lights. As the tug approached gas buoy No. 85-L at the lower end of the upper reach the red light of the steamer, which was then coming up the bend, was in sight, and, when at a distance of about 1,000 feet, the master of the tug saw the "Coniston" shut out her red light and show her green. The tug immediately gave a signal of one blast, got an answer of one blast from the "Coniston", and then the tug's helm was put hard a-port and the red light of the steamer came again in view. The tug passed the steamer port to port, but the steamer came into collision with the port bow of the port barges in the first and second pair of barges about 100 feet up-stream from gas buoy No. 85-L. The master and mate of the tug have testified that the tug and tow were in the south, or starboard, part of the channel for at least one mile above the place where the collision happened. The tug had gone past gas buoy No. 85-L at the moment of the collision, and the impact of the collision threw the barges farther south, with the result that the whole tow passed over the gas buoy, causing it to be extinguished and doing other damage to it.

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The "Coniston" was a steel screw steamer of 3,544 tons gross, 337 feet long and 47 feet beam. According to the evidence of her pilot, he saw the green light of the tug about 1½ miles away, and about one point off the port bow of the "Coniston". The "Coniston" was then at the lower end of the bend of the channel abreast of gas buoy No. 79-L, and was in mid-channel going full speed. The pilot says that as he went up the bend the light of the tug narrowed and gradually came directly ahead of him and that the "Coniston" was then following the north side of the channel; he gave no signal that he was taking that side of the channel; the wind was on his port side and he thought the tow would be affected by it, and he decided to go to the south and gave a signal of two blasts and the helm was put to starboard. The distance between the steamer and the tug was then, according to the evidence of the pilot, about 2,500 to 3,000 feet, but the defendant's preliminary act states the distance was about one mile. The pilot swears that he was opposite gas buoy No. 81-L when he gave two blasts, which is very nearly half a mile below the place where the collision happened. The master, mate and other witnesses on the tug all swear the two-blast signal was not heard on the tug. When the "Coniston" gave the two-blast signal her helm was put a-starboard and, according to the wheelsman, was kept in that position until it was ordered hard a-port. The "Coniston" got no answer to her two-blast signal and under the starboard helm she passed to the south side of the channel. The pilot admits that he had some uneasiness because he got no answering signal from the tug. When the tug and steamer were about 1,000 feet apart, the red light of the tug came in view and

immediately afterwards the tug gave the signal of one blast. The pilot swears the tug was then one-quarter or one-half point off the starboard bow of the "Coniston". On hearing the signal from the tug, the pilot ordered the helm to be put hard a-port and the engines to be put full speed astern. No signal was given by the whistle that the engines were going astern. The steamer passed the tug opposite gas buoy No. 85-L port to port. Some of the witnesses say that they almost grazed each other, and others say they passed within 15 to 40 feet. According to the evidence of those on the tug the steamer passed it with considerable headway, and the pilot says that at the moment of the collision the steamer was almost dead in the water.

The first thing to consider in this case is, what rule of navigation should have been observed by the steamer and tug going up and down the channel. The outstanding feature is that the dredged steamer-channel in Lake St. Peter, where the collision happened, was unquestionably a narrow channel within the meaning of the regulations for preventing collisions at sea, and that the steamer and tug came into collision very near the south side of the channel. The "Coniston" came into the south side of the channel by reason of having starboarded her helm when she was one mile away from the tug and continuing on her starboard helm until her engines were put full speed astern two minutes or two minutes and a half, according to the evidence of the chief engineer, before the collision. The plaintiff relies very strongly on the "Coniston's" failure to observe art. 25 of the Collision Regulations which reads as follows: "In narrow channels every steam vessel shall, when it is safe and practicable, keep

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“to that side of the fair-way or mid-channel which “lies on the starboard side of such vessel.” It is abundantly proved that the tug and tow observed this rule and kept well to the south side of the dredged channel. The “Coniston” when at a distance of one mile from the tug changed her course to port in breach of art. 25. The pilot’s excuse for that change of course was that he thought the tug and tow were coming down on the north side of the channel and that the wind, which was on the steamer’s port bow, would affect the tug and tow. The “Coniston” was still in the bend of the channel and her pilot and officers were not, in my opinion, in as good a position to say in what part of the channel the tug and tow were as the persons on board the latter. The evidence of the latter is accepted as establishing the fact that the tug and tow were in their own proper water to the starboard or south side of the channel and not in the north side. If the pilot then honestly believed that the tug and tow were coming down on the wrong side of the channel at a distance of about a mile away, there was nothing which rendered it dangerous for the “Coniston” to keep to her own proper side of the channel. The wind was light and, according to the evidence of the pilot and wheelsman, had no effect upon the steamer. The first officer admits that it would have been safe and practicable to keep over to the starboard side, and safer to keep in mid-channel, and further on in his evidence he was asked in cross-examination: “If you “were a mile apart there was still ample time and “opportunity for both vessels to do the right thing, “that is, to pass port to port, was there not?” and he answered: “Any amount of it there was.” Art. 25 lays down the rule in imperative terms, that in

narrow channels, when it is safe and practicable, vessels shall keep to the right-hand side and pass port to port. It is the duty of those in charge of vessels to observe this rule.

