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UNIVERSITY OF TORONTO  
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# In the Privy Council

*On Appeal from the Supreme Court of Canada.*

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BETWEEN

OIVIND LORENTZEN, as Director of Shipping  
and Curator of The Royal Norwegian Govern-  
ment,  
(Plaintiff) *Appellant.*

AND

THE SHIP "ALCOA RAMBLER" (Alcoa Steam-  
ship Company Inc. Owners)  
(Defendant) *Respondent.*

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## Record of Proceedings

PART I

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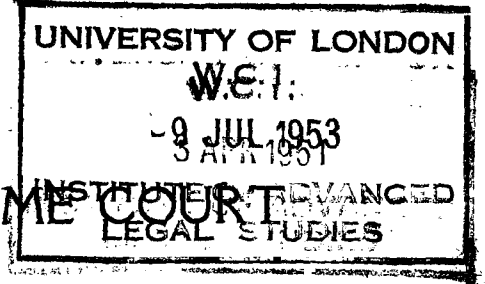
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AND

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INSTITUTE OF ADVANCED  
LEGAL STUDIES,  
25, RUSSELL SQUARE,  
LONDON,  
W.C.1.

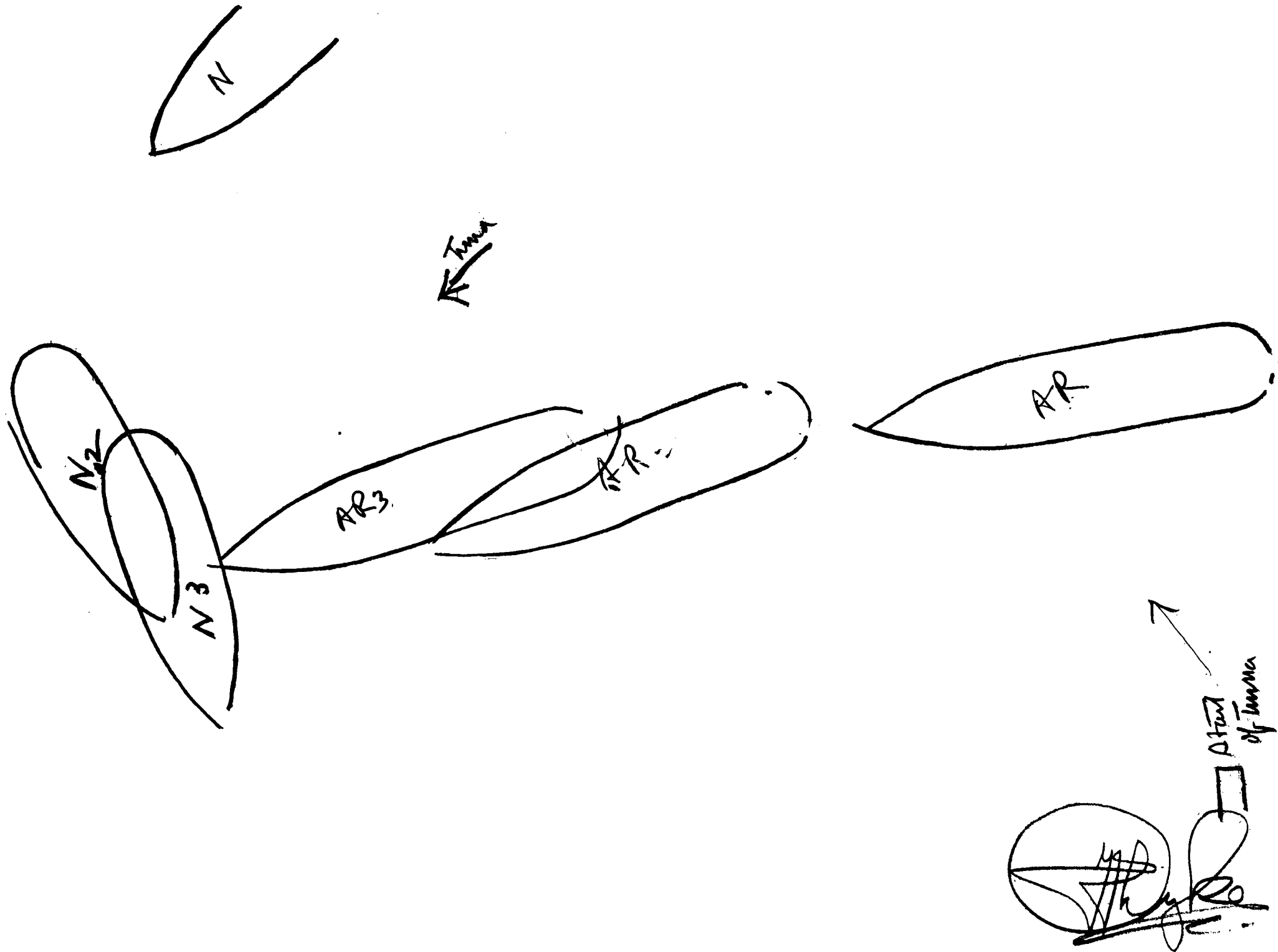
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**In the Supreme Court of Canada**  
**ON APPEAL FROM**  
**THE EXCHEQUER COURT OF CANADA**  
**NOVA SCOTIA ADMIRALTY DISTRICT**

No. 973

Between: { **THE SHIP "ALCOA RAMBLER"**  
(**Alcoa Steamship Company Inc. Owners**), *Appellant.*  
  
AND  
  
**OLIVIND LORENTZEN**, as Director of  
**Shipping and Curator of The Royal Nor-**  
**wegian Government, (*Plaintiff*)  
*Respondent.***

---

**CASE ON APPEAL**

RECORD—PART I

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F. D. SMITH, K.C.,  
*Plaintiff's (Respondent's) Solicitor*

DONALD MCINNES, K.C.,  
*Defendant's (Appellant's) Solicitor*

GOWLING, MACTAVISH & WATT,  
*Ottawa Agents*

NEWCOMBE & COMPANY  
*Ottawa Agents*

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RECORD  
PART I

*In the  
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of Canada,  
Nova Scotia  
Admiralty  
District.*

# In the Supreme Court of Canada

ON APPEAL FROM

THE EXCHEQUER COURT OF CANADA

NOVA SCOTIA ADMIRALTY DISTRICT

No. 973

Between: {

THE SHIP "ALCOA RAMBLER"  
(Alcoa Steamship Company, Inc. Owners), *Appellant.*

AND

OLIVIND LORENTZEN, as Director of  
Shipping and Curator of The Royal Nor-  
wegian Government, *(Plaintiff)* 10  
*Respondent.*

## RECORD OF PROCEEDINGS

PART 1

No. 1

### ENDORSEMENT OF CLAIM

No. 1  
Plaintiff's  
Endorse-  
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Claim, 4th  
May, 1943.

The Plaintiff as Director of Shipping and Curator of The Royal Norwegian Government, the owners of the Ship NOREFJORD, claims the sum of Three Hundred Thousand Dollars (\$300,000.00) for damage occasioned by a collision which took place in Bedford Basin, in the Province of Nova Scotia, on the 20th day of August, 1942, and for costs. 20

Dated at Halifax, N. S. 4th. May, 1943.

F. D. SMITH,  
85-93 Granville Street, Halifax, N. S.  
*Solicitor for Plaintiff.*

RECORD  
PART I

## ENDORSEMENT OF COUNTERCLAIM

*In the  
Exchequer  
Court of  
Canada.  
Nova Scotia  
Admiralty  
District.*

No. 2  
Defendant's  
Endorse-  
ment of  
Counter-  
claim  
4th June,  
1943.

The Defendant as owner of the Steamship ALCOA RAMBLER claims the sum of Fifty Thousand Dollars (\$50,000.00) against the Ship NORE-FJORD, for damage occasioned by a collision which took place in Bedford Basin, Halifax, Nova Scotia, Dominion of Canada, on or about the 20th of August, 1942, and for costs.

Dated at Halifax, N. S., this 4th day of June, A. D. 1943.

DONALD MCINNES,  
of 35 Bedford Row  
*Solicitor for*  
ALCOA RAMBLER AND HER OWNERS.

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

No. 3.  
Preliminary  
Acts on  
Behalf of  
Plaintiff  
Owners of  
Norefjord,  
6th July,  
1943.

## PRELIMINARY ACTS ON BEHALF OF THE PLAINTIFF

1. The names of the ships which came into collision, and the names of their masters. S. S. "NOREFJORD," T. R. Skjelbred, Master.  
S. S. "ALCOA RAMBLER," Ernest Henke, Master.
2. The time of the collision. August 20, 1942, at about 9.18 a. m.
3. The place of the collision. Bedford Basin, Nova Scotia.
4. The direction and force of the wind. Calm.
5. The state of the weather. Fine and overcast.
6. The state and force of the tide, or, if the collision occurred in non-tidal waters, of the current. No appreciable tide as it was low water at 9.35 A.M.
7. The course and speed of the ship when the other was first seen. 5 to 6 knots. Not steering on a compass course, heading towards Degaussing Range, Bedford Basin in order to enter it from its southern end.
8. The lights, if any, carried by her. None.
9. The distance and bearing of the other ship when first seen. Approximately 600 to 700 yards and about 4-5 points on 30 port bow.

10

20

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

N. 3  
Preliminary  
Acts on  
Behalf of  
Plaintiff  
Owners of  
Norefjord,  
6th July,  
1948.

10.

The lights, if any, of the other ship which were first seen.

4

None.

11.

The lights, if any, of the other other than those first seen, which came into view before the collision.

None.

12.

The measures which were taken, and when, to avoid the collision.

As the "NOREFJORD" lay at anchor on the western side of Bedford Basin she was heading approximately in a north westerly direction and she was turned around to port by the tug BANSURF in order that she might proceed towards the De-Gaussing Range on the eastern side of Bedford Basin. She then proceeded under her own steam on a course to enable her to enter the Range from its southern end, subject only to certain temporary changes which were necessary to avoid other vessels at anchor or moving. When she saw the ALCOA RAMBLER she was on a swing to port and she put her helm to starboard and gave one short blast on her whistle to give the ALCOA RAMBLER more room to carry out latter's obligation to stop her headway or to go under the NOREFJORD'S stern. By reason of her slow speed the effect of her starboard helm was not very great. At about 9.15 a.m. the engines of the NOREFJORD were put full astern to help the NORE- 40

RECORD  
PART I

*In the  
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Canada  
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Admiralty  
District.*

No. 3  
Preliminary  
Acts on  
Behalf of  
Plaintiff  
Owners of  
Norefjord,  
6th July,  
1943.

FJORD swing to starboard and three short blasts were blown on the whistle. At about 9.16 a.m. the engines were put full speed ahead again to assist the ship in turning more to starboard, at 9.17 a.m. the engines were put full speed astern and at about 9.18 a.m., shortly before the collision, they were stopped. 10  
The helm was kept to starboard until the collision. The effect of the starboard rudder was to stop the NOREFJORD'S swing to port and to give her some swing to starboard but the other ship failed to stop her headway and failed to direct her course to starboard to go under the NOREFJORD'S stern. 20

13.

The parts of each ship which first came into contact.

The stem of the ALCOA RAMBLER and the port side of the NOREFJORD amidships at the bulkhead between No. 3 hold and the stokehold.

14.

What sound signals were given, if any, and when.

See answer to Question XII.

15.

What sound signals, if any, were heard from the other ship, and when.

The ALCOA RAMBLER 30 gave three short blasts after the one short blast was given by the NOREFJORD and later gave another three short blast signal.

16.

What fault or default, if any, is attributed to the other ship.

(a) The other ship was proceeding at excessive speed.

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*In the  
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No. 3  
Preliminary  
Acts on  
Behalf of  
Plaintiff  
Owners of  
Norefjord,  
6th July,  
1943.

6

(b) The other ship neglected to keep a proper or any lookout.

(c) The other ship did not as required by the Rules, keep out of the way of the NOREFJORD.

(d) The other ship did not slacken her speed, stop or reverse in time to avoid collision.

(e) The other ship failed to stop her headway to avoid collision.

(f) The other ship failed to drop her anchor in time to avoid collision.

(g) The other ship did not direct her course to starboard so as to go under NOREFJORD'S stern.

(h) The other ship gave a three short blast signal indicating that her engines were going full astern but her engines were not going full astern when such signal was given or for some time afterwards.

(i) The other ship did not as required by the Rules take such action as would best aid to avert the collision.

(j) The other ship neglected the precautions required by the ordinary practice of seamen and by the special circumstances of the case.

Dated at Halifax, N. S. this 6th, day of July A. D. 1943.

F. D. SMITH,  
85-93 Granville Street  
Halifax, N. S.  
*Solicitor for Plaintiff.*



RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

No. 4.  
Preliminary  
Acts on  
Behalf of  
Defendant  
Owners  
Alcoa  
Rambler  
4th June,  
1943.

## PRELIMINARY ACTS ON BEHALF OF DEFENDANT

- |    |  |  |    |
|----|--|--|----|
| 1. | The names of the ships which came into collision and the names of their Masters,                           | The "ALCOA RAMBLER"—<br>Captain Ernest Henke.<br>The "NOREFJORD"—Captain<br>Torbjorn F. Skjelbred.   |    |
| 2. | The time of the collision,   | Approximately 9.18 A.M. on<br>August 20, 1942.   | 10 |
| 3. | The place of the collision,  | Bedford Basin, Halifax, Nova<br>Scotia, Canada.  |    |
| 4. | The direction and force of the<br>wind,  | NNE. Force 2, Beaufort<br>Scale.   |    |
| 5. | The state of the weather,  | Overcast. Good visibility.   |    |
| 6. | The state and force of the tide,<br>or, if the collision occurred in non-<br>tidal waters, of the current, | About slack tide and practi-<br>cally no current.  | 20 |
| 7. | The course and speed of the ship<br>when the other was first seen,   | Approximately SE. Proceed-<br>ing, from anchorage in upper sec-<br>tion of Bedford Basin, down the<br>fairway towards the Narrows.<br>Speed about 6 knots. |    |
| 8. | The lights, if any, carried by her,  | No lights. (Daylight).   |    |

*In the  
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Preliminary  
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Defendant  
Alcoa  
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4th June,  
1943.

The distance and bearing of the other ship when first seen,

The "NOREFJORD" when first seen, was between one-half mile and one mile distant and was apparently getting under way from her anchorage and bore slightly forward of the ALCOA RAMBLER'S starboard beam.

10.

The lights, if any, of the other ship which were first seen,

No lights. (Daylight). 10

11.

The lights, if any, of the other ship other than those first seen, which came into view before the collision,

No lights. (Daylight).

12.

The measures which were taken, and when, to avoid the collision,

The "ALCOA RAMBLER" stopped her engine; received a signal of 1 blast from the "NOREFJORD"; then observed that the "NOREFJORD" was continuing to her left, heading across the course of the "ALCOA RAMBLER," whereupon the latter reversed her engine at full speed, and shortly afterwards dropped her starboard anchor and put her wheel hard left. 20

13.

The parts of each ship which first came into contact,

The stem of the "ALCOA RAMBLER" contacted the port side of the "NOREFJORD" in the way of No. 3 hatch. 30

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

No. 4.  
Preliminary  
Acts on  
Behalf of  
Defendant  
Owners  
Alcoa  
Rambler  
4th June,  
1948.

14.

What sound signals were given,  
if any, and when,

The "ALCOA RAMBLER"  
blew 3 blasts when she reversed  
her engine, followed immediately  
by the signal "K."

15.

What sound signals, if any, were  
heard from the other ship, and  
when,

The "NOREFJORD" blew 1  
blast after she was first seen and  
as she started to come out from  
under the vessels anchored to  
the westward of the fairway. 10

16.

What fault or default, if any, is  
attributed to the other ship,

(a) Starting from anchorage  
inside of and hidden by other  
anchored vessels, with the in-  
tention of proceeding out across  
the fairway, without ascertain-  
ing the presence of vessels in the  
fairway, and without any proper  
warning to them. 20

(b) Failure to blow a proper  
signal to indicate a left rudder  
when starting away from her  
anchorage.

(c) Faulty lookout.

(d) Excessive speed.

(e) Failure to see and heed  
the "ALCOA RAMBLER'S" red  
flag, her escort launch, and the  
latter's IC and B flags. 30

(f) Failure to take any or  
any adequate steps to avoid col-  
lision although approached and  
warned by the said escort launch  
of the presence, course, and na-  
ture of the cargo of the "ALCOA  
RAMBLER."

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PART I

*In the  
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Behalf of  
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Alcoa  
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4th June.  
1943.

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(g) Failure to shape course and speed seasonably to keep well clear of the "ALCOA RAMBLER," a vessel carrying explosives, in accordance with the "PUBLIC TRAFFIC REGULATIONS of the Port of Halifax.

(h) Attempting to cut across the fairway in the face of the on-coming "ALCOA RAMBLER" after the latter was first seen. 10

(i) Failure of the "NOREF-JORD" to navigate in compliance with her own signal of one blast, thereby creating a situation of "surprise."

(j) Failure to blow any signal reasonably to give notice of her actual navigation. 20

(k) Failure to blow a danger signal or give any other warning to indicate her inability to navigate in compliance with her own 1-blast signal.

(l) Failure to hear and heed the "ALCOA RAMBLER'S" danger signal.

(m) Failure to stop and reverse her engine and drop anchor seasonably. 30

(n) Negligent use of rudder and propeller, thereby throwing her port side towards and against the stem of the "ALCOA RAMBLER" immediately before and at the instant of contact.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada.  
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Admiralty  
District.*

No. 4

Preliminary  
Acts on  
Behalf of  
Defendant  
Alcoa  
Rambler  
4th June,  
1943.

(o) Unseaworthiness in that her steering-gear was defective and was not properly warmed up so that her rudder failed to respond properly and promptly to the action of the steering wheel.

(p) Wrongful and unnecessary encroachment upon the course of the "ALCOA RAMBLER."

10

Dated at Halifax, Nova Scotia, June 4th, A. D. 1943.

DONALD McINNES,  
of 35 Bedford Row, Halifax, Nova Scotia.  
*Defendant's Solicitor.*

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

**IN THE SUPREME COURT OF CANADA**  
**ON APPEAL FROM**  
**EXCHEQUER COURT OF CANADA**  
**NOVA SCOTIA ADMIRALTY DISTRICT**

Between:

THE SHIP "ALCOA RAMBLER"  
ALCOA STEAMSHIP COMPANY INC, *Defendant*  
*(Appellant)*

OWNERS  
Against

OIVIND LORENTZEN as Director of Shipping and Curator  
of the Royal Norwegian Government *Plaintiff*  
*(Respondent)*

Halifax, N. S., July 8, 1943 10

**Action for Damages By Collision**

**MINUTES OF TRIAL**

Appearances:

No. 5.  
Minutes of  
Trial.  
8 July, 1943.  
Statements  
of Counsel.

F. D. SMITH, K.C., for the Plaintiff,  
DONALD MCINNES, K.C., for the Defendant  
R. S. ERSKINE, for the Defendant  
ALFRED T. CLUFF, for The War Shipping Administration, as observer

BEFORE CARROLL, L. J. A.

Mr. McInnes requested His Lordship to extend the courtesy of the bar to Mr. Erskine, of the New York Bar and Mr. Cluff, of the California Bar. 20  
This was done by His Lordship.

MR. SMITH: If your Lordship pleases, this proceeding has taken a rather irregular course. By arrangement between the solicitors on both sides as well as the firms of attorneys who are acting for the respective interests in New York, it was arranged that before any proceeding would be instituted that the evidence of those on board the "Norefjord" would be

RECORD  
PART I

*In the  
Exchequer  
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Nova Scotia  
Admiralty  
District.*

No. 5.  
Minutes of  
Trial.  
8 July, 1943.  
Statements  
of Counsel.

taken shortly after the collision, which occurred on August 20th, and it was stipulated at that time that the evidence so taken could be used in any proceeding that might be instituted in any court. Subsequently, the evidence of the Master and those on board the "Alcoa Rambler" was taken in New York before a commissioner under similar stipulation and later the defendant took the evidence of Lieutenant Dyke, a lieutenant in the Royal Canadian Navy who was an eye-witness of the collision. Now, that is the position. Later, the writ of summons was issued and Mr. McInnes accepted service of the writ of summons, and I assume that, by agreement, between the parties, the evidence which has already been taken 10 will be accepted, subject to all objections as to relevancy. Perhaps, My Lord, if I read the stipulation taken at the time? (Reads stipulation taken taken at the time). Now, My Lord, I am moving therefore—and I understand my learned friends are concurring in my application—that the evidence taken, saving all just exceptions, be admitted as if they were taken here.

MR. MCINNES: I am making a similar motion on behalf of the defendant, that the evidence of the members of the crew of the "Alcoa Rambler" be accepted and likewise the evidence of Lieutenant Dyke.

After argument, His Lordship accepted the evidence taken on behalf of both the plaintiff and defendant previously as evidence in this case, saving 20 all just exceptions.

MR. SMITH: Before going ahead with the taking of any evidence today, I wish to say I am in rather peculiar position. First of all, I subpoenaed the pilot and he is not here,—Pilot Tupper Hayes. We can't mention these things, but he will be available, I think, tomorrow; but he has been served with the regular subpoena. Perhaps, if my learned friends so desired, in camera I could tell the reason.

THE COURT: I think they both know.

MR. MCINNES: I think we appreciate the situation.

MR. SMITH: Also I had another witness, the Captain of the Tug 30 Boat "Bansurf", and he was to come in to see me yesterday to get ready for the trial and I made inquiries and I found he was taken very sick with I don't know technically what it is, but it is from eating bad pork. In any event, I got hold of his physician this morning, who was away yesterday, and I asked him if it would be possible for his evidence to be taken at his house, and Dr. Gordon Wiswell said he didn't see any great objection to that, so, after we read the depositions that were given, if Your Lordship would be agreeable and if counsel would be agreeable, we could arrange to take the evidence at his house.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada,  
Nova Scotia  
Admiralty  
District.*

No. 5.  
Minutes of  
Trial,  
8 July, 1948.  
Statements  
of Counsel.

