

*Judgment of the Lords of the Judicial Committee of the Privy Council on the appeal of the Mississippi and Dominion Steamship Company of Liverpool, Limited, the owners of the steamship "Quebec," v. John Hendry and Alexander Ferguson, the owners of the ship "Princess Alexandra" (the "Quebec"), from the Vice-Admiralty Court of Quebec; delivered 22nd November 1876.*

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Present:

SIR R. J. PHILLIMORE.

SIR BARNES PEACOCK.

SIR ROBERT P. COLLIER.

THIS is an appeal from a decision of the learned Judge of the Vice-Admiralty Court of Lower Canada in a case of collision.

It appears that a vessel called the "Princess Alexandra," a large sailing ship of 1,370 tons, about 11 o'clock in the forenoon of the 30th October last year, was proceeding down the river St. Lawrence in tow of a tug, and that ahead of her at first was another sailing ship of 789 tons, the "Charles Chaloner;" that as those two vessels were going down the river, a large steamship, the "Quebec," whose owners are the Appellants in this case, was coming up the river on the port bow of the "Princess Alexandra," and about half a mile off, and that there was between the "Princess Alexandra" and the "Charles Chaloner" a distance of about a cable's length. The vessels proceeded, and the result was that the collision took place in this way: the steamship, the "Quebec," struck the "Princess Alexandra"

amidships on her port side with the stem, having previously struck the smaller vessel, the "Charles Chaloner."

It is admitted in this case that the interval between the two collisions, namely, that first of all with the "Charles Chaloner," and secondly with the "Princess Alexandra," occupied a very short time indeed, either a few seconds, or at the outside a few minutes.

The case of the "Charles Chaloner" was that the "Quebec" was to blame upon two grounds; first of all, for trying to force her way between these two vessels, she having plenty of room to go to the northward, and that if she had adopted that course the collision would not have taken place; and secondly, when she saw that the other vessel, the "Charles Chaloner," was porting her helm, in not immediately stopping and reversing her engines, which also would have prevented the collision from taking place.

The learned Judge in the Court below found that the "Charles Chaloner" was to blame for porting, because if she had followed the rule of navigation she would have kept her course, and, therefore, that she had by that act contributed to the collision which happened; but what their Lordships are concerned with to-day is whether the "Quebec" was or was not to blame upon the grounds stated in the case of the "Princess Alexandra."

The Appeal is entirely upon the finding as to the facts of the case in the Court below. It is hardly necessary to repeat what often has been said in cases of this description, that this Board always entertains a strong disinclination to reverse a sentence founded on the deliberate opinion of the Judge of the Court below, when that opinion has been entirely sustained by the advice of his nautical assessors,

and when it has been founded upon a view of the whole of the evidence.

Their Lordships, after listening to the able arguments which have been addressed to them, and after careful consideration of all the evidence in this case, have arrived at the opinion that the sentence of the Court below ought to stand.

With regard to the conduct of the "Quebec" in passing between these two vessels, their Lordships are of opinion that there is quite sufficient evidence to justify the Court below in finding that the "Quebec" being on the north side, and having a clear course to the north, altered her course to go to the south and to pass between the two vessels, the "Charles Chaloner" and the "Princess Alexandra," and although it may be true, and probably was true, that the "Charles Chaloner" did wrong in porting her helm at the time, yet such an opinion is perfectly consistent with finding that the "Quebec" was to blame for the alteration of her course described, which must have tended to embarrass and confuse those on board the "Charles Chaloner."

With regard to the second point, their Lordships are also of opinion, looking especially to the evidence of the engineer, which is of the most contradictory and confused character, and looking to the variety of orders which it appears were given, that the Court below was justified in finding that for not stopping and continuously reversing her engines the "Quebec" was to blame, that she did not execute this manœuvre, which it was her duty to execute, in the proper time and in the proper way.

Their Lordships are therefore, on the whole, of opinion that it will be their duty humbly to recommend Her Majesty to affirm the sentence of the Court below, and to dismiss this Appeal with costs.