Lord Alverstone, C.J., in *The Kaiser Wilhelm der Grosse*,<sup>1</sup> said:

“I am disposed to think that art. 25, in providing “that a vessel shall keep to its starboard side of the “channel, lays down a rule which is to be obeyed “not merely by one vessel as regards another, but, “so far as practicable, absolutely and in all circum- “stances. But, however that may be, I have no “doubt that where, as here, there are two vessels, “each vessel, as soon as she knows by the others’ “lights that the other is in motion and what her “course is, is bound to comply with art. 25 and keep “to the starboard side of the channel.”

My assessors advise me that: (1) After the “Coniston” arrived at the lower-end of the bend of curve No. 2 in mid-channel, with the approaching tug and tow clearly in view above the bend, it was safe and practicable for the “Coniston” to have kept to the starboard side of the channel as she proceeded up stream through the bend; (2) that the tug did nothing which made it unsafe or impossible for the vessels to have passed port to port, and (3) that there was no danger of collision when the “Coniston” starboarded her helm and went to port, but that danger of collision arose later. This advice is in accord with my own judgment.

The law relating to the *Rule of the Road at Sea*, by Smith, at page 222 observes: “Starboarding in a “narrow channel in order to avert collision with an “approaching vessel will very rarely be a proper

<sup>1</sup> (1907), 76 L. J. Adm. 138 at 141.

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“manœuvre. A vessel in her right water is justified in assuming that a vessel approaching on the same side of the channel will cross over to her own right side.” In considering the right to depart from a rule requiring a steamer when approaching another ship so as to involve risk of collision to slacken her speed or stop or reverse if necessary, Bowen, L.J., in *The Benarès*,<sup>1</sup> said: “I am of opinion that departure from art. 18 is justified when such departure is the one chance still left of avoiding danger which otherwise is inevitable.”

In the case of *The Clydach*,<sup>2</sup> the narrow channel rule was applied. A steamer was going into Falmouth harbour on the wrong side of the channel. Butt, J., at p. 337, said: “Her own captain says that he saw the lights of the ‘Clydach’ coming out of the harbour somewhat more than a point on his starboard bow and about a mile distant. What was his duty under those circumstances? His imperative duty was to keep to the starboard side of the channel. There is only one way in which he could excuse his departure from following that course, *i.e.*, by showing that under the circumstances it was not safe and practicable for him to obey the rule.”

In *The Kaiser Wilhelm der Grosse*, already cited, a collision happened just outside of the entrance of Cherbourg harbour, where the entrance is about half a mile wide, and the outcoming steamer was held liable for the collision because she improperly starboarded her helm and attempted to pass out on the wrong side across the bows of an inbound steamer. A similar non-observance of the rule was held

<sup>1</sup> (1883), 5 Asp. M. C. 171 at 174.

<sup>2</sup> (1884), 5 Asp. M. C. 336.

to carry with it liability in damages in *The Tecumseh*,<sup>1</sup> *R & O. Nav. Co. v. Cape Breton*,<sup>2</sup> *Turret Steamship Co. v. Jenks*,<sup>3</sup> *Bryde v. Montcalm*,<sup>4</sup> *Bonham v. The Honoreva*.<sup>5</sup>

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I find, therefore, that the "Coniston" acted wrongfully in leaving her own side of the channel and going over to the port side into the water of the tug and tow. There was no danger of collision nor any other circumstances which would justify her conduct.

My assessors advise me that, if the pilot on the "Coniston" thought that the tug and tow were coming down the north side of the channel above the bend, good seamanship and prudent navigation would require the "Coniston" to stop or moderate her speed before entering or while proceeding up the bend.