MR. MCINNES: The only thing, Mr. MacDonald said the Captain of the "Bansurf" would be available to us, but we haven't seen him.

MR. SMITH: Mr. MacDonald spoke to me. The "Bansurf" had been chartered by the "Norefjord" to move the "Norefjord" and take her to the Degaussing Station. Mr. MacDonald did mention it to me and I thought it was rather unusual for the counsel of the other side to interview a witness in that position, but I didn't make any arrangement that he would be available; but Mr. MacDonald could use his own judgment.

MR. MCINNES: The only thing, we are taken by surprise. We didn't think my learned friend would be calling him. 10

THE COURT: It should never be a surprise for a witness to be called. If you think any arrangement can be made with Mr. MacDonald, that makes it—

MR. SMITH: I know of no arrangement.

MR. MCINNES: As I understand it, we proposed to interview the Captain of the "Bansurf", Mr. L. R. Verge; but Mr. Smith—I won't say he raised some objection, but he questioned the propriety of our interviewing one of his witness, and the arrangement was, as I understand, that, if my learned friend was going to call him in this case, he would make him available to ourselves. It is a little bit unusual now to find that this man is 20 to be called.

MR. SMITH: I never knew there was any such suggestion.

THE COURT: You have all right of cross-examination.

MR. SMITH: I had no knowledge of that. I think, as a matter of fact Mr. Erskine wrote Mr. MacDonald about it.

MR. ERSKINE: That is right.

MR. MCINNES: I don't want to be in a position of making an issue of the thing.

MR. SMITH: I don't want to have any misunderstanding.

THE COURT: I don't think, so far as I am concerned, you need call 30 him.



RECORD  
PART 1

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

No. 5  
Minutes of  
Trial.  
8 July, 1943.  
Statements  
of Counsel.

THE COURT: I think this, perhaps, is a case where I should have an assessor to help me to review the evidence, because it seems to me there is some manoeuvring. Is that satisfactory that I may have an assessor in helping me go over the evidence?

MR. MCINNES: That is a matter for Your Lordship's discretion.

Mr. Smith asks that all witnesses be excluded.

MR. SMITH: The pleadings are dispensed with.

His Lordship waives the reading of the evidence taken before.

MR. SMITH: We have, then agreed on the Exhibits, that have been already identified, and I shall tender the Exhibits which I am adducing on the part of the plaintiff.

MR. MCINNES: I shall tender our Exhibits so that they will all be in.

#### LIST OF EXHIBITS

- |           |     |   |    |
|-----------|-----|---|----|
| Norefjord | 1.  | British Admiralty Chart of Bedford Basin, No. 320.  |    |
| "         | 2.  | Positions of ships as marked by Master of the "Norefjord" when he first observed the "Alcoa Rambler."   |    |
| "         | 3.  | Positions of ships at collision, as marked by Master of "Norefjord."  |    |
| "         | 4.  | Photostat of "Norefjord's" scrap or rough engine room log.  |    |
| "         | 5.  | Photostat of "Norefjord's" smooth engine room log.  | 20 |
| "         | 6.  | Chief Officer Strom's diagram of positions when he first saw the "Alcoa Rambler."   |    |
| "         | 7.  | Chief Officer Strom's diagram of the collision.   |    |
| "         | 8.  | Photostat of "Norefjord's" rough or scrap deck log.   |    |
| "         | 9.  | Photostat of "Norefjord's" smooth deck log.<br>(Mr. Smith: I may say we agreed at the time of taking the evidence to substitute photostats for original documents). |    |
| "         | 10. | A chart of Bedford Basin from the Canadian Government survey in 1916, No. 5268.   | 30 |
| "         | 11. | Photograph showing the damaged stem and port side of the "Alcoa Rambler."   |    |

MR. MCINNES: I would like at the same time to tender our own Exhibits, My Lord.

RECORD	"Alcoa Rambler"	1. Port of Halifax Traffic Regulations.	
PART I	"	2. Photo of damage to port side of "Norefjord."	
<i>In the</i>	"	3. Translation of "Norefjord's" deck log.	
<i>Exchequer</i>	"	4. Small Section Chart of Bedford Basin.	
<i>Court</i>	"	5. Captain Henke's (Master of Alcoa Rambler) dia-	
<i>of Canada</i>	"	gram of angle of contract.	
<i>Nova Scotia</i>	"	6. Original Third Officer "Alcoa Rambler's" bridge	
<i>Admiralty</i>	"	notes.	
<i>District.</i>	"	7. Photostat of "Alcoa Rambler's" smooth deck log.	
No. 5.	"	8. Photostat of "Alcoa Rambler's" rough deck log.	10
Minutes of	"	9. "Alcoa Rambler's" rough engine room log.	
Trial.	"	10: "Alcoa Rambler's" bridge bell book.	
8 July, 1943.	"	11. Captain Henke's diagram of openings in wheel	
Statements	"	house.	
of Counsel.	"	12. Chief Officer (Alcoa Rambler) diagram of angle	
	"	of contact.	
	"	13. Third Officer (Alcoa Rambler) diagram of angle	
	"	of contact.	
	"	14. "Alcoa Rambler's" engine room bell book (pho-	
		ostat)	20
Dyke 1.		Diagram of ships before and at time of impact.	
Dyke 2.		Chart of Bedford Basin, No. 5268.	

MR. SMITH: Those are the Exhibits, which we are tendering, and I am also tendering, of course, the evidence that has already been taken on the part of the plaintiff, and I suppose my learned friends also putting in the evidence that has already been taken.

"Alcoa Rambler"	Exhibit	1. The Port Regulations for identification.	
"	"	2. Photograph of S.S. "Norefjord."	
"	"	3. For identification, translation of "Nore-	
		fjord's" Deck Log.	30

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence.

No. 6.

Not taken  
in presence  
of Trial  
Judge.  
Torbjorn F.  
Skelbred,  
Direct  
Exam-  
ination.

## MINUTES OF EVIDENCE.

TAKEN BY CONSENT AT THE OFFICE OF  
BURCHELL, SMITH, PARKER & FOGO  
85-93 Granville Street, Halifax N.S., September 3, 1942  
By Consent—but not in presence of Trial Judge.

TORBJORN F. SKELBRED, being called and duly sworn, testified as follows:

Examined by Mr. Smith

Q.—How long have you been going to sea? A.—Twenty-one years, something like that, or twenty-two years. 10

Q.—Are you a Master Mariner under Norwegian Law? A.—Yes.

Q.—When did you pass your examinations for Master? A.—1927- and 1928.

Q.—When did you actually apply for and obtain your Master's Certificate? A.—End of 1934 or beginning of 1935.

Q.—Before sailing as a Master, did you sail as Third Officer and Second Officer and First Officer?

A.—Yes.

Q.—How long have you been sailing as a Master in ocean-going steamships? A.—Starting in 1935. 20

Q.—When did you take over the over the command as Master of the "Norefjord"? A.—17th of August, this year, 1942.

Q.—Where is the "Norefjord" registered? A.—Oslo, Norway.

Q.—I understand the ship was requisitioned by the Norwegian Government? A.—Yes, after the invasion.

Q.—After the invasion of Norway? A.—Yes.

Q.—Have you looked at the ship's Certificate of Nationality? A.—Yes.

Q.—Have you that in your possession. A.—Yes, that is in my possession.

Q.—Is there any notation on that certificate? A.—Yes. 30

Q.—To what effect? A.—That the ship had been requisitioned by the Royal Norwegian Government.

Q.—And by whom was that notation made? A.—The Norwegian Consul in Hull, United Kingdom.

Q.—On what date? A.—If I remember rightly, it was the 19th of June 1940.

Q.—And what body has been operating the ship? A.—Norwegian Shipping and Trade Commission.

Q.—For the Royal Norwegian Government? A.—Yes.

Q.—Who pays the wages of the Master and crew? A.—The Norwegian Shipping and Trade Commission. 40

- RECORD  
PART I
- In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*
- Plaintiff's  
Evidence.
- No. 6.  
Not taken  
in presence  
of Trial  
Judge.  
Torbjorn F.  
Skelbred,  
Direct  
Exam-  
ination.
- Q.—Is the ship chartered? A.—Time chartered to the British Ministry of war Transport.
- Q.—What is her net tonnage? A.—(Witness refers to certificate of nationality) 1917.88.
- Q.—Is the gross shown there? That is your Certificate of Nationality. Then you have a register besides that? A.—Yes.
- Q.—I suppose we may as well have it? A.—3082.
- Q.—Is your dead weight capacity given there? I don't suppose it is shown there? A.—No.
- Q.—What is the length of the ship? A.—The length of the ship is 331.7. 10
- Q.—And what is her breadth—her beam? A.—Her beam is—
- Q.—Your register would show? A.—I don't think so.
- Q.—In the register? A.—No, it doesn't show there.
- Q.—That is the register, the certificate of tonnage. Yes, there it is. The breadth? A.—46.7.
- Q.—The depth at amidships from ceiling to what? A.—Upper deck.
- Q.—To tonnage deck? A.—Yes.
- Q.—23.1? A.—Yes.
- Q.—Now, what kind of engines has she? A.—Triple expansion.
- Q.—Where are they, amidships? A.—Yes, one triple expansion is. 20
- Q.—Single screw? A.—Single screw, yes.
- Q.—Right or left hand propeller? A.—Right hand.
- Q.—Right hand propeller? A.—It should be ordinary.
- Q.—Yes. When you took over the command of the ship on August 17th, where was she? A.—She was laying out in the road here.
- Q.—In Halifax Harbour? A.—In Halifax Harbour, yes.
- Q.—And was she fully laden? A.—She was laden, yes.
- Q.—What was her cargo? A.—Sulphur.
- Q.—Do you know how many tons she had on board? A.—4653.
- Q.—Then on that day did you go anywhere? A.—We went over to the 30 bunker pier at Imperial Oil.
- Q.—At Imperial Oil? A.—At Imperial Oil over on Dartmouth side.
- Q.—You are an oil burner, are you? A.—Yes.
- Q.—And after bunkering, where did the ship go? A.—Went up to Bedford Basin for anchor.
- Q.—Which side of the Basin were you anchored on? A.—The west part We call it the west side but I don't know if that is the right name or not.
- Q.—Perhaps you could show approximately, or about near as you can, where was your approximate anchorage? A.—It was up around here.
- Q.—Well now, it would be well to mark that with an X.

MR. MACDONALD:

Is that the same chart I have here?

RECORD  
PART I

MR. SMITH:  
You have an American Chart; I have a British.

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
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District.*

THE WITNESS:

Yes, that is a British; it is a smaller scale; this one is nearly the same.

BY MR. SMITH:

Plaintiff's  
Evidence.

Q.—Look at that. You are more expert than I am. They seem exactly the same. The British is a little bigger? (Witness examines charts).

No. 6.

A.—Exactly the same, exactly the same scale.

Not taken  
in presence  
of Trial  
Judge.  
Torbjorn F.  
Skelbred,  
Direct  
Exam-  
ination.

MR. MACDONALD:

I think they are the same. You can follow that one.

10

MR. ERSKINE:

I have one.

BY MR. SMITH:

Perhaps you could mark on the chart the exact position? A.—They have all this area marked off in squares.

Q.—As a matter of fact, I can say they have it all marked off in squares. We will probably be able to get the squares. The C.X.O. are supposed to furnish them to me but they haven't. I haven't got it yet, but they promised to let me have it. Is that the square? A.—That is the square.

Q.—It was in B somewhere, wasn't it? A.—It was in B.

20

Q.—Could you put that on this chart, approximately where you would be? A.—I would say around there.

Q.—About there? A.—About there. Maybe it was there, maybe it was there, that is just guessing.

Q.—We will mark that and put here "approximate anchorage." (Witness marks with a circled X the approximate anchorage of the "Norefjord" on the chart of Bedford Basin, marked "Norefjord's" Exhibit 1. The number on the chart is 320 by the hydrographic survey of Canada). Perhaps you could tell me about her crew? How many crew, all told, does the ship carry? A.—She carries thirty-one.

30

Q.—Thirty-one, including Master? A.—Thirty-one, including Master, yes.

Q.—How many officers? A.—Three officers.

Q.—How many engineers? A.—Three engineers.

Q.—Wireless operator? A.—Wireless operator.

Q.—Able Seaman? A.—Yes.

Q.—Ordinary Seamen? A.—Yes.

Q.—And carpenter? A.—Carpenter, boatswain and donkeymen and ordinary crew?

Q.—And on the day in question did you have your ordinary crew? A.— We had, except one.

40

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
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District.*

Plaintiff's  
Evidence.

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of Trial  
Judge.  
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Direct  
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ination.

- Q.—Who was that? A.—One of the donkeymen.  
Q.—Where was he? A.—He was in the hospital.  
Q.—And I suppose several of your A.B's are gunners? A.—Yes, there are two.  
Q.—What is your maximum speed in fine weather? A.—10½ sea-going speed.  
Q.—Now, on the morning of August 20th was it intended that the ship be moved from anchorage? A.—Yes.  
Q.—Where was she to go? A.—The Degaussing Range.  
Q.—Where is that? A.—Over the north side of Bedford Basin. 10  
Q.—North or east, I suppose? A.—East side, yes.  
Q.—Perhaps you could show on this chart the approximate position Just give us an approximate idea where the Degaussing Range is? A.— Yes.  
Q.—Would you just mark with a pencil the approximate position of the Degaussing Range? A.—If I put it down there, it might be there  
Q.—You have never been on the Degaussing Range? A.—No.  
Q.—But you know generally where it is? A.—Yes, I asked the pilot where is the D.G. Range, and he pointed over there.  
Q.—Near Wrights Point? A.—Yes. 20  
Q.—Did you have a pilot to assist you on the movement of the ship? A.—Yes, we are not allowed to move the ship from the harbour without the pilot.  
Q.—Did he come on board in a tug? A.—Yes, he came on board in a tug  
Q.—About what time, do you recall? A.—Some time around eight o'clock in the morning.  
Q.—From a tug boat? A.—A tug boat, yes; I suppose so. I didn't see him come aboard; he knocked at my door and came in.  
Q.—And you had a tug boat to assist you in the movement? A.—Yes.  
Q.—Do you remember the name of the tug boat? A.—I can't say now. 30  
Q.—Was it the "Bansurf"? A.—Yes, it was the "Bansurf."  
Q.—What time did you start weighing anchor, do you remember?

MR. ERSKINE:

I would suggest he could refer to the log book.

THE WITNESS:

I will get the log book. I don't remember all those things.

BY MR. SMITH:

Q.—You might look at the log book. A.—Yes, the pilot came aboard at 8:40.

Q.—What time did you start weighing anchor? A.—Commenced weighing anchor 8:50. 40

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PART I

*In the  
Exchequer  
Court  
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Plaintiff's  
Evidence.

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of Trial  
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Direct  
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ination.

Q.—Where was the tug? A.—There was a tug assisting the ship to turn around there.

Q.—Where was she pushing? A.—She was pushing on the starboard bow, after the anchors were up.

Q.—Which way was the ship heading at the time when she was lying at anchor? A.—I can't exactly say that.

Q.—I mean, was she heading in to the shore? A.—She was heading some way into the westward; she was laying at anchor.

Q.—You didn't have any anchor bearings? A.—No.

Q.—But it was necessary to swing her head around to port, was it? A.— 10  
Certainly we had to swing a bit to come in the direction for the D.G. Range.

Q.—Did you use the engine of the ship while the tug was pushing the head of the ship around? A.—I can't say. The pilot did the manoeuvring of the ship.

Q.—What kind of day was it? A.—It was a nice day.

Q.—Any wind? What does your log say? A.—No, calm.

Q.—Clear? A.—Well, it was partly clouded—a clear day.

Q.—Who was on the bridge? A.—Myself, pilot, third officer, a helmsman—a quartermaster.

Q.—Who gave the orders? A.—The pilot gave the orders. 20

Q.—Did he give the helm orders direct to the man at the wheel? A.—He gave them direct to the wheel, yes.

Q.—Could the helmsman understand English? A.—Yes, and at the same time the third officer was always staying beside there to see that the order was repeated and carried out.

Q.—Who gave the orders for engine movements? A.—The pilot.

Q.—And who actually rang the telegraph? A.—The third officer stays into handle the telegraph.

Q.—Where is the telegraph? A.—On the bridge.

Q.—Now, were there any officers or crew stationed forward on the fore- 30  
castle head? A.—The chief officer and carpenter were there.

Q.—Do you recall, or does your log book show, when your anchor was up? A.—Yes, it should show. 9:05 the anchor was up and continued to the D.G. Range after that.

Q.—In the meantime, had the tug moved away? A.—The tug moved away, yes.

Q.—And was she to go over? A.—She was to follow.

Q.—She was to go over and meet you at the D.G. Range? A.—Yes.

Q.—Where you would require assistance over there? A.—Yes.

Q.—Now, what was the first engine movement or engine order that was 40  
given by the pilot? What did he say, slow or fast? A.—He started slow, as usual, and moved ahead fast.

Q.—And then what was the next order, do you recall? A.—He was given full ahead next.

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PART I

*In the  
Exchequer  
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Plaintiff's  
Evidence.

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Direct  
Exam-  
ination.

Q.—He was given full ahead after that? A.—Yes.

Q.—And who rang these orders on the telegraph? A.—The third officer.

Q.—Do you recall what time elapsed between the slow ahead order and the full ahead order? A.—No.

Q.—It would be a matter of some minutes? A.—A matter of some minutes, yes.

Q.—Were there other ships in the Basin at anchor? A.—Oh yes, there there was lots of ships.

Q.—And did you have to manoeuvre across the Basin? A.—Oh yes, I had to manoeuvre between the ships—steer clear of the ships and manoeuvre 10 between the ships there.

Q.—While you were crossing the Basin, where did you head for first? A.—I was heading over for the D.G. Range.

Q.—Did you head direct for the D.G. Range or did you take some other course? A.—The pilot he was heading somewhere over here.

Q.—The pilot was heading somewhere over here, in what direction? A.—To the eastward.

Q.—To the eastward, but, of course, the eastward is a pretty large place? A.—Yes, but we don't use any compass course.

Q.—You were not proceeding by any compass course? A.—No, be- 20 cause such a thing is never used in a harbour.

Q.—Did you observe another ship moving when you were crossing there? A.—Yes, we observed a ship, which afterwards proved to be the "Alcoa Rambler."

Q.—Could you place on the chart, "Norefjord" Exhibit 1, the approximate position of your ship when you first observed the ship, which proved to be the "Alcoa Rambler."? A.—It is very hard to place it on the chart.

Q.—It is very hard to place it on the chart but could you make some estimate of your position at the time you first observed the other ship? A.— 30 When you are moving across the Basin, you don't look on the chart, so it is very hard to put any position down on the chart.

Q.—Yes? A.—We were coming over here and this other ship was coming here.

Q.—Perhaps you could say how far the other ship appeared to you to be distant from your ship when you first observed her? A.—600 or 700 yards.

Q.—600 or 700 yards. Was she moving or was she stopped? A.—She was moving slowly.

Q.—And in what direction was she proceeding? A.—What you call coming out of the Basin. 40

Q.—She was coming out of the Basin? A.—Yes.

Q.—Do you feel that you could place on the chart the approximate positions of the two ships when you first observed them? A.—Well—

Q.—Can you give a rough estimate? A.—Just a rough estimate.

Q.—You mark where you think your ship was and where you think the



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ination.

other ship was at the time? There are dividers there somewhere. A.—  
We was coming around over here, but that is something I can't say exactly;  
that is just guessing.

Q.—I will mark here. A.—It is no use; it might be it was up here or it  
might be it was down here.

MR. ERSKINE:

I would rather leave that.

THE WITNESS:

I can't see anything in that.

BY MR. SMITH:

Q.—It is only approximate. Do you want to put the approximate posi- 10  
tion? A.—No, I don't see anything in it to put down.

Q.—Do you recall how long you had been proceeding across there from  
the time you first saw the ship—in minutes? A.—Proceeded for some  
minutes, yes. We had passed one or two ships laying at anchor.

Q.—Could you mark on this paper, and using the models about how  
the ships were headed in relation to each other at the time you first saw the  
ship, which proved to be the "Alcoa Rambler"? (Indicating on sketch with  
models).

Q.—I am marking this diagram as "Norefjord" Exhibit 2. That is 20  
approximate? A.—That is approximate; that is a guess.

Q.—When you sighted the other ship, was anything done on your ship?  
A.—Yes, the pilot blew one short blast.

Q.—Yes. Did he do anything else? A.—First, he ordered the helm  
to starboard and blew one blast.

Q.—Did the helmsman put the wheel over? A.—He put the wheel  
over, yes, in answer to the order.

Q.—Did the other ship answer with any signals on her whistle? A.—  
He answered with three short blasts.

Q.—Was that soon afterwards? A.—Yes, soon afterwards, he answer- 30  
er our signals.

Q.—Was your whistle a good loud signal? A.—Oh yes.

Q.—Now, where were you stationed at this time? A.—I was on the  
bridge.

Q.—On the bridge. Do you recall on which side of the bridge you were  
standing? A.—I was walking around on the bridge.

Q.—You were walking around on the bridge? A.—That is right.

Q.—Where was the third officer? A.—He was standing right at the  
telegraph.

Q.—He was standing right at the telegraph. Where was the telegraph 40  
on the bridge? A.—On the fore part of the bridge.

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PART I

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ination.

Q.—On the fore part of the bridge? A.—Yes.

Q.—Near the wheel house? A.—Near the wheel house, yes. He was standing between the telegraph and the wheel house.

Q.—Did you continue to watch the movements of the other ship? A.—Yes, the same as I was watching the other ships in the harbour.

Q.—Yes. What did you observe? A.—The first I observed afterwards was that he was coming on more headway, looked like to me.

Q.—Did you notice if there was any wash from his propeller? A.—No, there was not any wash.

Q.—You might tell what happened after that? A.—I was looking at that ship and saw she was approaching, and so I just told the pilot to be 10  
ful there must be something wrong there on board that ship, to do the best to get out of the way.

Q.—What was done, if anything, on your ship? A.—We come over more to starboard, and the pilot put our engines full speed astern to keep swinging off.

Q.—What do you mean by that, to help you to swing to starboard? A.—To help to swing to starboard or swinging off the other ships. In that time there was danger of collision.

Q.—At that time did the other ship appear to be still coming on? 20  
A.—She was coming on.

Q.—And how far away was she, do you think, when that signal was given when you put your engines astern? A.—She was coming close to us then. She was about a cable away.

Q.—Did you continue to observe the other ship? A.—Oh yes.

Q.—What happened after? A.—Afterwards, the other ship, when that was coming more and more headway,—it looked to me so—they was giving some whistle signals on board, and just shortly after that I saw an engine was going astern. I could see the wash of the propeller.

Q.—He gave some signal—some whistle signal, was it? A.—Yes, three 30  
short blasts.

Q.—And you noticed after that, that his engine was going astern? A.—Yes.

Q.—How far away was the other ship then, would you say? A.—About a cable.

Q.—It was a cable when he gave the whistle? A.—Yes, and shortly after that we could see the engine started the wash of the propeller.

Q.—Now, did the other ship continue to come on? A.—She was coming on at a good speed.

Q.—Yes. Was anything done on your ship after that? A.—We went 40  
full speed ahead again to keep turning the ship away.

Q.—Turning the ship away? Away which side? A.—Over to starboard.

Q.—What was the idea? A.—To avoid the collision; to avoid the effect of the collision.

RECORD  
PART 1

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ination.

Q.—How long did you keep your engines going astern before you put them ahead again? A.—There was just a small kick.

Q.—How long did you keep the engines going ahead full? A.—Just a kick again, a short time, and so we put them full speed astern again to stop the ship and to avoid the collision, to reduce the effect of the collision.

Q.—Had your ship been swinging to starboard? A.—Yes.

Q.—Were the ships close when you put your engines astern for the second time? A.—Yes, it was close.

Q.—Did you observe those on board the other ship do anything? A.—They dropped anchor, but it was too late. 10

Q.—They dropped anchor? A.—Yes, they had no effect; he was very close to us.

Q.—Do you recall what anchor it was? A.—It was starboard, as I remember it.

Q.—Do you recall, when you put your engine astern for the first time, if you gave any signal? A.—The first time?

Q.—Yes? A.—There was a signal given by the pilot. The pilot gave the signal then.

Q.—What was that signal, on the whistle, you mean? A.—On the whistle, yes. 20

Q.—What was the signal? A.—I remember it was three short blasts.

Q.—Were there any other signals other than the ones mentioned, exchanged between the two ships? A.—No, I don't think so, not so far as I remember.

Q.—You don't recall how close the ships were apart when the other ship dropped her anchor? A.—There was a few yards; they were close to.

Q.—Less than a ship's length? A.—Yes, they were close to.

Q.—And what happened, I mean as far as the ships were concerned? A.—Just a collision; the other ship hit us amidships.

Q.—The other ship hit you amidships? A.—Yes. 30

Q.—What parts of the two ships came in contact. A.—The other ship's bow and our ship amidships in the water-tight bulkhead between No. 3 and the stoke-hole.

Q.—What kind of a blow was it? Was it hard on? A.—It was hard, yes.

Q.—Did the other ship have headway on at the time she struck you? A.—She had good headway on.

Q.—Did you ship have headway too? A.—Yes, we had headway.

Q.—Was it the stem of the other ship that hit you? A.—Yes.

Q.—Was she laden or light? A.—She was loaded. 40

Q.—She was laden-loaded? A.—Yes.

Q.—Steamship, I suppose? A.—It looked like it.

Q.—When did you first recognize her as the "Alcoa Rambler"? A.—We looked at her name.

Q.—You saw her name? A.—Yes.

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PART I

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ination.

Q.—Do you think you can indicate on the chart “Norefjord” Exhibit No. 1 the approximate position of the place of collision? I thought we would mark it with an X and mark it place of collision.

(Witness marks with X surrounded by a circle approximate place of collision on chart “Norefjord” Exhibit No. 1)

Q.—Mark on this sheet, and we will mark it “Norefjord” Exhibit No. 3, using the models, indicate about the approximate angle of the impact?

(Witness indicates on “Norefjord” Exhibit 3 angle of impact).

Q.—Your engines are about amidships? A.—Amidships, yes.

Q.—And where is your bridge? A.—In the fore part of the amidships. 10

Q. Were your engines stopped at or before the collision? A.—Shortly before the bang.

Q.—The bang, you say? A.—Well, the collision.

Q.—Now, after the ship struck, what happened? A.—We examined the damage.

Q.—I mean, what happened to the two ships? You told us that the stem of the ship hit you amidships? A.—Yes.

Q.—What happened? Did the stem stay?

MR. ERSKINE:

You mean where did they go? 20

BY MR. SMITH:

Q.—Yes, what happened to the two ships after the collision? A.—They moved away from each other.

Q.—They moved away from each other. It was on your port side of your ship that was hit, was it? A.—Yes.

Q.—Did you ship pass the bow of the other ship? A.—Yes.

Q.—After the collision occurred, what did you do on your ship? A.—We examined the damage.

Q.—Did there appear to be any above-water damage? A.—There was above-water damage and below-water damage. 30

Q.—Did you order your bilges sounded? A.—Yes right way.

Q.—Apart from the leakage in the stoke-hole did you find whether there was any leakage in the other bilges? A.—Not right away.

Q.—Not right away? A.—No.

Q.—What did the chief engineer report to you about the stoke-hole? A.—He reported to me shortly afterwards the water was pouring in the stoke-hole; there was a big hole in the ship's side.

Q.—And was the water going from the stoke-hole into the engine room? A.—Oh yes.

Q.—I think you have some reference in the log book there as to at a certain time how far the water had risen. He hadn't written it himself, but I suppose it will save time, Mr. MacDonald, if he consulted it. What time, according to your time, was the time of the collision? A.—The collision was,—as he put it down, it was 9:18. 40

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ination.

Q.—9:18 was the collision? A.—Yes, that is just approximate, nobody exactly looked at the clock.

Q.—That is the time you put down for the time of collision? A.—Yes.

Q.—And at a certain time did the engineer report to you that there was a certain amount of water in the stoke-hole? Does your book show that?

A.—There was 5 feet right away.

Q.—5 feet in the stoke-hole at what time? A.—That was in the engine room above the floor.

Q.—What time was that? How long after the collision? A.—9:35.

Q.—9:35, that is 17 minutes after the collision? A.—We had to stop 10 the engine then.

Q.—You had to stop the engine then? A.—Yes, they couldn't stay down there; they couldn't be longer down there.

Q.—And you shut off the steam? A.—Yes.

Q.—In the meantime what had become of the Tug "Bansurf"? A.—The tug was around us, but the ship was leaking so heavily I told the tug to come alongside to take our tow rope.

Q.—Your engine pumps were not able to cope with the water? A.—No, they started right away, but they couldn't.

Q.—And what did you decide to do? A.—We saw the water was coming 20 in so heavily we decided to beach the ship to prevent it from sinking.

Q.—In the meantime, what had happened to the ship? Had she changed her position from the time of the collision? A.—Oh yes, we used the engine.

Q.—You used the engine? A.—Until we were not able to do so.

Q.—Until you were not able to do so? A.—Yes.

Q.—Did the tug make fast alongside or tow you? A.—The tug towed us.

Q.—The tug towed you? A.—Yes.

Q.—Where did she tow you? A.—Until we got over to the west side; 30 heading over for the west side. We had to manoeuvre between the ships for to get over to a place that was handy to beach the ship, near the Irving Oil pier—what would be the best place to beach her.

Q.—And you did beach her? A.—Yes, we had to.

Q.—Perhaps, to shorten it, I could refer to this extract from his log. You have told us that the water was making 5 feet above the engine at 9:35? A.—Yes.

Q.—You rigged a collision mat? A.—Yes, we rigged a collision mat to try to stop the water.

Q.—Your log shows that the ship was beached at 10:15? A.—10:15, 40 yes.

Q.—And at 11:15 there was a survey held on her, was there, or she was inspected? A.—She was inspected by the man from the Board of Underwriters.

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ination.

Q.—Mr. Laurie, of the British Corporation? A.—Yes, he was working for the underwriters.

Q.—In any event, you were beached on Thursday, August 20th? A.—Yes.

Q.—And you remained beached until when? A.—The next day.

Q.—The next day? A.—15:15.

Q.—You were floated again at 15:15 on Friday, August 21st? A.—Yes.

—Now, look at this log book and just give us the dates. You anchored again in Bedford Basin? A.—Yes.

Q.—How long did you stay? A.—We anchored there the same day. 10

Q.—Yes, and stayed until when? A.—16:15.

Q.—16:15 and? A.—When we was pulling the ship off the ground—

Q.—You touched a lighter? A.—We touched a lighter with our rudder.

Q.—Any damage done to the lighter? A.—Not—

Q.—Not apparently? A.—No

Q.—How long did you remain anchored in the Basin? A.—Up until Monday of this week, the 31st. 14:45 anchor up.

Q.—August 31st, and you proceeded where? A.—To pier 9.

Q.—Where you arrived at? A.—Arrived there 15:35. 20

Q.—Arrived there 15:35, and you stayed at Pier 9 until yesterday? A.—Until yesterday, that was the 2nd.

Q.—Yesterday, September 2nd, when you moved to where? A.—Pier 36.

Q.—To Pier 36, where you still are? A.—Where we still are, yes.

Q.—While you were at Pier 9, did you discharge part of the cargo? A.—We discharged part of the cargo there, yes.

Q.—And have you had any repairs effected to the ship as yet? A.—Oh yes, as soon as they come.

Q.—When you were beached, I suppose? A.—When we were beached, 30 yes, we had a diver down to patch up the hole.

Q.—To patch up the hole? A.—Yes.

Q.—And then, when you were fully seaworthy to be anchored, you floated? A.—Yes, when we got most of the water out of the ship and had a chance to get afloat, we pulled out not to do any more damage.

Q.—Were there surveyors on your ship? A.—Yes.

Q.—Who were the surveyors, do you recall? A.—Minister of Shipping.

Q.—British Minister of? A.—They are transport Norwegian Shipping and Trade Mission.

Q.—Who were the Underwriters? A.—And for the underwriters, 40 that is Mr. Laurie was for.

Q.—What did the surveyors recommend should be done? A. That was a long story. The ship had been put in a seaworthy condition again.

Q.—The ships had been put in a seaworthy condition again? A.—Yes.

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PART I

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Skelbred,  
Direct  
Exam-  
ination.

Q.—And, in order to do that, was it necessary to discharge cargo?  
A.—Necessary to discharge cargo.

Q.—And what are you going to do with your cargo? A.—We are going to tranship it in another ship.

Q.—And you discharged part of your cargo at Pier 9? A.—Yes.

Q.—How much? A.—2050 tons calculated—not weighing, that is, by the draught.

Q.—Is the cargo injured? A.—The cargo was wet.

Q.—Yes? A.—But not done any damage to it.

Q.—You don't know any damage has been done to it? I suppose you don't know of your own knowledge? A.—We had a special survey on it, but the water doesn't do any damage to the cargo, except using for some special thing. 10

Q.—You have no personal knowledge of that yourself? A.—No.

Q.—Has it been decided whether permanent repair will be effected here or merely temporary repairs? Has that been decided yet? A.—It cannot be decided until the ship is dry-docked.

Q.—After the cargo is discharged? A.—That is a very difficult question. The ship had to be put in seaworthy condition and all the machinery had to be overhauled and because of the sulphur and salt water the ship's hold had to be cleaned in order to get the salt water and sulphur away. 20

Q.—You expect that the ship will be in Halifax for some time? A.—For some time, yes.

Q.—Did the ships come together more than once was there just one contact? A.—Just the one contact: hitting on and striking a bit backward—just the one contact.

Q.—I think you said that the other ship had headway on at the time of the collision? A.—The other ship?

Q.—Yes? A.—Yes, it had headway on at the time of the collision.

Q. Did you notice whether or not she was swinging either way? A.— 30 She looked as if she was swinging over to her starboard.

Q.—What do you think was the speed of your ship? What do you estimate was the speed of your ship at the time the other ship was first observed? A.—I would say we had over half speed on; I would say about seven knots.

Q.—Was that when you saw the other ship first? A.—No, he didn't have so much speed on then. I can't say.

Q.—Yes, How long do you think that your engine had been going at full speed? A.—Oh for a few minutes.

Q.—What do you mean a few minutes, 3 to 5 minutes or something like that? A.—Something like that; I can't tell the time. 40

Q.—At the time of the collision, had your speed been reduced? A.—Yes

Q.—Greatly reduced or what would you say, how much speed you had at that time? I realize it is hard to estimate? A.—It is very hard to say.

Q.—The speed was reduced? A.—The speed was reduced.

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ination.

Q.—Did you form any estimate as to how far the other ship went from the time you saw the wash from her propeller until the actual collision?  
A.—Something like a cable or only  $1\frac{1}{2}$  a ship's length.

Q.—Do you know what time elapsed between the time you first put your engine astern until the collision? Was that a matter of minutes?

A.—That was a matter of a short time—a very short time.

## Cross Examined by Mr. Erskine:

Q.—I ask for a translation of the log book to which the Captain has been referring. Was the third officer or any other person on your bridge keeping record of the time of the different signals? A.—No. 10

Q.—Don't you keep any bell book? A.—No.

Q.—Where did you get the times that appear in the log book? A.—What time?

Q.—I notice here an entry 9:15 full speed astern, 9:16 full speed ahead, 9:17 full speed astern and so forth. Where did you get those times?  
A.—That time was after the memory, for all the manoeuvring had been put on the blackboard, but that blackboard was brushed out.

Q.—These times in your log book are simply as you remember them?  
A.—As we remember them.

Q.—Or the engineers remember them? A.—All those together. 20

Q.—I suggest to you they may be not quite right, is that possible?  
A.—That is possible. That would be a matter of seconds there, and we don't put down any seconds.

Q.—Did you say the chief officer and the carpenter were on the fore-castle head? A.—Yes.

Q.—They were up there to handle the anchor? A.—For the anchor, yes

Q.—Have you been in port in Halifax on other vessels before? A.—Yes

Q.—You are familiar with the regulations of the port? A.—Of the navigation regulations.

Q.—Have you a copy of this set of regulations that I will show you? A.— 30  
No. I can't say; it may be on board. It should be on board, but we had a pilot on board, according to the regulations of the harbour.

Q.—I will show you this regulation 33-a on Page 7 of this document. Have you ever seen that regulation? A.—No.

Q.—I ask that the document be marked as "Alcoa Rambler" Exhibit 1 for identification. (Marked by reporter). When you started to weight anchor to go to the range, you knew that you were going to cross the fair-way or channel to go to the other side of the Basin? A.—Yes.

Q.—And in order to shape your course it was necessary for you to turn your ship's heading or bow nearly 180 degrees, is that right? A.—I can't 40  
say how many degrees, Mr. Erskine.

Q.—It was nearly half a circle? A. I can't say what course we were on when the anchor was up.



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Q.—You were heading? A.—He was heading west for the port, I can't say the direction; but we used a tug for assistance for our course.

Q.—To go to the range, you had to proceed easterly? A.—Easterly, yes.

Q.—So it was necessary to proceed in the direction rather opposite to the way you were heading at anchor, is that right? I will indicate what I mean: That you were heading westerly? A.—We don't put down any course when the ship is off—

Q.—We will get along faster if you would just answer my question. I understand the pilot has reported that you were heading about northwest. Do you disagree with that? A.—I can't disagree with that; The pilot 10 did the manoeuvring of the ship.

Q.—You can't contradict him? A.—No, as soon as he tries to do any harm, that is for him.

Q.—You turned your ship to port with the help of the tug? A.—They were pushing around there.

Q.—Did you have your anchor up before the tug started to shove you? Can you answer that? A.—The anchor was up; the anchor was off the bottom.

Q.—The anchor was up? A.—Yes.

Q.—When your ship was turning around so as to be heading for the range, 20 you then put your engines full speed ahead, is that right? A.—No, started with slow.

Q.—But then full? A.—Yes.

Q.—How long was it between the slow and the full? A.—I can't say that.

Q.—There was no record of any sort kept on the bridge of the time of these signals? A.—No.

Q.—Isn't that unusual? A.—There was a record kept when we started to move. When we started to move, the anchor was up.

Q.—Who told you or reported to you the "Alcoa Rambler" before you 30 saw her yourself? A.—We saw her—myself and the pilot, we observed her at the same time.

Q.—You saw her yourself before anybody reported her to you? A.—We saw her at the same time.

Q.—Did anybody report her to you before you saw her? A.—No.

Q.—But, when you saw her, the headings were about approximately as in this sketch, Exhibit 2? A.—Yes, approximately, that is.

Q.—And how far do you estimate the distance was between the two ships at that time? A.—I would say around 700 yards.

Q.—Yards. A.—Yes.

Q.—And did I understand you to say that at that time your ship had picked up speed to about 7 knots? A.—No, not that time, I think.

Q.—Did you pick up speed after that? A.—Yes.

40

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Q.—So after you saw this other ship coming, you kept on at full speed?  
A.—We was over to starboard.

Q.—You kept on at full speed? A.—Yes.

Q.—But the collision happened as in exhibit 3? A.—Yes, approximately.

Q.—And how far do you think it was from where you first saw the  
“Alcoa Rambler”; where you were to where the collision occurred, how  
far did your ship travel? A.—It is very hard to say any distance out there.

Q.—Give me your best estimate? A.—From here to over here.

Q.—You are indicating a distance of about 2,700 feet? A.—Yes,  
something like that. 10

Q.—When you first saw the “Alcoa Rambler”, did you speak to your  
pilot about her? A.—First, the pilot saw her at the same time.

I want you to answer me. Did you speak to the pilot about her. A.—

Yes.

Q.—What did you say to him? A.—I told him to be careful.

Q.—Is that the time that he blew one blast? A.—Yes, that was the first  
time he blew one blast, yes.

Q.—And did he put the wheel hard right before he blew one blast? A.—  
He put the wheel to starboard.

Q.—Hard over? A.—Yes. 20

Q.—To the right. A.—To the right, yes.

Q.—And blew one blast? A.—And blew one blast.

Q.—You understood one blast to mean that your ship would go to your  
right? A.—And go passing the other ships.

Q.—I am not asking you about the “Alcoa Rambler.” Did you under-  
stand that your one blast that your ship would go to your right? A.—  
Passing other ships.

Q.—I want to know what it meant for your ship? A.—I was answering  
what it meant for myself. Just excuse me.

Q.—The “Alcoa Rambler” blew three blasts right away. A.—Yes. 30

Q.—Did you hear her blow another signal after that? A.—Yes, when  
we were close to

Q.—Did she blow a danger signal? A.—Three short blasts.

Q.—Three short blasts? A.—Yes.

Q.—Anymore? A.—I can't say any more.

Q.—But she may have blown them but you don't remember? A.—  
She may have blown some after, I don't remember.

Q.—When you blew the one blast and put your wheel hard right, you  
kept on full speed ahead? A.—Yes.

Q.—How long did you keep on full speed ahead before you changed the 40  
engine after that one blast? A.—When the ship was coming so close to  
us it looked as though there was going to be a collision—for to avoid the  
collision.

Q.—From the time that you blew the one blast first and put your wheel  
hard right? A.—Yes.

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ination.

Q.—Was your wheel brought back before the collision? A.—No.

Q.—Your wheel was hard right all the time until the collision? A.—  
Yes.

Q.—Is that right? A.—Yes.

Q.—And in travelling 2100 feet with the wheel hard right, that is all  
that your ship changed her heading to the right? I am indicating Ex-  
hibits 2 and 3. You have indicated on Exhibit 2 that when you first saw  
the other ship your courses were crossing at right angles, is that right?

A.—Yes, or something similar to it.

Q.—What is that? A.—As it appeared to me. 10

Q.—That is your best recollection of this when you first saw her? A.—  
Yes.

Q.—But you have indicated at the time of the collision the contact or  
angle was nearly a right angle, is that right? A.—It was more open than  
a right angle.

Q.—It is as you drew it? A.—As I drew it, yes.

Q.—Did you draw it right? A.—As close as I could.

Q.—When you saw the "Alcoa Rambler," did you notice what signals he  
was flying? A.—No.

Q.—Did you look? A.—Yes, and there was nothing special to mark 20  
about the flags.

Q.—Do you know there are ships customarily coming in and out of Hal-  
ifax these days which carry munitions? A.—Oh yes.

Q.—Do you know what signal they fly? A.—There is a danger signal.

Q.—What is that a B. Signal? A.—A red flag.

Q.—Yes, what is that? A.—B. Signal.

Q.—Did you look for that signal on the "Alcoa Rambler"? A.—You  
don't look for anything special for it, for the ship was so far off when he  
answered our signal there was not any danger for collision. There were  
so many other ships to look at in the harbour. 30

Q.—Did you see that signal on the "Alcoa Rambler" at any time before  
the collision? A.—When she come close to.

Q.—Did you see an escorting launch with the "Alcoa Rambler"? A.—  
Not before the collision.

Q.—Not before the collision? A.—When the ship was close to that we  
saw the escorting launch.

Q.—Did not the launch come over and hail your ship before the collision?  
A.—No.

Q.—Where was the launch after the collision? A.—He come alongside;  
he come up and spoke to us. 40

Q.—Where did he come from? A.—He was beside our ship; he came a-  
round our bow.

Q.—Was he astern of the "Alcoa Rambler"? A.—I can't say where  
she was. He was just around the bow or around the port bow, as I re-  
member it.

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ination.

Q.—There was a time before the collision when you were cleared of the anchored ships, wasn't there? A.—Yes.

Q.—You had a clear view then of the "Alcoa Rambler"? A.—Yes.

Q.—But do you mean to say you didn't see the launch then before the collision? A.—I saw the launch but I didn't pay any attention to it.

Q.—Oh, you did see a launch? A.—There were so many launches in the harbour that day.

Q.—There were a lot of launches ahead of the "Alcoa Rambler"? A.—What, do you mean by a lot?

Q.—You didn't notice anything about them? A.—Yes, there was launch- 10  
ches around the harbour.