The plaintiff urged as part of his case that the "Coniston" should have permitted the tug and tow to have passed the bend before she went up, that her speed was excessive and that the order to reduce speed was given too late. The current down the stream was about 2½ to 3 miles an hour and bearing obliquely across the channel to the south. The "Coniston" continued at full speed under its starboard helm until she had arrived quite close to the buoys marking the south side of the channel, about 1,000 feet from the tug, which was then one-quarter or one-half point off the starboard bow of the "Coniston". As the steamer had proceeded for three or four minutes under a starboard helm and at the end

<sup>1</sup> (1905), 10 Can. Ex. 44 and 149.

<sup>2</sup> (1906), 76 L. J. Adm. 14.

<sup>3</sup> C.R. [1907] A.C. 472.

<sup>4</sup> C.R. [1918] A.C. 472.

<sup>5</sup> (1916), 32 D.L.R. 196; 54 Can. S.C.R. 51.

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of that time had the tug a quarter or half a point off her starboard bow, it is quite apparent she was attempting to cross the bows of the tug into the water of the tug and at full speed. The advice of my assessors is shown by the following questions and answers:

“Q. Should the ‘Coniston’ have stopped or slowed up when she got no answer to her two-blast signal? A. Yes, when the ‘Coniston’ got no answer she should have stopped and navigated with caution.

“Q. Was it in accordance with good seamanship for the ‘Coniston’ to have continued at full speed with her helm a-starboard until after the tug had given the one-blast signal when the ‘Coniston’s’ helm was put hard a-port and her engines were ordered full speed astern? A. No.

“Q. Did the speed of the ‘Coniston’ before she put her engines full speed astern contribute to the collision? A. Yes.

“Q. Was the order to put the engines of the ‘Coniston’ full speed astern given too late? A. Yes.”

The pilot admits he had some misgivings when he got no answering signal from the tug after he gave the two-blast signal and put the “Coniston’s” helm to starboard, but he kept on under full speed. In the case of *The Earl of Lonsdale*,<sup>1</sup> the Privy Council confirmed the decision of the late Mr. Justice Stuart, where it was held that where a steamship ascending the river, before entering a narrow and difficult channel, observed a tug approaching with a train of vessels behind her and did not stop or slacken speed, and where she subsequently collided with the tug and tow, the steamer was to blame for

<sup>1</sup> Cook’s Adm. Rep. 153 and 163.

not stopping before entering the channel. Similar principles were followed in *The Talabot*,<sup>1</sup> *The Norwalk*,<sup>2</sup> and *The Ezardian*.<sup>3</sup>

The failure of the "Coniston" to moderate her speed and navigate the bend with caution appears to have been a departure from the rules of good seamanship, if not a breach of any positive regulation, when it is considered that the tug was hampered with its tow and the "Coniston" was unincumbered, light, quickly responsive to her helm, with the current against her, making it an easy matter to hold her head against the stream or turn in either direction. It was a neglect on the part of the "Coniston" of precautions required by the ordinary practice of seamanship which contributed to the collision. Some observations by Lord Kingsdown, in delivering the judgment of the Privy Council in *The Independence*,<sup>4</sup> are applicable to this case:

"A steamer unincumbered is nearly independent of the wind. She can turn out of her course, and turn into it again, with little difficulty or inconvenience. She can slacken or increase her speed, stop or reverse her engines, and can move in one direction or the other with the utmost facility. She is, therefore, with reason, considered bound to give way to a sailing vessel close hauled, which is less subject to control and less manageable. But a steamer with a ship in tow is in a very different situation. She is not in anything like the same degree the mistress of her own motions; she is under the control of and has to consider the ship to which she is attached, and of which, as their Lordships

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<sup>1</sup> (1890), 6 Asp. M. C. 602.

<sup>2</sup> (1909), 12 Can. Ex. 434 and 459.

<sup>3</sup> [1911] P. 92.

<sup>4</sup> (1861), Lush, 270 at 278.

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“observed in the case of *The Cleadon*,<sup>1</sup> ‘She may for many purposes be considered as a part, the motive power being in the steamer, and the governing power in the ship towed.’ She cannot, by stopping or reversing her engines, at once stop or back the ship which is following her. By slipping aside out of the way of an approaching vessel, she cannot at once, and with the same rapidity, draw out of the way the ship to which she is attached, it may be by a hawser of considerable length—in this case of about fifty fathoms—and the very movement which sends the tug out of danger may bring the ship to which she is attached into it.”