Q.—Between you and the "Alcoa Rambler" how many launches were there?

A.—No, I can't say that; I can't remember.

Q.—I don't know whether you got my question or not, you speak so fast. Between your ship and the "Alcoa Rambler", how many launches were there? A.—I can't remember.

Q.—Did you see any? A.—I can't remember.

Q.—What? A.—There were launches on the harbour.

Q.—Was there any launch, that you saw, between your ship and the "Alcoa Rambler"? A.—Not so far as I remember. 20

Q.—You were not paying any attention to it? A.—No, there are so many launches around there, we don't pay attention to everything; you can't do that.

Q.—Then you were not maintaining any look out on your vessel were you? A.—What do you mean?

Q.—You were not keeping any lookout on your vessel, were you? A.—The chief officer and the carpenter were on the fore-castle head.

Q.—Were they the lookout? A.—We don't use a lookout in the harbour in clear weather.

Q.—Would you mind answering? Were they the lookout? A.—Call 30  
them lookout or not, they was always there for stand-by.

Q.—When you saw the "Alcoa Rambler," you told the pilot to be careful. A.—Yes.

Q.—But the pilot blew one whistle? A.—Yes.

Q.—And kept on at full speed ahead? A.—Yes.

Q.—At that time, did you yourself expect to keep on across? A.—Across, yes.

Q.—The "Alcoa Rambler"? A.—Yes.

Q.—You thought you would keep on and go across her? A.—Well, she answered with three blasts, that means she was stopping up. 40

Q.—Is that what you thought the pilot was going to do?

MR. SMITH:

By that, you mean the pilot thought she was going to do. Which pilot do you refer to?

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ination.

Q.—You didn't hold your course, did you? A.—He was going to starboard bow. There was some other ships in the harbour that we had to manoeuvre for at the same time.

Q.—At the time you put your wheel hard right, was that for any other ship or was it for the "Alcoa Rambler"? A.—That was for the "Alcoa Rambler."

Q.—Now, according to the log translation, which I have—which you have given me, there is an entry 9:15 full speed astern? A.—Yes.

Q.—How far were the two vessels from each other at that time—your ship 10 and the "Alcoa Rambler"? A.—She was very close to.

Q.—When you first went full speed astern, how far apart were they? A.—About 600 feet.

Q.—600 feet. At 9:16, according to the translation, you went full speed ahead on your engine again. Did you? A.—Excuse me, we must put remarks in there. I wouldn't say did you or did you not put remarks in there. That time there doesn't mean full minutes; we don't put down seconds.

Q.—This time was wrong? A.—Yes.

Q.—But you did go full speed ahead before the collision. A.—We went 20 full speed ahead and full speed astern to shift over to try to avoid the collision, to try to keep out.

Q.—Did you go full speed ahead before the collision a second time? A.—What time is that?

Q.—You were going full speed ahead when you first saw the "Alcoa Rambler"? A.—Yes.

Q.—And you went full speed ahead later before the collision? A.—We went full speed again and full speed astern again.

Q.—When you went full speed ahead again, how far apart were the ves- 30 sels then—your very best estimate? A.—Very close together.

Q.—Were they a ship's length away? A.—I would say.

Q.—Why did you go full speed ahead at that time? A.—To try to swing the ship off.

Q.—To try to throw the ship's bow to starboard? A.—Yes, and to bring the ships more parallel.

Q.—Then, according to the log, you went full speed astern at 9:17? A.—Yes.

Q.—And the collision occurred at 9:18? A.—Yes.

Q.—Now, you say these times are from memory? A.—Yes.

Q.—Then, you must have talked with your officers before you wrote 40 up this log? A.—Yes.

Q.—You talked with your chief officer before you wrote up the log? A.—The chief officer did that work.

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Q.—Before he wrote it up, did you talk to him about it? A.—We talked with the chief engineer because we don't go around with a watch in our hand.

Q.—All I want to know is; after the collision, you talked with the engineer or chief officer to find out what their memory was? A.—Yes.

Q.—But, when the log was written up in your book, did you look at it yourself? A.—Yes.

Q.—And at that time, you thought it was approximately right, is that right? A.—Yes.

Q.—Now you think it is probably wrong.

10

MR. SMITH:

I don't think that is quite fair.

BY MR. ERSKINE:

Q.—I would like you to answer my question: Do you now think the log is probably wrong? A.—That is as close as you can remember it.

Q.—Do you still think that the second full speed ahead was two minutes before the collision? A.—It may be two minutes, it may be 1½ minutes; we don't use seconds.

Q.—What kind of a steering gear did your ship have? A.—Steam.

Q.—Was it working on this day? A.—Yes.

Q.—Was anything the matter with it? A.—In good condition.

Q.—You said that you watched the "Alcoa Rambler" after you first saw here, is that right? A.—Yes.

Q.—Did she keep coming on the same heading? A.—No, she looked like to me she was doing more and more speed.

Q.—But on the same heading? A.—On the same heading, yes. She was altering the course a bit.

Q.—Was she coming down the channel? A.—She was coming down, yes.

Q.—And she kept on coming down the channel? A.—Yes.

Q.—At the time of the collision, when the other ship struck your ship, your engine was working full speed astern? A.—She was stopped.

Q.—Before that it was working full astern? A.—Yes.

Q.—And your wheel was hard right? A.—Yes.

Q.—That would throw your ship's stern to port, is that right? A.—Yes

Q.—After the collision, you went on across the bow of the "Alcoa Rambler", is that right? A.—Yes.

Q.—You did not drop an anchor? A.—No.

Q.—And the damage was where the "Alcoa Rambler" hit you on the port side, is that right? A.—Yes.

Q.—Do you recognize that as a picture of the damage to your ship? A.—Yes.

(Marked Exhibit "Alcoa Rambler" No. 2).

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Q.—There was no other damage to the port side of your ship aft? A.  
No, not after here.

Q.—I don't know whether you understand me. Was there any damage  
to your ship on the port side aft of the part that appears in this picture?

A.—Not so far as I know, outside of that picture.

Q.—So far as you know, the stem or bow of the "Alcoa Rambler" was  
clear of your ship by the time it reached the after part of this picture, is that  
right? A.—Yes.

Q.—You have indicated that from this arrow? A.—About, above the wat- 10  
er.

Q.—From about that position above the water? A.—Yes.

Q.—The stem of the "Alcoa Rambler" was clear of your ship? A.—  
Yes, above the water.

Q.—Above the water? A.—It looked like.

Q.—What time were you due on the range that morning? A.—Oh  
it would be due around 9:30.

Q.—Were you not due there at 9 o'clock? A.—Should be due 9 o'clock  
but the pilot was—

Q.—You were late, were you? A.—That the ship is not due toward  
any special time. It was around 9 o'clock when the pilot come and was 20  
ready to go.

Q.—Did you have orders to be there at 9 o'clock? A.—I ordered the  
pilot to be on board and take us over there around 9 o'clock.

Q.—Who did you get the orders from? A.—Through the agent.

Q.—Were you not ordered to be there at 9 o'clock? No answer.

Q.—Were your orders that you were to be at the range at 9 o'clock?

A.—Not any special—around 9 o'clock.

Q.—Were you late? Did you think you were late yourself? A.—No,  
not terribly late.

Q.—You thought it didn't make any difference what time you got there? 30  
A.—Oh no; as soon as he was ready to go, he would go.

Q.—What time did you think you were supposed to be there? A.—

A.—He was supposed to start around 9 o'clock. That was the order I had.

Q.—Was there any other vessel moving around you that morning at  
about the time you saw the "Alcoa Rambler"? A.—Yes, there was one  
barge around there.

Q.—How many? A.—I only remember one.

Q.—Was there a tug and barge? A.—A tug and barge, yes.

Q.—Where were they? A.—On the harbour?

Q.—Were they coming in or going out? A.—Moving around the har- 40  
bour.

Q.—Were they inside the Basin. A.—Inside the Basin.

Q.—When you were heading for the range after you got turned around,  
was there any other vessel or vessels moving inside the Basin? A.—Yes.

Q.—Where were they? A.—Around our course.

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Q.—What kind of vessels? A.—There was a barge.

Q.—When you were heading towards the range after you turned around, where was the barge moving, on you? A.—Moving over there.

Q.—On your starboard bow? A.—On our starboard bow, yes.

Q.—Which way was she moving, in or out? A.—She was moving around the harbour.

Q.—Going away from you? A.—Yes.

Q.—Was she on your starboard bow? A.—She was on our starboard bow and went over to port.

Q.—And going away from you? A.—She was going away. 10

Q.—Was she coming nearer to you or away from you? A.—She was going away from us.

Q.—That is the only barge you saw at the time? A.—That is the one I paid attention to.

Q.—Did your captain blow a signal to that barge? A.—Yes.

Q.—Name what signal? A.—One short blast.

Q.—To you a vessel going away from him—A.—What do you mean, going away?

MR. SMITH:

That is what I don't understand. 20

Q.—What was the name of the barge, do you know? A.—No.

Q.—Was there a tug towing it? A.—I can't remember. There was a barge there.

Q.—About this escort launch, I asked you if it came over and hailed your ship before the collision and you said no? A.—Not as far as I remember.

Q.—As far as you remember. Do you deny that it did come over? If the men on the launch say that they did come over and hailed you, do you deny it? A.—I can't deny it. When that happened, the ship was so close to his order.

Q.—You were on your bridge all the time? A.—Yes. 30

Q.—If a launch came over and hailed your ship, wouldn't you know it? A.—But when that barge come around there, the ship was so close to his order that I was observing the ships that was coming against us or crossing us, to try to avoid the collision.

Q.—You understand when I say hailed I mean speak? Do you understand what I mean? A.—Yes.

Q.—Now, if a man on that launch came over and spoke to your ship, wouldn't you know it? A.—Yes.

Q.—Now, do you deny that they did before the collision? A.—Closely before he was around there— 40

Q.—Do you deny that they did? A.—No.

Q.—You simply say you don't remember? A.—I don't remember what he said.



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Q.—You understand English pretty well? A.—Yes.

Q.—If these men on the launch came over and spoke to your ship and told you to keep out of the way because there was a munition ship coming—?

A.—No.

Q.—Wait a minute. Do you deny it? A.—I can't remember it.

Q.—Do you want to say anything more to that? A.—No.

Q.—The real truth of this whole matter is you tried to cut across that other ship, didn't you? A.—No. Tried to cut across? You have to accord- 10  
ing to the signal.

Q.—What right did you have to go across? A.—For to come out of the way. The other ship was going to stop, We had the right to go over.

Q.—You told the other ship that you were going to your right, didn't you?

A.—We sounded one signal.

Q.—That meant you were going to your right? A.—That meant passing each other on the starboard side.

Q.—Your one blast signal meant that you were going to your right, didn't it? A.—That meant we were going to turn to the starboard. 20

Q.—And you did turn to starboard, did you? A.—Yes.

Q.—Not very much? A.—A little.

Q.—And you were trying to use your engines to turn more to starboard but you couldn't do it, is that right? A.—No.

Q.—Is that right or wrong? A.—That is wrong. We did it.

Q.—Wasn't there something wrong with your steering gear? A.—No.

Q.—And all that your "hard right" wheel did was to turn you a little to starboard, is that right. A.—No.

Q.—What is wrong with it? A.—What do you mean by a little?

Q.—What you meant. A.—Well— 30

Q.—I asked you if you turned to starboard, and you said a little? A.—I say yes.

Q.—That is all that your "hard right" wheel would do, is that right? No answer.

Q.—Is that right? Are you going to answer? No answer.

BY MR. SMITH:

Q.—Do you want to answer that? A.—I just want to repeat all that again.

MR. SMITH:

Repeat the question, Mr. Erskine. 40

BY MR. ERSKINE:

Q.—All that you "hard right" wheel would do was to put your bow a little to starboard, is that right? A.—She was coming over to starboard but how many degrees I can't say.

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Skelbred,  
Cross  
Exam-  
ination.

Q.—Now, you are quite clear that your wheel was hard to starboard all the time, is that right? A.—Yes.

Q.—I understand that the pilot has reported that he put the wheel to port? A.—Before the signal, yes.

Q.—What? A.—Before he blew his signal.

Q.—Before he blew what signal? A.—One blast.

Q.—How long before? A.—That was the last order before he gave an order to starboard again.

Q.—Were you swinging to port? A.—Yes.

Q.—When he blew the one blast signal? A.—I wasn't swinging much to 10 port.

Q.—What you say: "I wasn't swinging much to port"? A.—Yes.

Q.—Was the bow of your ship swinging to port at the time the Captain blew the one blast and then ordered the wheel hard right?

MR. SMITH:

The pilot you mean?

BY MR. ERSKINE:

Q.—The pilot, yes. Can you remember? A.—No, not much.

Q.—Before you put your engine full speed astern the first time for the "Alcoa Rambler," you think you were making about 7 knots? 20

MR. SMITH:

I think I will have to object to that. I don't think he said that.

THE WITNESS:

No, I can't say how fast he was going.

BY MR. ERSKINE:

Q.—I don't want to mislead you. How fast were you going before you put your engine full speed astern? A.—Only an estimate.

Q.—What is the answer? A.—From 4 to 7.

Q.—From 4 to 7 knots, is that what you mean? You mean knots?

A.—Yes, to the best of my judgement. 30

Torbjorn F.  
Skelbred,  
I Re:  
Exam-  
ination.

RE-EXAMINED BY MR. SMITH:

Q.—You said, as I recall it, that there were a number of launches in the Basin? A.—Yes.

Q.—How big a boat was this boat, the so-called escort boat, that you afterwards saw? A.—One of these small harbour launches.

Q.—A small harbour launch? A.—Yes.

Q.—What, a motor launch? A.—Most of them are motor launches, yes.

Q.—Where there other small boats of that type in the Basin? A.—oh yes.

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ination.

Q.—Did you observe anything on this so-called escort boat that signified to you, before the collision, that she was an escort boat for the “Alcoa Rambler”? A.—No, Excuse me, I wish to put remarks on. It was only I heard the chief officer on board the “Alcoa Rambler” said: “Can you see that it is an ignition ship.”

Q.—Did you hear him holler that? A.—Yes.

Q.—Well, when was that? A.—Closely before the collision.

Q.—Was that the first you heard either from the “Alcoa Rambler” or the so-called escort boat that she was an ignition ship? A.—That is what I heard, yes. 10

Q.—And how close were the ships together at that time? A.—They was real close.

Q.—And where was this man, that you said you thought was the chief officer? Where was he stationed on the ship? A.—He was coming up to the forecandle head at about the time he dropped anchor.

Q.—How do you arrive at the positions which you marked on the chart, Exhibit “Norefjord” 1? Is that a matter of estimate or—? A.—That is an estimate.

Q.—And as I understand it, in answer to Mr. Erskine, you said, some time before you put your wheel to starboard, the ship’s wheel had been put over 20 to port A.—Yes.

Q.—Why had that manoeuvre been carried out? A.—For to steer over to the range for the pilot whenever he come over to the range.

Q.—And at the time the engine was put to starboard, the helmsman had to put it over from port to starboard, is that right? A.—Yes.

Q.—But you don’t know exactly how far the ship had swung or canted under the port helm? A.—No.

Q.—But, when the helm was put over hard to starboard would it have to counteract the port helm to some extent? A.—Yes.

Q.—Now, this barge that you spoke of, there seems to be a little uncertainty 30 about the movement of that barge. Was the barge moving into or out of the Basin? “Into or out of the Basin,” you understand that? which direction is your recollection that barge was going? A.—She was crossing our bow.

Q.—She was crossing your bow? A.—Yes.

Q.—You were coming over here. Was she going up or down? A.—She was coming this way.

Q.—That means that she was going into the Basin or out of the Basin? A.—Into the Basin, as far as I can remember.

Q.—Into the Basin, as far as you remember? A.—Yes. 40

Q.—Did the barge cross the “Norefjord’s bow or otherwise? Did she go across your bow? A.—Yes, as far as I remember.

Q.—And I think you said, that in order to do that, did you alter course? A.—I don’t alter course at all; the pilot—

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ination.

Q.—Did the pilot alter the course? A.—The pilot did the manoeuvring of the ship. Never two men on one boat had command of it.

Q.—The pilot altered course, anyway? A.—Yes, the pilot manoeuvred in the harbour between the ships.

Q.—In any event, this barge crossed your bow. Was she being towed? A.—Maybe.

Q.—You don't remember? A.—No.

Q.—I think you said also that you blew one blast for the barge? A.—Yes, as I remember it.

Q.—As you remember? A.—Yes. 10

Q.—Was it after that you altered course to port? A.—Yes.

Q.—Altered course to port, and the next alteration in course was to starboard, is that right? A.—Yes.

Q.—I just wanted to try to clear it up, that is all. And do you know how far your ship travelled from the time you blew the one blast until the collision occurred?

MR. ERSKINE:

Which one blast?

MR. SMITH:

The one blast to the "Alcoa Rambler" and until the collision occurred. 20

MR. ERSKINE:

I think he estimated it was 600 feet.

BY MR. ERSKINE:

Q.—Am I wrong about that? A.—That was the second time.

Q.—That was the time in reverse? A.—That was the time in reverse.

BY MR. SMITH:

Q.—How far did your ship travel after you first altered course and blew one blast? A.—I would say 600 or 700 yards, about that.

Q.—How far did you estimate it? I think, he just marked it approximately on the chart, but you would say about 700 yards; A.—About that. 30

Q.—You heard the other ship whistle at least on two occasions, you say? A.—Yes.

Q.—And the second time you thought it was three blasts? A.—It appeared to be three blasts, for shortly after that we could see the wash of the propeller.

Q.—Shortly after that you could see the wash of the propeller. Mr. Erskine asked you if you heard the other ship give a danger signal? A.—No

Q.—You thought the second signal he gave was a three-blast? A.—Yes.

Q.—What was the danger signal? A.—Letter U signal.

Q.—How is that sounded? A.—Two short and one long. 40

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Q.—And what does the U signal mean? A.—That you are proceeding into danger.

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BY MR. ERSKINE:

Q.—It means danger, doesn't it? A.—Yes it means danger.

BY MR. SMITH:

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Evidence.

Q.—When the three blasts were sounded, whether they were short or long, by the other ship, you say they were how far apart? A.—600 feet.

Q.—600 feet or a cable. A.—Yes.

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ination.

Q.—You don't know exactly how far your ship swung under the starboard helm? A.—She swung over. 10

Q.—But you didn't observe it on the compass? A.—No, we don't look at the compass in harbour.

Q.—You were not in the wheel house? A.—No, we don't use the compass in the harbour.

Q.—You were not steering by the compass? A.—No.

Q.—Did you observe how far the other ship swung, if any, to starboard? A.—It is very hard to say. We was leaning over to starboard and she was leaning over to her starboard too.

BY MR. ERSKINE:

Q.—You indicate with your hand coming over which way? A.—To 20 starboard.

BY MR. SMITH:

Q.—To starboard. All you are saying is that the evidence you are giving is according to your best recollection? A.—Best recollection, yes.

Q.—And thee were no records kept at the time of the various movements of the helm. A.—No.

Q.—Or when the signals, were given? A.—No, that is customary.

Torbjorn F.  
Skelbred,  
Re-Cross  
Exam-  
ination.

RE-CROSS EXAMINED BY MR. ERSKINE:

Q.—You testified that the second signal from the "Alcoa Rambler" was three blasts? A.—It appeared to us to be three blasts. 30

Q.—Do you say that was the second signal? A.—That was the second signal yes.

Q.—What was the first signal? A.—Three short blasts.

Q.—Blew it twice? A.—Yes.

MR. SMITH:

I don't think he said he blew it twice.

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BY MR. ERSKINE:

Q.—You told me before your pilot blew one short blast and the “Alcoa Rambler” answered with three? A.—Yes.

Q.—Was that her first signal? A.—Yes.

Q.—Did she blow three blasts again? A.—Yes.

Q.—The second time it may have been four, may it? A.—No, not so far—no, it appeared to us as three.

Q.—The second time it might have been one short, one long and one short? A.—Yes.

Q.—What is that signal? A.—One short, one long and one short? 10

Q.—One short, one long and one short; is that the K signal, A.—Yes, short, long, short.

Q.—What does that mean? A.—In the movement?

Q.—Will you wait just a minute. (Mr. Erskine refers to papers). Is one short, one long, one short the K signal? A.—Yes.

Q.—What does it mean? A.—I can't say.

Q.—Danger? Is it a danger signal? A.—I can't just say at the moment.

Q.—You agree that that may be what the second signal was? A.—Maybe they were trying to do that, but it looked like to us it was three short 20 blasts. That would be what I heard.

Q.—But you do not know now what the K signal means, is that right? A.—The K?

Q.—One short, one long, one short? A.—That is a danger signal—to keep off or something like that. That is danger signal.

Q.—Does it mean danger? A.—Yes.

Q.—Now, this barge that was coming in or crossing your bow, was she coming in the channel? A.—I can't say.

Q.—What is that? A.—I can't remember it.

Q.—She was to the eastward of you? A.—I can't say. 30

Q.—Did she pass between your ship and the “Alcoa Rambler”? A.—I don't pay any attention to it afterwards and I have no more to do with it.

Q.—Your pilot blew one blast to her, and did he go to the right when he blew the one blast for the barge? A.—There was no ships there and there was no danger.

Q.—When he blew one blast, did you go to the right on the wheel?

A.—The pilot's manoeuvre was satisfactory.

Q.—You told your attorney that after the barge crossed your bow you came over to port wheel, is that right? A.—After that we was over to port. We was passing some ships or manoeuvring in the harbour. Excuse 40 me, I can't remember anything there. I don't remember all the manoeuvres the pilot do in the harbour.

Q.—You said that you came back to port so as to go on over to the range, is that right? A.—Yes, that is the last.

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Q.—Before you came back to port, did you look up to see what was coming down the channel? A.—Yes, I looked around. There was nothing to see.

Q.—Nothing there? A.—No, There was so many ships in the harbour, a lot of ships.

Q.—Your pilot blew one blast to the “Alcoa Rambler” when you saw him? A.—Yes.

Q.—Did the pilot blow these whistles himself? A.—Yes.

Q.—On the cord? A.—Yes.

Q.—Do you say that the pilot blew any other signal on your ship before the collision? A.—As I remember, yes. 10

Q.—When? A.—Some time before.

Q.—What did he blow? A.—One short blast, as I remember it.

Q.—You don't remember when he blew them, with respect to any engine movement? A.—No.

RE RE-EXAMINED BY MR. SMITH:

Q.—I just want to straighten this out. It is a sort of cross re-examination. I think you mentioned he blew a second three-blast signal when he went astern-in your direct evidence? A.—Yes, last—later on.

#### THE WITNESS THEN WITHDREW

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sen,  
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amination.

MR. ERSKINE: 20

I would like to mark this translation, which I have used, for identification “Alcoa Rambler” Exhibit 3. (Exhibit marked).

ODD REIERSEN, being called and duly sworn, testified as follows:

EXAMINED BY MR. SMITH:

Q.—You are the second officer on the “Norefjord”? A.—Yes.

Q.—How long have you been going to sea? A.—Since 1922.

Q.—Twenty years? A.—Yes.

Q.—And you have a Norwegian mate's certificate? A.—Yes.

Q.—And how long have you been sailing as second mate on other ships? 30

A.—About five or six years altogether.

Q.—And when did you join this ship? A.—The 8th of April, this year.

Q.—8th of April, this year? A.—Yes.

Q.—And you have been on her continuously since then? A.—Yes.

Q.—You recall August 20th, the day that you had a collision with the “Alcoa Rambler”? You remember that day? A.—Yes.

Q.—What sort of a day was it? A.—It was a clear day.

Q.—A clear day, I see. Now, what were you doing on that morning?

A.—I was around the deck—nothing especially.

Q.—You had no special duties assigned to you? A.—No.

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amination.

Q.—Were you on the deck and also on the bridge from time to time?

A.—Yes.

Q.—Do you remember when the anchor was weighed up—when you weighed anchor? A.—Yes, I noticed when it was weighed.

Q.—And did a tug push your head around? A.—I didn't see that.

Q.—You didn't see that, but there was a tug alongside? A.—When we got anchor up, there was a tug alongside.

Q.—There was a tug alongside when you got anchor up? A.—Yes.

Q.—Where were you then? A.—I was on the fore deck.

Q.—You were on the fore deck. What were you doing? A.—Nothing. 10

Q.—And then what happened after that? You didn't see the ship's head being swung around? A.—No.

Q.—But did you see your ship going ahead? Your ship started to go ahead, didn't she? A.—Yes.

Q.—She started to go ahead, and was she going apparently across the basin? A.—I went up on the bridge to find out where we were going to.

Q.—You didn't know where you were going to? A.—Yes, I know we should go to the D.G. Range.

Q.—You knew you should go to the D.G. range, and you went up on the bridge to find out where it was? A.—Yes. 20

Q.—And when you got to the bridge, was the ship moving ahead? A.—Yes.

Q.—And who was on the bridge? A.—The Captain, pilot and third mate.

Q.—And a man at the wheel, I presume? A.—And a man at the wheel.

Q.—Now, did you observe anything while the ship was going across the Basin? Did you notice anything? Did you pass any other ships? A.—I didn't notice anything.

Q.—You didn't notice anything, and what was your attention first directed to? A.—To the pilot, and asked for the position of the D. G. range.

Q.—I beg pardon? A.—I asked for the pilot the position of the D.G. 30 range.

Q.—And did he show you? A.—Yes, he told me where it was.

Q.—And then what did you do? A.—I went in to the chart.

Q.—You went into the chart room? A.—Yes.

Q.—What did you do there? A.—I looked on the chart and found where it was.

Q.—And then what did you do? A.—I went out of the chart room.

Q.—And then where did you go? A.—Into the pilot house.

Q.—Into the pilot house? A.—Yes.

Q.—Where is the pilot house? A.—On the top bridge. That is the 40 wheel house.

Q.—And then from there what did you do in the wheel house? A.—, looked if the D.G. was put on or not. We have two lights to see whether the D.G. was on.



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ination.

- Q.—To see whether the D.G. apparatus was on? A.—Yes.
- Q.—And you found it was on? A.—Yes.
- Q.—And from there where did you go? A.—I went on the starboard side of the bridge.
- Q.—You went on the starboard side of the bridge, and then from there where did you go? Did you do anything when you were on the starboard side of the bridge? A.—No, I looked around.
- Q.—And then what did you do? A.—I heard us blow one.
- Q.—You heard your ship blow one? A.—Yes.
- Q.—Short or long blast? A.—One short blast. 10
- Q.—And then what did you do? A.—Then I went forward and looked over. I was standing a little off from there to here.
- Q.—You were standing on the back end of the bridge, do you mean? A.—Yes.
- Q.—And you went forward on the bridge? A.—Yes, to see what it was.
- Q.—To see what it was? A.—Yes.
- Q.—And what did you see? A.—I saw a ship over on the port side.
- Q.—You saw a ship over on the port side? A.—Yes, so I understand our blow was for that ship.
- Q.—You understood your blow was for that ship, and did you hear any- 20 thing from that ship? A.—Yes, I heard three short blasts.
- Q.—You heard three short blasts from that other ship? A.—Yes.
- Q.—How far away was that other ship when you saw her? A.—About 700 yards.
- Q.—700 yards? A.—Yes.
- Q.—And did she appear to be moving? A.—Yes, she was moving.
- Q.—And which direction was she heading? A.—By the compass I can't say, but she was heading that way, going that way.
- Q.—That doesn't mean anything. Was she heading towards the Nar- 30 rows? A.—I don't know what direction.
- Q.—No, I mean what way was the other ship, that you saw, moving? Was she moving out of the Basin or what do you say? A.—No, I can't say.
- Q.—But she was on your port side, you say? A.—Port side, yes.
- Q.—Well now then you heard the two signals? A.—Yes.
- Q.—And then what did you see? A.—I went over to the port side of the bridge, standing and watching her.
- Q.—And what did you do then and what did you see? Did she come on? Was she moving? A.—Yes, she come on.
- Q.—By the way, did you see she was moving? A.—Towards our ship. 40
- Q.—Towards your ship? A.—Yes.
- Q.—Did you notice which way she was heading? A.—No.
- Q.—That is to say, you don't know the compass direction she was heading? A.—Yes.

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ination.

Q.—Do you know the general direction she was moving? A.—She was coming closer to us.

Q.—She was coming closer to you. All right. Did she seem to come on closer for some time? A.—Yes.

Q.—Did you hear any helm order on your ship? A.—No.

Q.—You didn't? A.—I couldn't hear it.

Q.—You couldn't hear it. Why couldn't you hear it? A.—I went over to that side.

Q.—The other side? A.—Yes.

Q.—And you couldn't hear from where you were? A.—No. 10

Q.—All right. Then what happened? Did the other ship continue to come on? A.—Yes.

Q.—And what happened as far as your ship was concerned? A.—They gave some signals.

Q.—Who gave some signals? A.—I don't know; I can't see them; the Captain, pilot or third mate.

Q.—You couldn't see them; they were on the other side of the wheel house? A.—Yes.

Q.—But did you hear any more signals exchanged—any whistle signals? A.—Yes. 20

Q.—Yes. What were they, do you remember? A.—I don't remember ours, but I remember that he gave three more.

Q.—Three more? A.—Yes.

Q.—Where was the ship, which struck you, then? A.—She was closer to us.

Q.—Closer to you. How far away would you say she was when she gave this other signal? No answer.

Q.—It is just an estimate? A.—About 200 or 300 yards.

Q.—About 200 or 300 yards. And do you recall whether your ship gave any more signals? A.—No, I don't think 30

Q.—You don't remember? A.—I don't remember. They gave signals, but I don't remember the signals.

Q.—I mean whistle signals. I don't mean orders to the man at the wheel? A.—I mean whistle signals.

Q.—You mean whistle signals, do you? A.—Yes.

Q.—They gave a signal, but you don't remember, is that what you say? A.—Yes.

Q.—You were not in charge of the navigation? A.—No, I wasn't.

Q.—Did you stay on the bridge until the time of the collision? A.—Yes.

Q.—And did you notice the other ship going astern? A.—Not before 40 after she had given the three whistles for a second time.

Q.—What did you see? A.—Then I saw the propeller water started.

Q.—That is what we call the wash from the propeller? A.—That is what we call the wash from the propeller, yes.

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ination.

- Q.—Which indicated that her engines were going astern? A.—Yes.  
 Q.—And that was after? A.—After the second time.  
 Q.—How close would she be then? A.—It was only some seconds after.  
 Q.—A short time after that you heard her blow? A.—Yes.  
 Q.—Do you know what the engine movements on your own ship were at that time? Do you know whether there were any engine movements?  
 A.—No, I don't know.  
 Q.—Did you hear the telegraph ringing? A.—Yes.  
 Q.—But you don't know what the signals were? A.—No.  
 Q.—Did you notice if your ship was swinging? A.—She was swinging 10  
 to starboard.  
 Q.—She was swinging to starboard? A.—Yes.  
 Q.—Did you notice whether the other ships ahead were swinging?  
 A.—No, I can't say exactly.  
 Q.—You can't say exactly. After you saw the wash from the propeller of the other ship, did the other ship continue to come on? A.—Yes.  
 Q.—At a fair rate of speed? A.—I guess some speed.  
 Q.—Some speed. And what eventually happened? A.—A collision.  
 Q.—A collision. What parts of the two ships came into contact?  
 A.—Her stem. 20  
 Q.—And which side of your ship? A.—The port side.  
 Q.—The port side of your ship. What part of your ship? A.—  
 A.—Nearly amidships.  
 Q.—Nearly amidships. Did the other ship strike you a fairly hard blow?  
 A.—Yes.  
 Q.—She had some speed? A.—Yes.  
 Q.—Did you notice the anchor being dropped on the other ship? A.—  
 Yes.  
 Q.—Which anchor was it, do you recall? A.—The starboard.  
 Q.—The starboard anchor. And how far away were the ships apart 30  
 when the anchor was dropped? A.—70 or 80 feet.  
 Q.—Did it have any apparent effect on the speed of the other ship?  
 A.—No.  
 Q.—What happened after the Collision? Did the ships separate?  
 A.—She went back again.  
 Q.—She went back again, and your ship crossed her bow? A.—Yes.  
 Q.—Did you see any launches or any escort small motor boats in the vicinity of the collision. A.—After the collision.  
 Q.—After the collision. What kind of a boat was it? A.—It was a  
 kind with navy men on board, I think. 40  
 Q.—A small boat? A.—Yes, a small motor boat.  
 Q.—A small motor boat. Did you hear any conversation with them?  
 A.—No.  
 Q.—You didn't hear any conversation? A.—No.  
 Q.—What did you do after the collision? At the time of the collision,  
 were you still on the bridge? A.—Yes.

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Direct  
Exam-  
ination.

Q.—And after the collision, what did you do? A.—I got orders from the Captain to man the life boats.

Q.—To man the life boats? A.—So, I went into the wheel house and pressed the button for the alarm clock.

Q.—For the alarm, that means for the alarm for the life boats? A.—Yes. And did you actually lower the life boats or not? A.—No, I gave the signal to stand by.

Q.—And the life boat crew stood by? A.—Some of them came.

Q.—In any event, you didn't launch the life boat? A.—No.

Q.—Do you know then what happened with respect to the ship. A.— 10

I went down and had a look on the collision.

Q.—You examined the collision. A.—Yes.

Q.—Where was the damage? A.—On the port side of the ship abreast of No. 3 hatch.

Q.—On the bulkhead, was it? A.—Ship's side.

Q.—And did you understand that water was entering into the stoke-hole? A.—Yes. I can't see that then. We took a sounding of the tanks.

Q.—And after that did the tug come alongside and tow you to the eastern side of the Bedford Basin? A.—Yes.

Q.—And beached you there? A.—Yes. 20

## CROSS EXAMINED BY MR. ERSKINE:

Q.—I understand you did not see this other ship, the "Alcoa Rambler," until after you heard your ship blow one blast? A.—Yes.

Q.—Then you looked right away and saw her? A.—Yes.

Q.—There was no trouble seeing her then, was there, when you looked? A.—No.

Q.—But the reason you did not see her sooner was that you were on the starboard side of your ship? A.—Yes, or the wheel house.

Q.—If you had been on the port side of your ship, you think you would 30 have seen her sooner? A.—I think so.

Q.—During all of this time after you lifted your anchor, you were moving around the deck and on the bridge, as you described, and in the chart room this one blast was the first signal that you noticed your ship blow? A.—Yes.

Q.—Was there anybody in the wheel house or on the bridge who was keeping any record of the times or the signals to the engine room? A.—A.—I don't know.

Q.—Is it not customary for the watch officer to keep the times in a bell book or a piece of paper? A.—Yes, that is customary.

Q.—You don't know whether he was doing it or not? A.—I don't know. 40

Q.—There was apparently an escort launch there because you saw her after the collision? A.—Yes, I saw a navy boat—a little motor boat.

Q.—Did you see the red flag on the "Alcoa Rambler" when you looked at her? A.—No.

Odd Reier-  
sen.  
Cross  
Exam-  
ination.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence

No. 7  
Not taken  
in presence  
of Trial  
Judge.  
Odd Reier-  
sen  
Cross  
Exam-  
ination.

- Q.—Did you see it at any time before the collision? A.—No.
- Q.—Where did this escort launch come from after the collision? A.—  
I saw him first just abreast of the ship.
- Q.—Where was she from your ship, on your port bow or starboard bow?  
A.—She was a little off of abreast on the port side.
- Q.—She must have been there before the collision then? A.—Well—
- Q.—You mean that you don't remember? A.—Yes, I don't remember.
- Q.—When the pilot told you where the D.G. range was, you went in and  
located it on the chart? A.—Yes.
- Q.—And then you knew that to go to the range you had to go across the 10  
Basin. A.—Yes.
- Q.—And when you came out of the chart room, was your ship then going  
across the Basin? A.—I can't say. I didn't see for the direction.
- Q.—You knew then where you were going generally? A.—I knew  
where I was going to.
- Q.—Didn't you look to see if you were going there? A.—No, I went  
into the wheel house and wanted to see if the D.G. was on or not.
- Q.—Yes, but then, after that you went out on the bridge? A.—After  
that, no I don't remember.
- Q.—I thought you told us that after that you went out on the starboard 20  
wing of the bridge? A.—Yes.
- Q.—And when you got out there, did you notice that your ship was go-  
ing across the Basin? A.—No, not the direction that she was going; I  
didn't notice it.
- Q.—You did not notice any change of heading of the other vessel before  
the collision, is that right? A.—Yes.

## THE WITNESS THEN WITHDREW

Plaintiff's  
Evidence.

No. 8.  
Not taken  
in presence  
of Trial  
Judge.  
Hermann  
Hansen,  
Direct Ex-  
amination.

HERMANN HANSEN, being called and duly sworn, testified as follows:

## EXAMINED BY MR. SMITH:

- Q.—You are the chief engineer of the "Norefjord"? A.—Yes. 30
- Q.—And how long have you been the chief engineer on this ship? A.—  
For about sixteen years, about that, I can't remember.
- Q.—On this ship, though? A.—Not on this ship. For two years.
- Q.—For two years. When did you on her? A.—In Oslo, Norway.  
I was ashore for about two months.
- Q.—In the winter of 1939, was it? A.—That is right.
- Q.—And you hold a Chief Engineer's Certificate under Norwegian Law?  
A.—Yes.
- Q.—For how many years have you had your certificate? A.—The  
chief engineer's licence I have had for about sixteen or seventeen years, 40  
about that.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence

No. 8.  
Not taken  
in presence  
of Trial  
Judge.  
Hermann  
Hansen,  
Direct  
Examin-  
ation.

Q.—Yes, and have you sailed on ships as chief engineer for some time?

A.—Oh yes, the last sixteen years.

Q.—The last sixteen years. Now, you remember the 20th of August last when you had this collision? A.—Oh yes, I do.

Q.—Were you in the engine room on that morning? A.—Yes, I was down there.

Q.—And who was with you? A.—The second engineer and the donkey-man.

Q.—Who was handling the engine? A.—The second engineer.

Q.—Were you watching to see that he executed the movements that were given to him? A.—Yes. 10

Q.—And did he carry out all the orders properly as given to him? A.—Yes.

Q.—Who received the orders on the telegraph? A.—Myself.

Q.—Did you repeat the orders back to the bridge? A.—Yes, I did.

Q.—Did everything work properly in the engine room on that day? A.—Yes.

Q.—By the way, what kind of an engine has your ship got? A.—Triple expansion.

Q.—Steam engines? A.—Yes. 20

Q.—How many cylinders? A.—Three cylinders.

Q.—How much steam do you carry? A.—180 lbs.

Q.—What is the indicated horse power of your engine? A.—2300.

A.—How many revolutions per minute does your engine make at full speed? A.—A deeply loaded ship 68 and sometimes 70, according to the full speed.

Q.—And at slow, how many revolutions per minute? A.—At slow speed that would be about twenty, about that.

Q.—About twenty? A.—Yes.

Q.—Now, how do you record any movements—engine movements in the engine room? A.—We put it on with a piece of chalk. 30

Q.—Oh what, a blackboard? A.—On a blackboard, yes.

Q.—On a blackboard. On this morning in question, you put these movements on the blackboard? A.—The first movement the second engineer done it: stand by. He put it on and we put it in our book too, because we had time enough to do it.

Q.—Stand by? A.—Yes.

Q.—Have you got your engine room log here? A.—Yes, the Captain has it.

Q.—Is that a scrap log? A.—It is not a scrap log. 40

Q.—Have you got a scrap log? A.—The scrap log is here. Do you want it opened out?

Q.—Open it to the day in question. This book "Norefjord" Exhibit No. 4 is the scrap engine room log, is that right? A.—That is right.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence

No. 8.  
Not taken  
in presence  
of Trial  
Judge.  
Herman  
Hansen,  
Direct Ex-  
amination.

(Q.—It is agreed that photostatic copy of the entries in the log will be substituted for the actual scrap log and that a translation be filed as an exhibit. The same stipulations will apply to the engine room log book, "Norefjord" Exhibit No. 5). We are referring to "Norefjord" Exhibit 4. The first relevant entry on August 20th in what? A.—Raising steam from six o'clock in the morning.

Q.—Then what is the next? A—7 o'clock: Raised steam and connected boiler together; heated and made engine ready at 8:30; engines and boilers in good condition; 8.30, also steam for steering gear, the latter being in good condition; 8:55, stand by; moved from anchorage 9:08; 9:15, full speed astern; 9:16, full speed ahead; 9:17, full speed astern; 9:18, engine stopped; 9:18, a collision occurred with a ship, which rammed in port side of stoke-hole, etc. You said the second engineer made one of the entries in that book "Norefjord" Exhibit 4? A.—Yes.

Q.—Which entry was the one he made? A.—He made this one;; he made all this one.

Q.—He made all the first entries until when? A.—Until 9:08.

Q.—Until 9:08? A.—Yes.

Q.—Did he make the 9:08 entry? A.—Yes, he did.

Q.—He made all the entries inclusive of this 9:08? A.—Yes. 20

Q.—I notice that that 9:08 entry doesn't show the engine movement; it merely says: "Moved from anchorage."? A.—Yes.

Q.—Do you remember what the first engine movement was? A.—It was slow ahead.

Q.—It was slow ahead? A.—Yes.

Q.—Was that at 9:08? A.—It was 9:08, yes.

Q.—And was that put on the blackboard at the time? A.—Yes, it was.

Q.—And the next movement of the engine after slow ahead was what?

A.—Full ahead.

Q.—Full ahead. There is no record in this log book of that movement? 30

A.—No, there wasn't.

Q.—Is there any? A.—No.

Q.—Were there any times marked on the chalk board when engine movements were made on that morning? A.—Yes, the two first movements from 9:08 to full ahead, it was marked on the blackboard; but after that there was no time to mark anything, because the telegraph run so fast that we had no chance to put anything down.

Q.—There was no chance to put anything down? A.—No.

Q.—And what happened to the marks that were on the blackboard after the collision? A.—They went off. The water was so high that when we came down we couldn't see anything. 40

Q.—They washed off, you mean? A.—They washed off absolutely.

Q.—Now these entries that you have made—I presume that these entries 9:15, 9:16, 9:17 and 9:18 are in your handwriting, is that right?

A.—That is right, just from my memory.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence

No. 8.  
Not taken  
in presence  
of Trial  
Judge.  
Hermann  
Hansen,  
Direct Ex-  
amination.

Q.—When were these entries made into exhibit No. 4? A.—You mean in the log book?

Q.—In the log book, yes? A.—After the collision, the same day later on in the day, you know.

Q.—After the collision, the same day? A.—Yes.

Q.—How were they made? A.—By from me, I gave them that.

Q.—Made from memory, do you say? A.—Absolutely. I went down in the engine room the next morning, I can't exactly remember the time, and looked on the blackboard to make sure there wasn't something I could put on my log book; but it was all washed out. 10

Q.—What do you say about these entries? Are they approximately correct or otherwise? A.—They are approximately correct; that is all I can tell you about them.

Q.—Assuming that you moved from your anchorage at slow at 9:08? A.—9:08, yes.

Q.—At 9:08, and went at slow for some time, do you recall how long you went at slow—how many minutes? A.—Well, I suppose about four minutes.

Q.—About four minutes? A.—Four or five minutes; I can't tell you exactly. 20

Q.—How do you arrive at that estimate? A.—I always look at the speed of the engine.

Q.—And your engine was put full speed ahead? A.—Full speed ahead.

Q.—And then the next entry is 9:15, which would be seven minutes after you left your anchorage? A.—Yes.

Q.—How many revolutions would your engine be making say at the end of 9:15; What is your estimate? A.—About 50 or 52, about that.

Q.—About 52? A.—Yes.

Q.—The revolutions would be increasing, I suppose, as the engine picked up speed? I don't know enough about it. A.—No, he must not pick 30 up speed; he couldn't go faster; that is the maximum, 52.

Q.—52 when, in that period of time? A.—Yes.

Q.—But the maximum you can develop is? A.—68.