Counsel for defendant submitted that even if the “Coniston” was wrong in crossing over to the south side of the channel, the tug could have avoided the collision by passing the steamer starboard to starboard, but that instead of doing so the tug ported her helm and caused the collision. As has already been pointed out, when the tug put her helm hard a-port she was then one-quarter, or one-half point off the starboard bow of the “Coniston”, or in other words, almost dead ahead at a distance of about 1,000 feet. The tug was then well to the south side of the channel. As this is a question of navigation, I asked my assessors: “Was the master of the tug justified in putting her helm hard a-port when he saw the ‘Coniston’ close her red light and open her green light at a distance of about 1,000 feet?” And they answered in the affirmative, and further advised me that the tug could not have done anything else to have avoided the collision, and that the “Coniston”, by the exercise of reasonable care and skill, could have avoided it. The dangerous situation

<sup>1</sup> (1860), Lush, 158.

which the tug had to face when the "Coniston" closed her red light and opened her green was the direct result of the "Coniston's" deliberate act in crossing to the south side of the channel into the water of the tug. In my opinion, it was the imperative duty of the tug to obey the rule contained in art. 25 of the Collision Regulations, and the master of the tug endeavoured to carry out that rule by putting the helm hard a-port. The situation which then arose was entirely brought about by the improper navigation of the "Coniston". The master of the tug did what he considered the best thing possible, and in doing so obeyed art. 25, *The Pekin*.<sup>1</sup>

The Privy Council, in the case of *The Nor*,<sup>2</sup> held that a vessel which having performed her own duty, is thrown into immediate danger of collision by the wrongful act of another is not to be held liable if at that moment she adopts a wrong manœuvre. This principle was followed in the Court of Appeal in the case of *The Bywell Castle*,<sup>3</sup> and later by the House of Lords in *The Tasmania v. The City of Corinth*,<sup>4</sup> where Lord Herschell said, p. 518: "In estimating the conduct of the master, it must be remembered that it was the gross negligence of the other vessel which placed him suddenly in the difficult position of having to judge when he was justified in departing from the rule, and what manœuvre he ought to adopt. In the case of *The Bywell Castle*, *supra*, Brett, L.J., said: "I am clearly of opinion that when one ship, by her wrongful act, suddenly puts another ship into a difficulty of this kind, we cannot expect the same amount of skill as we should

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“under other circumstances. Any court ought to  
 “make the very greatest allowance for a captain or  
 “pilot suddenly put into such difficult circumstances,  
 “and the court ought not, in fairness and justice to  
 “him, to require perfect nerve and presence of mind  
 “enabling him to do the best thing possible.’ With  
 “this I entirely agree, though, of course, the appli-  
 “cation of the principle laid down must vary accord-  
 “ing to the circumstances.” This principle has  
 since been followed in the Admiralty Division by  
 Bargrave Deane, J., in *The Huntsman*,<sup>1</sup> where he  
 said: “Some latitude must be allowed to the officer  
 “of a stand-on ship who is clearly doing his utmost  
 “in a position of difficulty caused by bad navigation  
 “of those in charge of a giving-way ship.”

I am therefore of opinion that the tug is not to blame for having put her helm hard a-port, and that in doing so her master did everything possible to avoid the collision.

The infringement of the regulations by the tug in regard to the absence of side-lights on the barges and with regard to the lights on the tug not showing the length of the tow places the burden of proof upon the plaintiff, the employer of the tug, to establish that this infringement could not by any possibility have contributed to the collision. Evidence was given at the trial of a custom or practice of canal barges in tow carrying only a white light and no side lights. This practice appears to be in use on the river, but it cannot override the collision regulations. In this case when the pilot and officers of the “Coniston” saw the lights of the tug and tow, they knew at once what they were meeting and they should have taken precautions accordingly. The collision was with the first and second pair of barges

<sup>1</sup> 104 L.T. 466.

and the barges behind these escaped. Had the barges in the forward part escaped and the collision been with those at the after-end of the tow, there might be ground to say that the length of the tow had something to do with the collision, and in that case the court would have to try the question of fact whether the infringement could by any possibility have contributed to the accident. The collision here having happened at the head of the tow, I hold that the infringement as to absence of the prescribed lights and the length of the tow could not by any possibility have contributed to the collision, and following the rule laid down in the case of *Fanny M. Carvill*, I exonerate the tug and the plaintiff from all blame in that connection.

I am, therefore, of opinion that the collision resulted from the failure of the "Coniston" to observe art. 25 of the Collision Regulations, from excessive speed and failure to navigate the bend in the channel with proper caution. There is no blame imputable to the tug or the plaintiff.

There will be judgment for the plaintiff for the damages sustained and for costs, with a reference to the Deputy District Registrar to assess the damages.

*Judgment for plaintiff.*

Solicitors for plaintiff: *Davidson, Wainwright, Alexander & Elder.*

Solicitors for defendant: *Atwater, Surveyer & Bond.*

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