Q.—68. How long would it take you to develop that number of revolutions? It is a little hard. A.—It is absolutely a little hard to answer a question like that, but a few minutes, three minutes or something like that.

Q.—Three minutes more, you mean? A.—Yes.

Q.—Did you feel the impact when the ships came together? A.—Oh yes.

Q.—And water came in from the stoke-hole into the engine room? A.—Immediately. 40

Q.—Immediately? A.—Yes.

Q.—Were the engines stopped before the collision? A.—It was stopped maybe ten seconds, that is all.

Q.—Yes, just immediately before the collision? A.—Yes.



RECORD  
PART 1

*In the  
Exchequer  
Court  
of Canada.  
Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence

No. 8.  
Not taken  
in presence  
of Trial  
Judge.  
Hermann  
Hansen,  
Direct-Ex-  
amination.

Hermann  
Hansen,  
Cross Ex-  
amination.

Q.—And you used the engine for a short time after the collision until the water prevented the use of the engine? A.—Yes.

Q.—There was so much water came in the engine room that you couldn't? A.—We couldn't stay down there any longer.

Q.—And you shut off the steam? A.—And we shut off the steam and left the engine room.

CROSS EXAMINED BY MR. ERSKINE:

Q.—Can you tell me the size of the propeller? A.—You mean, the pitch of the propeller or the diameter?

Q.—Both? A.—The diameter of the propeller is 16 feet and 6 inches. 10

Q.—What is the pitch? A.—And the pitch is 17 feet 6 inches.

Q.—You can tell me, at 52 revolutions, how much slip there would be?

A.—It is very hard; maybe there would be 7% or 8%, about that.

Q.—About that? A.—About that, yes.

Q.—Now, at 9:08, the time mentioned in your log book, what pressure did you have on your boilers? A.—About 170 lbs; it wasn't absolutely up.

Q.—You didn't have your full pressure? A.—No, we didn't have that.

Q.—Your steering gear was steam steering gear? A.—It was steam.

Q.—Is it necessary to warm that gear up before it is in perfect condition?

A.—Oh yes 20

Q.—If it is not fully warmed up, it won't work perfectly, would it? A.—It won't work perfectly; there is always some in it.

Q.—If its not perfectly, warmed up, it will work slowly? A.—Yes.

Q.—It won't give you the full reaction on the rudder? A.—No.

Q.—At 9:08, according to your entry in the log book, was that the first engine movement? A.—Yes it was.

Q.—That was when you first started to use your engine? A.—Yes, it was.

Q.—That was slow speed? A.—Slow speed ahead.

Q.—But did you get no other signal for four minutes? A.—For about 30 four minutes, yes.

Q.—I may have misunderstood you, but did you say something about the signals coming so fast that you couldn't get them all on the board?

A.—Later on yes.

Q.—What is that? A.—Later on.

Q.—After or before, the collision? A.—Before the collision.

Q.—Before the collision, there were signals that came so fast that you couldn't have time to put them on the board? A.—Yes.

Q.—Did not those fast signals come right at the beginning? A.—Oh no, not right at the beginning. 40

Q.—Did they come after 9:15? A.—They come after 9:15, yes.

Q.—After 9:15? A.—Yes.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence

No. 8.  
Not taken  
in presence  
of Trial  
Judge.  
Hermann  
Hansen,  
Cross Ex-  
amination.

Q.—They came so fast that you couldn't get it down? A.—We could get it down but I don't do it really because we told him to carry on that order personally so they don't put that down.

Q.—I want you to be sure you understand that? A.—Yes.

Q.—After 9:15. A.—After 9:15.

Q.—And before the collision. A.—And before the collision.

Q.—There were a lot of signals you didn't get down? A.—I don't think there was no more signals that I haven't put down afterward, from memory.

Q.—This book, Exhibit 4, was written up from memory, was it? A.—Not before, just before the collision. 10

Q.—Excuse me, you didn't understand me. This book here was written up the same day from memory? A.—Not the same day, the day after.

Q.—The day after? A.—Yes.

Q.—And it was written up from memory? A.—From memory, yes.

Q.—For instance, this collision occurred; you knew there had been a bad damage? A.—I knew that.

Q.—Didn't you think it was important to keep that blackboard? A.—Yes.

Q.—Why didn't you keep it? A.—The blackboard was down there, but I went down the next day—The water was so high you couldn't get down 20 and everything was rubbed out.

Q.—When you rubbed off those marks, you didn't take a piece of paper to copy them? A.—No.

Q.—Did not you think it was important? A.—No.

MR. SMITH:

I didn't understand him to say he rubbed off the marks. I understood him to say he didn't find any marks. 30

BY MR. ERSKINE:

Q.—I may have this wrong. 9:15, 9:16, 9:17 and 9:18, were those on the blackboard? A.—Those were not on the blackboard. 9:08 was on the blackboard and the others were not on the blackboard.

Q.—Let me get this clearly. 9:08 was on the blackboard? A.—9:08 was on the blackboard.

Q.—Was there anything else on the blackboard? A.—Oh yes, there was lots more things on the blackboard; how much oil we use and how much water we have in the fresh water tanks or how much in the acetylene tanks we have. 40

Q.—After 9:08 there were other times on the blackboard, is that right? A.—No, there was not other times on the blackboard.

Q.—After 9:08 was there nothing more? A.—No, no more times.

Q.—I would like to understand you. You wrote 9:08 on the blackboard? A.—Yes. Before the collision occurred, did you write anything more on the blackboard? A.—before the collision?

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence

No. 8.  
Not taken  
in presence  
of Trial  
Judge.  
Hermann  
Hansen,  
Cross Ex-  
amination.

Q.—Yes? A.—There was lots of things.

Q.—Times? A.—No there was no more.

Q.—9:08 was the only time? A.—Yes.

Q.—But there were a lot of other signals that you didn't put on the blackboard? A.—Yes.

Q.—And there were a lot of other signals after 9:15 before the collision? There were a lot of signals? A.—That is all I know.

Q.—When you wrote this book up from memory, how did you come to pick out those four times? A.—It was after my memory, no more or no less. I don't think there was any more signals from what I have put down 10 there.

Q.—Between 9:08 and the collision? A.—Yes.

Q.—Were there any more signals to the engine room than are in that log book? A.—No, I don't think there was any more—from memory now.

Q.—Do you think that Exhibit 4, this book, has all the signals in after 9:08 before the collision? A.—That is all, I think; I can't remember any more.

Q.—You told me a minute ago, they came so fast you couldn't remember them? A.—That was fast movements to handling an engine. 20

Q.—Did you talk to the Captain before that log book was entered up? Didn't the Captain say anything to you about the times? A.—No.

Q.—Did he say anything to you about the times after the log book was written up? A.—No.

Q.—He never discussed it with you? A.—No.

RE-EXAMINED BY MR. SMITH:

Hermann  
Hansen,  
Re-Exam-  
ination.

Q.—You say, as I understand it, in answer to Mr. Erskine, that these movements at 9:15, 9:16, 9:17 and 9:18 were all the movements; that there were no other movements but those? A.—No, I don't think there was any more. 30

Q.—You don't think there was any more? A.—No.

Q.—You only recollected four movements after your engine was put ahead? A.—Yes.

Q.—At full speed? A.—Yes.

Q.—But first there was slow? A.—Not dead slow, slow.

Q.—Slow and then full ahead? A.—Full ahead.

Q.—And then came these four movements which you have marked here? A.—Yes, I can't remember anything more.

Q.—You don't remember anything more? A.—No. After the collision, there was only one thing I remember: After the collision, I went up and 40 told the Captain there was so much water we had to put the ship aground, that is all.

Q.—Yes. In your practice in putting down engine movements, do you indicate it by minutes or by minutes and seconds? A.—No, only by minutes.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada.  
Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence.

No. 8  
Not taken  
in presence  
of Trial  
Judge.  
Hermann  
Hansen,  
Re-Exam-  
ination.

Q.—Well now, supposing it is thirty seconds—we will say there was thirty seconds between two movements of the engines? A.—We would take the nearest of them.

Q.—You would, take the nearest of them? A.—Yes.

Q.—That is to say, if it was forty seconds, you would show it in the next minute, is that right? A.—Yes, that is the way we do.

Q.—How long does it usually take to effect a movement we will say from the engines going full speed ahead and then put full speed astern? What have you to do? A.—The first thing we have to do is to shut off the steam in the engine and put over the reversing engine and open up the steam 10 again.

Q.—Now who carried out these movements? A.—The second engineer.

Q.—And can you give any estimate as to how long it actually takes to do that? A.—It would take about sometimes fifteen seconds and sometimes twenty-five seconds. It is up to the man who handled that, you know, so it is very hard to say anything more about that.

Q.—And did this second engineer, in your opinion, execute these orders properly and expeditiously? A.—Yes.

Q.—That is too big a word, perhaps? A.—Yes, he did the best he could.

Q.—And did you see that he did them correctly? A.—Absolutely, yes. 20

Q.—But those four movements came pretty quickly together, is that what you say? A.—They come pretty quickly together.

Q.—And is it correct to say that that log book shows the movements to the best of your recollection? A.—Yes, it is correct to say that.

Q.—Based, of course, on your memory? A.—Yes.

THE WITNESS THEN WITHDREW  
THE CASE WAS ADJOURNED AT 1:40 UNTIL 2:30 p.m.

Plaintiff's  
Evidence.

No. 8A  
Not taken  
in presence  
of Trial  
Judge.  
Michael  
Strom,  
Direct  
Exam-  
ination.

MICHAEL STROM, being called and duly sworn, testified as follows:

EXAMINED BY MR. SMITH:

Q.—You are the chief officer of the "Norefjord"? A.—Yes. 30

Q.—And how long have you been going to sea in ocean-going ships?

A.—Since 1930.

Q.—Since 1930. And have you a mate's certificate? A.—Yes.

Q.—When did you get your certificate? A.—1935.

Q.—Under Norwegian Law? A.—Yes.

Q.—Previously to that, did you have any certificate? A.—No.

Q.—Have you a master's licence? A.—Not a licence.

Q.—What have you got? A.—I am able to get a licence any time, because of my time as chief officer and officer's school.

Q.—You have passed your examinations for that? A.—In Norway yes, 40

Q.—You have passed in Norway for your Master's certificate? A.—Yes, and I have got a wireless officer's certificate.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence.

No. 8A  
Not taken  
in presence  
of trial  
Judge.  
Michael  
Strom  
Direct  
Exam-  
ination.

Q.—And have you sailed on other ships as mate? A.—Not as chief officer.

Q.—Not as chief officer.

Q.—Not as chief officer, just second officer of other ships? A.—Third and second.

Q.—When did you join the “Norefjord”? A.—I joined the “Norefjord” in August, 1939.

Q.—In what capacity were you first? A.—Third officer.

Q.—Yes, and then later did you become second officer? A.—Second officer, and I have been chief officer fourteen months now in the same ship. 10

Q.—Yes, now, you recall the 20th of August last, the day of the collision? You remember that? A.—Yes, some of it anyhow.

Q.—What was the weather like on that day? A.—It was a bright day, all calm.

Q.—And where was your ship lying? A.—She was lying at what they call position B in Bedford Basin.

Q.—Would you look at “Norefjord” Exhibit 1, the chart of Bedford Basin, and would you tell approximately where your ship was lying at anchor at that time, what was her berth? A.—It is difficult to say.

Q.—This is the Narrows here, you see? A.—She was supposed to be 20 somewhere around in this vicinity.

Q.—The Captain, as a matter of fact, marked with X there about the place an approximate position of the “Norefjord” at anchor? A.—In this deep water anyhow.

Q.—In deep water in that vicinity? A.—Yes, it should be in that position.

MR. ERSKINE:

I would like to note on the record this witness says a little further to the eastward than the Captain.

BY MR. SMITH:

Q.—What do those lines indicate, fathoms? A.—Fathoms. 30

Q.—What does that line indicate? A.—The 50-fathom line, they call it.

Q.—And what does this line indicate? A.—100-fathom line.

Q.—Feet or fathom, do you mean? A.—Feet, according to this chart—soundings in feet.

Q.—Soundings in feet, that is right? A.—Yes.

Q.—You said you were lying in deep water, is that what you said? A.—In deep water, yes.

Q.—And you said you were between the two—how would you describe these lines? A.—According to that chart, that is 50 ft. line 40

Q.—What is it, the second line from the western shore, is it, is the 50-ft line? A.—Yes.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada,  
Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence.

No. 8A  
Not taken  
in presence  
of Trial  
Judge.  
Michael  
Strom,  
Direct  
Exam-  
ination.

Q.—And the outside line is what? Out beyond that, what is the outside line there? A.—The next would be 100 off the chart.

Q.—All you can say is you can estimate where the ship was? A.—Yes.

Q.—You said you were between the 50-ft. line and 100-ft. line? A.—Yes, we were in 28 fathoms of water when we anchored.

Q.—How much chain did you have out? A.—We had 75 fathoms of chain, but there was 28 fathoms of water right underneath the forecastle.

Q.—All right. And you said it was a nice clear day? A.—Yes.

Q.—With no wind. Do you remember which way your ship was heading when she was lying at anchor? A.—She was heading right against that point there. 10

Q.—She was heading towards point shown on Exhibit "Norefjord" 1 as Sherwood Point? A.—Yes.

Q.—Now were you on deck when the pilot came on board? A.—Yes.

Q.—You saw the pilot come on board? A.—I saw the pilot come up on the bridge.

Q.—He came after the tug? A.—Yes, and I asked the pilot if he was going to start right away and he said, if the engine was ready we would go right away.

Q.—Where were you stationed? A.—On the forecastle. 20

Q.—Who was with you? A.—The carpenter and two men in the chain locality.

Q.—What happened? Did you heave up the anchor? A.—We heaved up the anchor and the tug swung us around—turned to port and went around that way.

Q.—She was on the? A.—She was on the starboard bow of the boat.

Q.—The tug was on the starboard bow. A.—Yes, pushing.

Q.—Did you start head until you had swung around or do you remember?

A.—She was moving very slowly ahead at the beginning, but I can't check the speed from the forecastle. 30

Q.—No, you don't know, as a matter of fact, when the engines went ahead? A.—No.

Q.—And after the ship's head was swung around, in what general direction was she heading? A.—Approximately down on the point there.

Q.—Approximately which point? A.—On the bay inside Turtle Head.

Q.—At Turtle—? A.—In that direction, approximately.

Q.—Approximately heading for Turtle Head? A.—Yes.

Q.—What is this? There is a light there? A.—That is the Navy Control Station for the Basin and the Signal Station for giving signals on out or in-bound traffic,—different signals. 40

Q.—I see. Did your ship start ahead? A.—Yes.

Q.—Do you recall any of the manoeuvres of the ship from the time she started? Were there any ships in the vicinity? A.—Yes, ships all around, so as we passed first it was an American tanker by the name of "Beacon." She was laying next to us, and we passed her very close on

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the way out, and the other ships I didn't look at their names. There was different nations all around. I had been paying much attention to the navigation in my station at the fore-castle to make ready for the next anchor,, and I just made the windlass ready so everything should be clear in case we should use the anchor or when we came back to the anchorage again.

Q.—You mean, use the anchorage over at the range? Did you know that you were going to the D.G. Range? A.—I knew that.

Q.—And did you know where the D.G. Range was? A.—No.

Q.—You didn't? A.—The only thing I know it was supposed to be on that you were going to the Basin. That is all I know. 10

Q.—On the east side of the Basin? A.—Yes.

Q.—Would you tell us next what your attention was directed to? A.—As I heard our ship blew one short blast and I looked over the fore-castle, I looked around and I just saw the bow of the ship coming behind some anchored ships there, but she was so far away I didn't pay any attention to her. I just heard her blow, She blew three short blasts.

Q.—Some evidence has been given here about passing a barge. Did you notice when you were passing a barge? A.—No.

Q.—You didn't notice that? A.—No.

Q.—This ship that you saw, where was she relative to your ship? A.— 20  
When I saw her first, she was in approximately that direction.

Q.—Perhaps it would be just as well if you marked on the—I will give you another sheet of paper, and perhaps you could take these models and mark them.(Exhibit Norefjord 6) Will you indicate the relative positions when you first saw this ship you have mentioned? A.—Approximately that position as far as I could see. She was so far off I didn't pay much attention.

Q.—That is not according to scale? These distances are not according to scale? A.—No, no. The distance was so large that I didn't expect any collision, so that I didn't pay any attention to them. 30

Q.—Will you put a pencil right around those on Exhibit 6? A.—That is the "Norefjord" and this is the "Alcoa Rambler."

Q.—This is "Norefjord" Exhibit 6. How far do you think that the other ship was away when you saw her first? A.—Approximately 700 yards or maybe more.

Q.—Now, did you notice whether the ship was moving or not? A.—No.

Q.—I mean, the other ship that you saw? A.—According to the anchored ships, she had very little headway.

Q.—She had very little headway, and did you keep on watching her for some time? A.—No, I didn't watch her before the Captain told me to 40  
have the fenders ready.

Q.—Did you hear the other ship blow again? A.—I heard three short blasts but I didn't look up to see what ship it came from, but I heard three short blasts later on.

Q.—Later on? A.—Yes.

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Q.—And after those short three blasts, did you look in the direction of the other ship? A.—Not exactly. Before I was going on the port side with the fenders and make them already, I couldn't see anything right of her, but while I was working at the fenders I could see her coming out on the stern.

Q.—On her stern? A.—Yes.

Q.—Was that when you first thought she was going astern? A.—You can always see if a ship goes astern on her right because the water comes up:

Q.—And you hadn't seen any before that? A.—No.

Q.—How close was she then, in your judgment? A.—approximately 10 a cable, maybe more or less; that is hard to guess anyway.

Q.—Was it then that the Captain ordered you to have the fenders ready?

A.—I had been working with the fenders then; I had been told before to have them ready.

Q.—Well now, just tell what happened from then on? A.—She was approaching us very fast and we just managed to move the fenders alongside because it looks like she is going to hit us on the bow first, but we got a little headway and she comes down like that.

Q.—She comes down like this. What do you mean by that? What do you mean by that, the other ship comes down like this? A.—My English is 20 bad. I could express myself much better in Norwegian.

Q.—Your answer is all right. You thought she was going to strike you foward? A.—Yes.

MR. ERSKINE:

I don't want to object too much, but you are leading him an awful lot.

BY MR. SMITH:

Q.—You and the carpenter had the fenders? A.—Yes.

Q.—Yes, and where were you first with the fenders? A.—Outside No. 2 hatch.

Q.—Outside No. 2 hatch? A.—Yes. 30

Q.—And where did you go from there with the fenders? A.—Underneath the bridge.

Q.—Underneath the bridge? A.—About 10 yards further aft.

Q.—Why did you go there? A.—Because it looks to me that the ship is going to strike further aft.

Q.—Further aft. Could you notice whether or not the other ship was swinging? A.—No.

Q.—Could you notice whether or not your ship was swinging? A.—No, I didn't look for her; I couldn't see if she was swinging.

Q.—No. Did you see them do anything on the other ship after they got 40 in close to you? A.—They let go the anchor.

Q.—Which anchor? Which one of their anchors was it, do you know? A.—No.



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Q.—Was it the anchor on the side closest to you or furthest away?  
A.—I don't remember that.

Q.—How far way were they when the anchor was dropped? A.—I  
can't say any distance. It was so close that we didn't even get time to pay  
out enough chain before she strike us. We was still slacking on the chain  
when she ran into our side.

Q.—What part of ~~the~~ other ship struck you? A.—The stem.

Q.—The stem? A.—Yes.

Q.—Where did it strike? A.—On the "Norefjord" you mean?

Q.—On the "Norefjord", yes? A.—Right on the bulkhead between No. 10  
3 hatch and the stoke-hole.

Q.—Where were you at the time? A.—I was by No. 3 hatch as close as  
possible.

Q.—What do you say as to the speed of the other ship when she struck  
you? A.—She got good speed.

Q.—She had good speed? A.—Good speed.

Q.—Did she seem to reduce her speed appreciably after she dropped her  
anchor? A.—No.

Q.—Did you notice any flags or pennants on the other ship before she  
struck you? A.—She had some flags up but they were hanging right up 20  
and down on the jumper so that I couldn't see what flag it was.

Q.—Where are the jumper stays? A.—Between the fender and the  
foremast and the flags lies on that on some small lines made fast to the  
jumper stay.

Q.—Did you see a small motor boat in the vicinity? A.—Not before  
after the collision, when she came alongside.

Q.—What kind of a boat was that? A.—It looks like the ordinary taxi  
boat in Halifax—black hull with a little dark gray house on top of it.

Q.—Did you hear anybody on either ship say anything before the col-  
lision? I mean, apart from any conversation you and the carpenter had? 30  
A.—Just before the collision, I think it was the first officer on the American  
ship shouted to me: "Can't you see the red flag?"

MR. ERSKINE:

What is that?

MR. SMITH

Somebody said: "Can't you see the red flag?" He said he thought it  
was the first officer.

THE WITNESS:

It was a man in uniform.

MR. ERSKINE:

I move to strike that out.

RECORD BY MR. SMITH:

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ination.

Q.—Who was it that said this? A.—It was a man in uniform  
Q.—Where was he stationed? A.—On the forecastle.  
Q.—On the forecastle of the other ship? A.—Yes, and he gave orders  
to let go the anchors on the American ship to the man at the windlass.  
Q.—Was it before or after dropping the anchor that he said this?  
A.—He dropped the anchor first and then shouted to me.  
Q.—Did you hear the men in the launch say anything before the col-  
lision? A.—No.

Q.—Or did you actually see the launch or motor boat or whatever you 10  
call her before the collision? A.—Not before she went alongside.

Q.—That was after the collision? A.—After the collision yes.

Q.—Could you indicate with the models the relative positions of the  
vessels at the time of the collision—the way the ships came together,  
(using “Norefjord” Exhibit 7)?

(Witness puts models and draws outlines around them).

Q.—Where the “Alcoa Rambler” hit you, approximately amidship would  
it be? A.—Very close to the Plimsoll’s mark.

Q.—Would you look at the entries in the scrap log on August 20th? Which  
is this? A.—Log book itself.

Q.—Which is this? A.—Scrap log. 20

Q.—Would you look at the entries on August 20th? “Norefjord” Exhibit  
7 is a diagram showing the positions of the two ships at the time of the col-  
lision as marked by the witness. This book that I saw marked “Norefjord  
Exhibit 8 is the scrap deck log? A.—Yes.

Q.—And that is in Norwegian, of course? A.—Yes.

Q.—The entries are in Norwegian? A.—Yes.

Q.—And the page containing entries of August 20th is marked “Nore-  
fjord” Exhibit 8? A.—Yes.

Q.—Whose handwriting are those entries shown on the page which you  
are looking at, which is supposed to be in respect of August 20th? A.— 30  
That is my own.

Q.—That is in your handwriting? A.—Yes.

Q.—All the entries are in your handwriting? A.—Yes.

Q.—When were these entries written by you? A.—As soon as I could  
get time to do it.

Q.—Yes. Do you remember when it was? Was it the day in question  
or the day after or what? Were they made before the collision? I will  
ask you that: Were they made before the collision? A.—No.

Q.—But when were they made, can you say that? A.—The same day  
of the collision. 40

MR. SMITH:

I suppose, Mr. Erskine, you should have the same memorandum on the  
record, that I ask permission to substitute photostatic copy as well as a  
translation of the relevant entries. As a matter of fact, we have the re-  
levant entries now.

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MR. ERSKINE:  
That is right.  
MR SMITH.  
Photostat to be substituted.

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BY MR. SMITH

Q.—I don't know whether your answer is not as to when those entries were written in the scrap log, do you recall? When did you write this?

A.—The day of the collision.

Q.—The day of the collision? A.—Yes.

Q.—After the collision? A.—Yes.

Q.—And where did you get the times which are shown in these entries and how did you get them? A.—I got the times from the third officer when he came down from the bridge after the collision.

Q.—Now, would you look at the entries in this book "Norefjord" Exhibit 9, page 127? (A photostat is to substituted for the original log.) In whose handwriting are the entries? (We will mark on the photostat Exhibit 9) In whose handwriting are these entries? A.—My own, except the Captains signature. That is his own.

Q.—Yes. Are these entries the exact copy of the scrap log? Are these the same entries here on Page 127 as are found on the scrap log or is there additional information on 127? A.—Maybe, because, according to the rules and regulations, that is just to put the ones down, and we have to put it in the log book when we have time to do it.

Q.—You copy from Exhibit 8 into Exhibit 9 the entries that are in pencil in Exhibit 8? A.—We used to put very shortly down in the scrap and put it down in this book—the same thing exactly.

Q.—I don't want to furnish my learned friend with something that isn't right? A.—This is the log but that is my scrap book. That is the log book and that is a true copy of the log book.

Q.—This "Alcoa Rambler" Exhibit 3 is a translated abstract of the log book Norefjord" Exhibit 9, is that right? A.—Yes.

Q.—But what I am asking, are the entries in Exhibit 8 copied into Exhibit 9? I don't want to confuse you by the exhibits. Are they copied from the scrap? A.—They are copied from the scrap book into the deck.

Q.—And both entries are written by you? A.—Yes.

Q.—That is, in respect to the day in question? A.—Yes.

Q.—When did you write up Page 127? A.—The same day in the evening.

Q.—Were you furnished with any memoranda or any papers of any kind before you wrote up the entries in Exhibit 8? A.—I got the times from the piece of paper from the third officer and I put them down in the scrap book.

Q.—Is there any entry made in these log books of the time of any helm course? A.—No.

Plaintiff's  
Evidence.

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ination.

Q.—Or of the sounding of any whistle? A.—No.

Q.—These times of these engine movements are the times that were given to you by the third officer, is that right? A.—The times of the third officer.

Q.—Now, after the collision, what did you do? A.—Rigged a collision mat outside over the damage.

Q.—And then what was done after that? Did you do any sounding-sound the bilges? A.—Yes, the carpenter sounded the bilges while I were arranging the collision mat.

Q.—Did you find any water at that time forward of the stokehole? A.— 10  
No, we had the same soundings in the bilges as at eight o'clock in the morning.

Q.—Do you remember what signals your ship sounded on her whistle and if she blew her whistle more than once, and do you recall your whistle signals? A.—Yes.

Q.—I think you mentioned one signal? A.—Yes, I said one short. That is all I heard.

Q.—And did you say how far the other ship was away when you first saw her wash from her propeller? A.—I said she was very close, hard to guess the distance 20

Q.—Did you give any estimate? A.—No.

Q.—At that time, you were doing what with her engines? A.—Working with her fenders outside No. 2 hatch.

Q.—You were working with what do you mean? A.—The ordinary fender on the deck, and we have to hang them over the side.

Q.—And did you shift the fenders along the side? A.—Yes.

Q.—It is obvious what you had the fenders for, but what was your intention with respect to the fenders? That is pretty obvious. A.—It looks to be a collision.

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CROSS EXAMINED BY MR. ERSKINE: 30

Q.—Did you have charge of heaving up the anchor when you started that morning? You were on the forecandle head? A.—I went on the forecandle head when we should start.

Q.—When you started away from the anchorage, did you have charge of heaving up the anchor? Were you on the forecandle head on command? A.—I was relieved by the second officer for just a few minutes and went back again.

Q.—When you left the anchorage, were you on the forecandle head? A.—When we left?

Q.—Yes? A.—Yes, when the ship started headway, I went up. 40

Q.—Were you there while the anchor was being hove up? A.—Not all the time.

Q.—But you were there before it was all the way up? A.—When we started and all the way up I was there too.

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Q.—You said your tug was on the starboard side pushing? A.—Yes.

Q.—The tug would not begin to push until your anchor was off the ground would it? A.—The anchor was off the ground before the last shackle would come in.

Q.—That would be before the tug would start to push, wouldn't it? What I mean is, the tug would not start to push you while your anchor was on the ground, would it? A.—No.

Q.—Now, if you started to heave up your anchor say at 8:50, how long would it take you to get the anchor off the ground? A.—That depends on what ground there is and how much chain we have got out. 10

Q.—Do you know how long it took that morning? A.—That is down in the log book.

Q.—Would you look at your log and tell me? A.—We started to heave at 8:50 and 9:05 the anchor were off the ground.

Q.—And then the tug would begin to push you? A.—Yes.

Q.—Now, you were on the forecastle head after you got there until the collision occurred, is that right? A.—On the fore deck. From the collision all the way up to the forecastle is supposed to be the fore deck of the ship. She struck right amidships.

Q.—But while you were up on the forecastle head, you were there to 20 handle the anchor? A.—Yes, stand by.

Q.—You were not there as a lookout? A.—No.

Q.—You were not paying any attention to the navigation of your ship A.—No.

Q.—But the first that you knew about the "Alcoa Rambler" was when you heard your ship call one blast, is that right? A.—Yes.

Q.—And I made a note when you answered Mr. Smith. As I got it you said you heard one blast "and I looked around and saw the other steamer." is that right? I made that note of what you said before. Do you remember saying that? A.—Excuse me, but if I could express myself in Norwegian? 30 Maybe I made a mistake in English, because I am not perfect in English. If you are going to trip me in English—

Q.—I am not trying to trip you. I want to know if I have got you right. As I made the note, you said: "I heard one blast and I looked around and saw the other ship."? A.—I looked around to see what they blew for.

Q.—The reason you didn't see the "Alcoa Rambler" before or sooner was that you were not looking in that direction, isn't that right? A.—No, she was behind some other ships. I just saw the bow of her first.

Q.—How do you know she was behind some other ships? A.—She must have been. 40

Q.—Did you see her behind some other ships? A.—No.

Q.—The first time you saw her was when the one blast blew? A.—Yes.

Q.—And you looked around and saw her right way? A.—I saw her when the bow was coming out.

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Q.—When you heard the one blast, did you see her right away or did you have to wait before you saw her? A.—I didn't take the time. It is hard to say, and that is a fortnight ago.

Q.—As I got it, you say, "I looked around and saw this steamer on our port side." Is that what you did? A.—That is what I said.

Q.—Where were you looking before? You were looking off to starboard were you? A.—Before I heard the one blast?

Q.—Before the one blast, were you looking off to starboard? A.—No, I was working with the windlass getting it ready. As we were heaving out, we had to shackle it out again to have it ready. 10

Q.—You were getting ready to use it again? A.—Yes.

Q.—When you looked around, to me that means in English: "I looked around in another direction". Is that what you did? A.—All right, I am corrected, and I say, looked ahead again.

Q.—And as soon as you looked up, you saw the "Alcoa Rambler," is that right? A.—I saw many other ships too, but that was the only ship I could see moving.

Q.—Did you see this other ship as soon as you looked for her? A.—I can't remember that.

Q.—Was there anybody on your ship that was trying to look for any- 20 thing that morning?

MR. SMITH:

I object to that question.

MR. ERSKINE:

You may object a hundred times. I am cross-examining.

MR. SMITH:

I know that, but that is not a fair question.

BY MR. ERSKINE:

Q.—Were there? A.—Yes.

Q.—How many other men? A.—Two men and the pilot. 30

Q.—Is that all?

MR. SMITH:

I object to that. This man can't speak, of his personal knowledge, who was watching.

BY MR. ERSKINE:

Q.—Is that all? A.—The Captain was in charge of the ship and not I.

Q.—You say there were some flags on this other ship? A.—Yes.

Q.—And they were hanging down so that you could not see what they were? A.—Yes.

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Q.—But she wasn't going very fast, was she? A.—I can't guess her speed.

Q.—She wasn't going very fast, was she? A.—Excuse me, what do you mean by fast?

Q.—That is your best answer, is it? A.—According to the National Steam Regulations, that is the limit for fast too.

Q.—Do you know what the meaning of the word "fast" is in English?

A.—No.

Q.—All right. Now, as far as you noticed, the other ship came on until the collision occurred without changing her heading—as far as you noticed 10 is that right? A.—No, she increased speed instead of decreasing.

Q.—I am not talking about speed; I am talking about her heading?

A.—Oh heading.

Q.—Did she change her heading before the collision? A.—I can't remember it.

Q.—As far as you remember, you can't say that she did? A.—No.

Q.—And, as far as you can remember, you can't say that your ship did?

A.—No.

Q.—You were up on the bow of your ship, weren't you? A.—Yes.

Q.—When your ship blew one blast, did you hear a signal from the other 20 ship? A.—Three short blasts.

Q.—Three short blasts. A little later, did you hear three blasts again?

A.—Yes.

Q.—Were they one short, one long and one short? A.—There was three short blasts.

Q.—Do you know what the signal is: one short, one long, one short?

A.—That is K.

Q.—And what does that mean? A.—Stop immediately.

Q.—Danger, doesn't it? A.—No, stop your speed immediately. Danger 30 is U; that is short, short and long.

Q.—It means danger, doesn't it? A.—No, stop; in Norwegian that means stop your speed immediately. Nothing about danger in our book anyhow.

Q.—You heard that other short blow, that signal right after the first three blasts? A.—Yes, some time between it.

Q.—Pretty quick, though, wasn't it? A.—It was some time between it.

Q.—When you heard the second blast, I understood you to say that you looked around, that that was the time you saw the wash of her propeller, is that right? A.—I didn't look around that time because the last time I 40 looked around I saw the "Alcoa Rambler".

Q.—You say you were not watching her after the first three blasts? Didn't you tell Mr. Smith that? A.—I wasn't paying attention, but I knew there was a ship coming out of the harbour.

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Q.—Did you tell Mr. Smith that after you heard the first three blasts you did not keep on looking at the other ship? Did you tell him that?

A.—Yes.

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Q.—Then you heard a second three blasts and you looked again, is that right? A.—Yes.

Q.—Now, is that the time you saw the wash of the other ship? A.—

No. Q.—How long after that did you see the wash of the other ship? A.— I don't know any time.

Plaintiff's  
Evidence.

Q.—You know what the statutory—the permitted load line of your ship 10 is? A.—Yes.

Q.—What is it? A.—That is 23 6½.

Q.—23 6½? A.—23 feet 6½ inches.

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ination.

Q.—I get what you mean. Would you look, at your log and tell me what your draught was on August 20th? A.—23 feet 6 inches.

Q.—Did you say to Mr. Smith that the third officer gave you a piece of paper with the times written on it? A.—We have got a block and we put times down and take off a page, and he gave it to me when he is on the bridge on port.

Q.—Where is that piece of paper. A.—I destroyed it when I put it 20 into the scrap book.

Q.—You knew there had been a collision? A.—Yes.

Q.—Why did you destroy that piece of paper? A.—Because it was exactly the same times down in the log book.

Q.—When the third officer gave you that piece of paper, did you understand that there was a record that had to be kept on the bridge. A.—Yes.

Q.—And you destroyed it after you put this in the book? A.—In the book.

Plaintiff's  
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RE-EXAMINED BY MR. SMITH:

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amination.

Q.—Is that customary? After entries are made in your deck log, do you 30 preserve these scraps of paper? A.—No, it is not customary, because

the log book used to be on the bridge, just the scrap; but I brought it down the night before to put everything in this ordinary log book and it was laying in my room when he went up on the bridge and I went in the fore-castle

Q.—Which was lying on the bridge? A.—The scrap log and ordinary log were lying on my table.

THE WITNESS THEN WITHDREW.

Plaintiff's  
Evidence.

No. 9.  
Sigurd  
Bergan,  
Direct Ex-  
amination.

SIGURD BERGAN, being called and duly sworn, testified as follows:

EXAMINED BY MR. SMITH:

Q.—You are the third officer of the "Norefjord"? A.—Yes.

40



RECORD  
PART I

*In the  
Exchequer  
Court  
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Judge.  
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Bergen,  
Direct  
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ination.

Q.—And when did you join this ship as third officer? A.—18th of February of this year.

Q.—Have you a Norwegian mate's certificate? A.—Yes.

Q.—How long have you had it? A.—Since 1932.

Q.—And have you sailed on other steamships as third mate? A.—I have been aboard English ships as third mate.

Q.—You have been aboard English ships as third mate? A.—Yes.

Q.—But never on another Norwegian as third mate? A.—Not as third mate. I have been on board a small sealing fishing ship as mate.

Q.—But you have sailed on British ships as third mate? A.—For two 10 months.

Q.—For two months? A.—Yes.

Q.—Now, you remember the 20th of August, the day of the collision? A.—Yes.

Q.—And were you on the bridge on that day? A.—Yes, I was on the bridge.

Q.—When did you go on the bridge? A.—I went on when the pilot came on board, just before the pilot.

Q.—And who was on the bridge with you? A.—The Captain, pilot and 20 wheelsman.

Q.—Were you on the bridge when the anchor was heaved up? A.—Yes.

Q.—And who was forward? What officer was in charge forward on the forecastle head to look after that? A.—Just the chief mate.

Q.—The chief mate. And did you stay on the bridge until after the collision? A.—Yes.

Q.—Was there a tug alongside your ship? A.—Yes.

Q.—A tug boat? A.—Yes.

Q.—And what did she do? A.—She pushed the "Norefjord" around.

Q.—She pushed the "Norefjord" around? A.—Yes.

Q.—From where? Where was she pushing? A.—From the starboard 30 bow.

Q.—The starboard bow of the "Norefjord"? A.—Yes.

Q.—Did she do that before or after the anchor was up? A.—After the anchor was up.

Q.—After the anchor was up. Who gave the orders that were given on the bridge? A.—The pilot.

Q.—I suppose he gave the orders in English? A.—Yes, in English.

Q.—And did the man at the wheel understand English? A.—Yes, he understood the orders.

Q.—He understood wheel orders in English? A.—Yes. 40

Q.—Where were you standing while these orders were being given? A.—I was standing on the starboard side by the telegraph.

Q.—And who gave the orders for engine movements? A.—The pilot.

Q.—And who operated the telegraph? A.—I did.

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ination.

Q.—Were the orders that you gave on the telegraph repeated to you from the engine room? A.—Yes.

Q.—Did you watch to see if the helmsman carried out the orders that were given to him by the pilot? A.—Yes.

Q.—After the ship's head was swung around, did the ship move ahead? A.—Yes.

Q.—How was she heading when she was lying at anchor? What direction was her bow. A.—I couldn't tell you.

Q.—Was it towards the shore or pointing up to the Basin? I am not asking your compass direction? A.—She was heading that way. 10

Q.—That doesn't mean anything? A.—I mean, the Basin is here.

Q.—Was she heading towards the western shore of the Basin or do you know? I don't want to ask you anything you don't know? A.—I couldn't tell you.

Q.—In any event the tug pushed her around from the starboard side? A.—Yes.

Q.—And she would push her head around to port, would she? A.—To port, yes.

Q.—Then did the ship start to move ahead after her head had been pushed around? A.—Yes. 20

Q.—Do you remember what was the first telegraph signal that you gave? A.—Slow ahead.

Q.—Slow ahead, and then what was the next after that? A.—Full ahead.

Q.—Have you any idea as to the time there was between those two orders? A.—No, it wasn't very long.

Q.—Not very long? A.—No.

Q.—Some minutes would you say or not? A.—I couldn't just tell.

Q.—In any event, the engine was put full ahead? A.—Yes.

Q.—You rang it on the telegraph? A.—Yes. 30

Q.—And was that repeated from the engine room? A.—Yes, it was repeated.

Q.—Were there other ships in the Basin on that day? A.—Oh yes, lots of ships.

Q.—At anchor? A.—Yes.

Q.—And which direction did you go? I mean, were you going? Perhaps you could tell us which direction you were going after you started ahead? No answer.

Q.—Did you know where you were going? A.—Yes, I know we were going over to the D. G. Range. 40

Q.—Did you know where the D. G. Range was? A.—I didn't know, in fact, where it was then.

Q.—Did you know which side of the Basin it was on? A.—Yes, it was on the east side of the Basin.

RECORD  
PART I

*In the  
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ination.

Q.—East side of the Basin. Now, were you going in the general direction across the Basin or not? A.—General direction?

Q.—Perhaps you could just say, in your own language, which way you were going—what was your general course? A.—I didn't look.

Q.—You were not steering by compass? A.—No.

Q.—But where were you going? You know where you were going don't you? A.—We crossed the Basin to go over to the east side to go over to the Range.

Q.—Yes, all right, and did you pass other ships at anchor when you were doing that? A.—Yes. 10

Q.—You passed some ships? A.—Yes.

Q.—Well now, there was some mention of a barge. Did you see a barge moving in the Basin? Do you know what a barge is? A.—Yes, I know what a barge is.

Q.—A barge towed by a tug? A.—I can't remember that.

Q.—You don't recall that? A.—No.

Q.—But you say you passed ships at anchor? A.—Ships at anchor, yes.

Q.—Do you remember if there were some helm orders by the pilot to the man at the wheel as you were going across the Basin? A.—Yes, he said: "Easy port". 20

Q.—"Easy Port"? A.—Yes.

Q.—Where were you then? A.—A little while after we started.

Q.—"Easy port" do you say? A.—Yes..

Q.—Yes, and what was the next matter that attracted your attention?

A.—We saw a ship come in.

Q.—Where was this ship? A.—She was coming on our port bow—on our port side.

Q.—On the port side? A.—On our port bow.

Q.—On the port bow. Did you notice which way she was heading? 30

A.—Yes, she was heading nearly right against us.

Q.—How far was she away? A.—I think she was about 600 or 700 yards away.

Q.—And she was on your port bow, do you say? A.—Yes.

Q.—Well now, did you hear anything after you sighted her or was anything done on your ship after you sighted the other ship? A.—We blew one blast.

Q.—What, short or long? A.—A short blast.

Q.—A short blast. Before that short blast was given, was there any helm order given on your ship? A.—Yes, the pilot said: "Hard to starboard". 40

Q.—The pilot said: "Hard to starboard". Was that the next helm order after the port helm order, which you have mentioned? A.—Yes.

Q.—Did the other ship answer with any signal on her whistle? A.—Yes, she blew three blasts.

RECORD  
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ination.

Q.—Short or long? A.—Three short ones.

Q.—Was that immediately after you had given the signal one short blast?

A.—Yes.

Q.—Did you notice whether the other ship was moving or not? A.—

I know she was moving; I saw she was moving.

Q.—Was she coming closer to your ship? A.—Yes, she was coming very fast.

Q.—You noticed that she was coming very fast, you say? A.—Yes.

Q.—What next did you notice? Was anything done on your ship after that? A.—Yes, the pilot gave an order to put the engine full astern. 10

Q.—Did you give that order on the telegraph? A.—Yes.

Q.—Was any whistle signal given by your ship at that time? A.—Yes we blew three blasts.

Q.—Can you give an estimate of how far away the other ship was away at that time? A.—Yes, I think she was about a cable. When we?

Q.—When you put your engine astern? A.—I think she must have about 300 yards—300 or 400 yards.

Q.—Yes. Did you notice whether the other ship gave any further signals?

A.—Yes, she gave three short blasts.

Q.—Was that before or after you gave your second three short blasts? 20  
A.—That was after.

Q.—After? A.—Yes.

Q.—How far would you say the other ship was away when she gave the second three short blasts? A.—She was about a cable length.

Q.—A cable length. A.—Yes.

Q.—Did you at any time observe, from the wash of her propeller, that the other ship's engine was going astern? A.—I saw it when she blew three blasts the second time. I saw the engine was going.

Q.—Was that after she blew or before she blew. A.—Just the same.

Q.—Just the same. You mean, very soon after? A.—Yes, very. 30

Q.—Was any further engine movement ordered on your ship after the engine was put astern? A.—No.

Q.—When you put your engines astern? A.—I usually put them full ahead again.

Q.—You usually put them full ahead again? A.—Yes.

Q.—Who ordered them to be put full ahead again? A.—The pilot.

Q.—Can you recollect how long your engines were going astern before they were put full ahead again? A.—Two or three minutes, a couple of minutes.

Q.—Is that just an estimate or have you any independent recollection? 40  
A.—I couldn't tell you.

Q.—Did you keep your engines going full speed for some time afterwards or was there any other engine movement after they were put ahead? A.—  
There was a stop at the collision.

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Q.—Had the engines been going astern before the collision? A.—Yes, they were astern.

Q.—They were astern. Do you recollect when they were put astern? This would be the second time, I suppose? A.—Yes.

Q.—Were the ships close together then or not the second time you say the engines were put astern? A.—Yes, the ship was close together.

Q.—The ships were close together. Do you know how close? A.—When she was very close, I didn't see her because I stood on the starboard side.

Q.—Did you see the anchor of the other ship dropped? A.—No. 10

Q.—You didn't? A.—No.

Q.—Why didn't you see it? A.—Because I stood on the starboard side of the wheel house.

Q.—Well, what do you mean, your view was obscured, you couldn't see? A.—No, the wheel house was in my way.

Q.—I see what you mean. Why were you standing on the starboard side? A.—I was standing with the telegraph all the time.

Q.—You were standing with the telegraph. Had you see that the engines were going astern from their wash before the other ship blew the second three short blasts? A.—No. 20

Q.—Did you say that the engines were stopped some time before the collision? Did you say that? A.—No, just when the collision occurred.

Q.—Just when the collision occurred? A.—Yes.

Q.—Did the other ship still have headway on just previous to the collision? Was she still going forward? A.—Yes, she was still.

Q.—You don't use the word "headway" I suppose? A.—No.

Q.—But the other ship was moving through the water? A.—Yes.

Q.—What, fast or slow, would you say? A.—She was slow.

Q.—Yes. What part of the other ship struck the "Norefjord"? A.—The stem. 30

Q.—The stem struck, and what part of your ship came into collision with the other ship? A.—Amidships.

Q.—Your amidships. What kind of a blow was it that was struck? A.—It was a hard blow.

Q.—A hard blow. Where were you at the time of the actual collision? A.—I was with the telegraph.

Q.—And after the ship struck, what happened? Did the ships come apart? Did the ships separate? A.—I didn't see that.

Q.—You didn't see that? A.—No.

Q.—Did your ship cross the bow of the "Alcoa Rambler"? A.—I 40 don't know what one.

Q.—I suppose that is obvious. You couldn't see from where you were? A.—Not when she was very close to.

Q.—What did you do after the collision? A.—I stood at the telegraph.

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ination.

Q.—You stood at the telegraph, and you used your engines for some time manoeuvring until the engines could no longer be used, is that right?

A.—Yes, that is right.

Q.—And later you were towed back to the west side of the Bedford Basin and beached by the tug? A.—Yes.

Q.—While you were on the bridge, did you make any entries in the scrap log, Exhibit 8? Did you write anything in this long? A.—Not in this.

Q.—About the collision? A.—No.

Q.—Did you have any scraps of paper, which you wrote anything down in pencil? A.—Yes. 10

Q.—What did you do? A.—I put down when the anchor was up.

Q.—You put down on what kind of a piece of paper? A.—Just a small piece of paper.

Q.—You marked down in what, pencil? A.—Pencil.

Q.—When the anchor was up? A.—Yes.

Q.—What else did you enter? A.—And the time of the collision.

Q.—And the time of the collision? A.—I put down on the paper the time the pilot came aboard and the time we started heaving the anchor.

Q.—What else? A.—And the time the anchor was up? 20

Q.—And what was the other? You mentioned something else? A.—The time of the collision.

Q.—Did you write on this scrap of paper the times of any of the helm orders or the engine room orders? A.—No.

Q.—Or the times when any whistle signals were given? A.—No.

Q.—Did you give that scrap of paper or piece of paper to anybody? A.—I gave it to the chief.

Q.—You gave it to the chief officer? A.—Yes.

Q.—And these are the only times, the times which you mentioned, which were marked on that paper? A.—Yes. 30

Q.—And how did you take the time of the collision? How did you get the time? A.—I saw it on the watch in the wheel house.

Q.—What was there in the wheel house? A.—The clock.

Q.—The time of the collision was taken from the wheel house clock? A.—Yes.

Q.—And what time was it, do you recall? A.—18 minutes past 9.

Q.—Did your ship still have headway on at the time of the collision? A.—Yes.

Q.—She still had headway? A.—Yes.

Q.—I think you told us you didn't write up the logs? A.—No. 40

Q.—The abstract of the deck log, "Alcoa Rambler" Exhibit 3, shows that your engine was put full speed astern about three minutes before the collision, at 9:15? A.—Yes.

Q.—And put full speed ahead at 9:16? A.—Yes.

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Q.—Full speed astern at 9:17 and engine stopped and collision occurred at 9:18? A.—Yes.

Q.—What do you say, from your recollection, as to the accuracy of these entries?

MR. ERSKINE:

I object to that question as incompetent, it is immaterial and it is particularly immaterial in my mind in view of the contradiction between him and the chief officer as to what was on that scrap of paper.

MR. SMITH:

The objection is reserved, I suppose.

10

BY MR. SMITH:

Q.—Well, answer that? What do you say about that? A.—I don't understand.

Q.—You don't understand? A.—No.

MR. SMITH:

I guess that answers your objection, Mr. Erskine.

BY MR. SMITH:

Q.—Perhaps I could put it this way to you, third? Can you recollect what time there was between these different engine movements, which are mentioned in the log?

20

MR. ERSKINE:

I object again because the testimony of the witness as I recall it does not agree with the entries in the log as to what the engine movements were.

MR. SMITH:

I don't think you are right there. I think he said his engine movements are all that were said there. However, your objection can be noted.

(Reporter reads last question to the witness).

A.—I don't understand the word recollect.

Q.—Well, remember? A.—Oh!

Q.—Can you bring your memory back? A.—Oh, no I can't no.

30

CROSS EXAMINED BY MR. ERSKINE;

Q.—On your vessel, is the wheel house in the center of the bridge? A.—The wheel house, yes.

Q.—Is it enclosed—built up? A.—Yes.

Q.—Does it have the war-time protection? A.—Yes.

Q.—A person standing in the wheel house cannot see very much outside, can he? A.—No.

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ination.

Q.—Now, was this telegraph that you were standing at in the wheel house  
A.—No. outside.

Q.—On the starboard side of the wheel house? A.—On the starboard  
side of the wheel house.

Q.—That is, the wheel house would shut out your view to the port side,  
wouldn't it? The wheel house, would interfere with your view of come-  
thing on your port side? Do you understand what I mean. A.—No.

Q.—If you were standing at the telegraph, you could not see through  
the wheel house, could you? A.—No.

Q.—You could not see what was on the port side then? A.—No. 10

Q.—You could not see what the man at the wheel was doing from the  
telegraph, could you? A.—No.

Q.—When the pilot came aboard, did you have this piece of paper, that  
you wrote the time on when he came aboard? A.—Yes.

Q.—Where was that piece of paper? Was it on a shelf or something?  
A.—In the chart house.

Q.—In the chart room. Did you go into the room to write on the piece  
of paper? A.—No, I had it in my pocket.

Q.—In your pocket. When you started to heave up the anchor, did  
you take the piece of paper out of your pocket and write the time on it? 20  
A.—Yes.

Q.—Where did you get the time from? A.—From the clock in the  
wheel house.

Q.—You did the same thing when the anchor was up. A.—Yes.

Q.—And you did the same thing when the collision occurred? A.—  
Yes.

Q.—Did you do the same thing when the pilot ordered the engines full  
astern and full ahead? A.—No.

Q.—It was part of your job to do that, wasn't it? A.—No.

Q.—Aren't you supposed to keep the times of those signals? A.—No 30

Q.—That is not part of your job? A.—No, I never heard anything  
about that.

Q.—Who is supposed to keep them? A.—They do that down in the  
engine room.

Q.—You gave this piece of paper to the chief officer after the collision?  
A.—Yes.

Q.—Would you look in the scrap log, Exhibit 8. These entries: 9.15,  
full speed astern, is that right? A.—Yes.

Q.—9:16 full speed ahead? A.—Yes.

Q.—9:17, full speed astern? A.—Yes.

Q.—And 9.18, stop, is that right? Is that what they say there, 9.18,  
stop, is that right? A.—9.18, stop. 40

Q.—Were those times I have read to you: 9.15, 9.16, 9.17 and 9.18,  
were they on the piece of paper that you gave to the chief officer? A.—  
No, just the time for the collision.



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ination.

Q.—Those four times, that I showed you there in Exhibit 8, were they on the piece of paper that you gave to the chief officer? A.—No, just one.

Q.—Which one? A.—The last one.

Q.—9.18? A.—9.18.

Q.—But not 9.15? A.—No.

Q.—Or 9.16? A.—No.

Q.—Nor 9.17? A.—No.

Q.—Now, I asked the chief officer where he got those times, and I understood him to say that they were on the piece of paper that you gave him.

Are you sure? A.—Yes, I am sure. 10

Q.—You are sure they were not? A.—They were not.

Q.—Do you know where the chief officer got those times from? A.—No.

Q.—What? A.—I think he got them from the—I don't know.

Q.—Do you know where he got them? A.—I think he got them from the chief engineer.

Q.—I don't want what you think. Do you know where he got them? A.—No, I don't know.

Q.—Did the chief officer have any talk with you about it after the collision? A.—No, after I gave him the piece of paper and I said: "That is all I got". 20

Q.—You don't know yourself what time these signals were? A.—No, I can't remember just—

Q.—Did you look at the clock at the time? A.—When the signal was made, you mean?

Q.—When you got the order for full speed astern, did you look at the clock? A.—No.

Q.—You don't know what time it was, then? A.—No.

Q.—I understood you to say that you got an order for full speed astern? A.—Yes. 30

Q.—Then you got an order for full speed ahead? A.—Yes.

Q.—And then the next order was stop?

MR. SMITH:

No.

MR. ERSKINE:

Just a minute; I am cross-examining.

BY MR. ERSKINE:

Q.—Is that what you said? A.—No. Yes, he gave me an order for full speed astern.

Q.—You got the order for full speed astern first? A.—Yes. 40

Q.—Then you got the order for full speed ahead? A.—Yes.

Q.—What was the next order? A.—Full speed astern.

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PART I

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ination.

Q.—Did you see this other ship, the “Alcoa Rambler,” before your vessel blew one blast? A.—Just before.

Q.—You did. What was it that attracted your attention to her? A.—There was a ship lying for anchor and we saw her come clear of that ship.

Q.—You saw her, did you? A.—Yes, I saw her.

Q.—Did you see her before you heard anybody else say anything about her? A.—I think we saw her the same time.

Q.—That is what you think. Did you hear anybody say anything about the ship before you saw her? A.—No.

Q.—Did you say anything when you saw her? A.—No. 12

Q.—How long after you saw her did you hear your ship blow one blast? A.—Just in the same moment.

Q.—Then she blew three blast—the other ship? A.—After we had blown.

Q.—After your one blast? A.—Yes.

Q.—Then she blew another three blasts pretty soon? A.—We blowed three blasts, I can't say exactly the time.

Q.—Was it pretty soon, pretty quick after the first one? A.—Not very long.

Q.—You said that the other ship was coming closer to your ship, is that right? A.—Yes. 20

Q.—But your ship had headway on, didn't she? Didn't she—your ship? A.—Yes we were going.

Q.—Wasn't your ship moving forward? A.—Yes.

Q.—And your ship was moving closer to the other ship, wasn't she? A.—Yes, both of us was moving.

Q.—And your ship kept on moving until after the collision, didn't she? A.—Yes.

Q.—How was your wheel or rudder at the time that you heard the other ship blow the first three blasts? A.—It was hard to starboard. 30

Q.—Was it changed before the collision occurred or did it stay hard to starboard? A.—It stayed hard to starboard.

Q.—Right from the time of your one blast until the collision? A.—Yes.

Q.—Your wheel was hard to starboard? A.—Yes.

Q.—Your ship wasn't answering the rudder very fast, was she? A.—No, because after she come port over, you know, it look a little time before she went to starboard.

Q.—You never did get her to swing to starboard—your ship before the collision? A.—Pardon?

Q.—You did not get your ship to swing to the starboard before the collision occurred, did you? A.—I suppose she was swinging starboard over before the collision. 40

Q.—She was swinging to port first before the one blast, wasn't she? A.—Before the one blast.

Q.—And when the wheel was put over to starboard—

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ination.

MR. SMITH:

He said something else; you didn't hear him.

BY MR. ERSKINE:

Q.—She was swinging to port before the one blast? A.—Yes, east or port, yes.

Q.—How long did she swing to starboard after the one blast? A.—I couldn't tell.

Q.—You don't know, do you? A.—No.

RE-EXAMINED BY MR. SMITH:

Q.—Did you notice if the other ship was swinging to starboard? A.— 10  
No, I don't know.

Q.—You don't know? A.—No.

Q.—But, at any rate, your ship was swinging to starboard? A.—She was swinging to starboard.

Q.—But you don't know the extent, is that what you mean? A.—No.

Q.—When the ship was manoeuvring across the Basin, could you tell if she was answering her helm well? A.—Pardon?

Q.—Do you understand what "answering her helm" means? A.—No.

Q.—You don't. When the ship was coming across the Basin? A.—Yes

Q.—I think you said that you had to pass several ships? A.—Yes. 20

Q.—And you had to move your helm one way or the other?

MR. ERSKINE:

I object. He didn't say that. He said he passed several ships. I didn't hear him say about changing his helm.

BY MR. SMITH:

Q.—I will ask him. When you were coming across the Basin before this first signal was given—the one you spoke about—was the helm moved to starboard or to port? A.—To port.

Q.—To port? A.—Yes.

Q.—And before it was moved to port, had it been moved previously? 30  
A.—I don't know; I can't remember; I don't remember anything before that.

Plaintiff's  
Evidence.

No. 9A  
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ination.

THE WITNESS THEN WITHDREW.

IVAN NILSEN, being called and duly sworn, testified as follows:

EXAMINED BY MR. SMITH:

Q.—What are you on the "Norefjord"? A.—I am able seaman.

Q.—You are an able seaman? A.—Yes.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada.  
Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence.

No. 9A  
Not taken  
in presence  
of trial  
Judge.  
Ivan Nilsen  
Direct  
Exam-  
ination.

Q.—Is that a quarter master? Would you call yourself a quarter master  
A.—There isn't any quarter master like on that ship.

Q.—You don't use the word quarter master in Norwegian ships? A.—  
No, those are in bigger ships.

Q.—Yes, but you are an able seaman? A.—Able seaman.

Q.—How long have you been going to sea? A.—Three years.

Q.—Three years. And how long have you been on this ship? A.—A  
little bit more than a year.

Q.—Were you the helmsman on the day of the collision? A.—Yes.

Q.—And where is the wheel of the ship? A.—It is in the upper bridge  
in the wheel house.

Q.—In the wheel house on the bridge? A.—On the upper bridge.

Q.—On the upper bridge. And do you remember who were on the bridge  
at the time? A.—Yes.

Q.—Who were the men on the bridge? A.—There was the pilot, the  
Captain, the third mate and I was at the wheel house.

Q.—Who was giving the orders to you? A.—The pilot.

Q.—The pilot? A.—Yes.

Q.—You understand helm orders in English, do you? A.—Yes, I  
understand the orders. 20

Q.—And where was the third officer standing? A.—He was standing  
beside the telegraph on the starboard side.

Q.—What was he doing? A.—He was supposed to use the telegraph.

Q.—He was supposed to use the telegraph? A.—Yes.

Q.—Who gave the orders for engine movements? A.—The pilot gave  
the order to the third mate.

Q.—To the third mate, and the third mate used the telegraph? A.—  
Yes.

Q.—Did you steer by compass that day? A.—No, I didn't steer by  
compass. 30

Q.—What kind of orders did you get from the pilot? What did he tell  
you to do? A.—From when we started, he told me to keep hard to port.  
That was when we heaved up the anchor and then we turned around and  
then we came to that point he told me to steady.

Q.—All right? A.—And then he told me to steer a little to port, but  
I didn't get time to carry out that order before he said: "Hard to starboard"

Q.—Had you gone for some time before that order to port was given?  
A.—Yes, we went steady for a while.

Q.—Was the ship going ahead? A.—Yes, going slowly ahead.

Q.—She went ahead slowly? A.—Yes. 40

Q.—At the first. Did she gain any more speed or could you tell from  
where you were? A.—No, I don't think so. She didn't move much.

Q.—You got an order to put the helm to what, was it to port? A.—  
Yes, a little to port.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence.

No. 9A.  
Not taken  
in presence  
of Trial  
Judge.  
Ivan Nilsen  
Direct  
Examination.

Q.—A little to port? A.—Yes.

Q.—Did you move the wheel over? A.—Yes, I moved over a little to port and then he told me to put the wheel hard to starboard.

Q.—And did you put it over to starboard? A.—Yes.

Q.—After you put the wheel hard to starboard, did you hear anything on your whistle? A.—Yes, I heard one short blow.

Q.—One short blow? A.—Yes.

Q.—What did you do with the wheel up till the time of the collision? Where was the wheel? A.—It was where I have been telling you.

Q.—Yes, you put the wheel hard over to starboard. A.—That is the 10 last of it before the collision.

Q.—That was the last of it before the collision: you put the wheel hard over to starboard? A.—Yes.

Q.—And was the wheel kept over to starboard until the collision? A.—Yes.

Q.—Did you see the other ship before the collision? A.—No, I didn't.

Q.—You didn't see the other ship? A.—No.

Q.—Is there protection around the wheel house? The wheel house has some protection? A.—Yes.

Q.—What does that consist of? A.—Cement. 20

Q.—Cement bags, is it? A.—No, concrete like.

Q.—Any windows? A.—Two small slots in the front.

Q.—Two small slots in the front. Any on the sides of the wheel house?

A.—Two smaller in the sides too, but you can hardly see out of those.

Q.—Did you see the other ship at all? A.—No, I saw it after the collision.

Q.—You saw it after the collision? A.—Yes.

Q.—Did you come out of the wheel house to see her or did you see her from the wheel house? A.—I could see her from the wheel house.

Q.—You saw her from the wheel house? A.—Yes. 30

Q.—Where was she? A.—Beside the bridge on the port side of the bridge.

Q.—She was abreast of the bridge on the port side? A.—Yes.

Q.—Did you feel the shock of the collision? A.—Yes, I could feel it.

Q.—But you didn't actually see the other ship? A.—No.

Q.—Could you see from where you were if the ship's head was swinging to starboard? A.—No, I couldn't see that.

Q.—You couldn't see that. Have you been at the wheel on this ship on many occasions? A.—Oh yes, every port we go in and out.

Q.—Do you know how she answers her helm? A.—Yes, I know that 40 very well; I have been steering very much.

Q.—Have you had any trouble with your steering gear? A.—No.

Q.—Did you look at the compass to see where your ship was heading at the time of the collision? A.—No, I didn't look at the compass.

Q.—You didn't look at anything? A.—No.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence.

No. 93  
Not taken  
in presence  
of Trial  
Judge.  
Ivan Nilsen  
Cross  
Exam-  
ination.

CROSS-EXAMINED BY MR. ERSKINE:

Q.—When you started that morning from the anchorage, you were turning under a left wheel? A.—Yes.

Q.—But then you got an order to steady, is that right? A.—That is right.

Q.—Then your next order was to port, is that right? A.—Yes that is right.

Q.—Now, was your wheel over to port when you got the next order, “Hard to Starboard”? A.—Yes, it was a little bit to port.

Q.—And that was the last order before the collision? A.—Yes, that was the last order. 10

Q.—Can you give me any estimate how long it was from the “Hard to Starboard” order until the collision occurred? A.—That is hard to say.

Q.—Have you any idea at all? A.—About a half minute; it is hard to tell.

Q.—Was it pretty short? A.—Pardon?

Q.—Was the time pretty short? A.—Yes.

Q.—It was between the “Hard to starboard” and the collision? A.—It looks like a long time but I don’t think it was so long.

Q.—You would not call it a long time, would you? A.—No. 20

Q.—Not a long time? A.—I was sure the collision was coming because the pilot was talking about it and I went over to the port side of the bridge where the ship was coming from.

Q.—Did you look at your compass to see how much your ship swung to starboard by the collision? A.—No, I didn’t.

Q.—You don’t know how much she swung? A.—No.

Q.—Did you look at your compass to see how much she swung to port when you got that order to port before “Hard to starboard”? A.—No, I don’t think she went far to port.

Q.—You had been steady first? A.—Yes. 30

Q.—And then you got the order to port? A.—Yes.

Q.—Was it hard to port? A.—No, a little bit.

Q.—Do you know how much your ship swung to port? A.—I don’t think she swung any to port.

Q.—But you don’t know how much she swung to starboard, do you, afterwards? A.—No.

Q.—Did you hear your ship blow one blast signal at the time the “Hard to starboard” order? A.—Yes.

Q.—Was that the first whistle you heard your ship blow? A.—Yes, that was the first whistle. 40

THE WITNESS THEN WITHDREW.

MR. SMITH:

It is agreed that I recell the First Officer must on the one point as to the preparation of the log, at Mr. Macdonald’s and my convenience.

RECORD  
PART I

C. TUPPER HAYES, being called and duly sworn, testified as follows:

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence

No. 10.  
In the  
presence  
of Trial  
Judge.  
C. Tupper  
Hayes,  
Direct  
Exam-  
ination.

EXAMINED BY MR. SMITH:

Q.—What is your name? A.—Charles Tupper Hayes.

Q.—How long have you been a pilot in Halifax Harbour? A.—22½  
years.

Q.—I see. Before that time, did you serve as an apprentice pilot? A.—  
I went on in 1917 as an apprentice and served three years as apprentice  
pilot and got a second class licence and went on two years. After three  
years as an apprentice, I got a license for piloting ships up to 1500 net  
tons. After two years I was pilot on those licences, I was examined and 10  
given a licence to pilot any description of ship.

Q.—What year was that in? A.—That would be in 1923.

Q.—And have you served continuously as a pilot since? A.—Yes.

Q.—And, needless to say, you have piloted numbers of ships in Halifax  
Harbour in the interval? A.—Quite a few.

Q.—Now, do you remember August 20th in 1942 on which day you went  
on board the Norwegian ship “Norefjord”? A.—Yes.

Q.—Do you recall what time you boarded that ship approximately?  
A.—I boarded her approximately 8:30.

Q.—About 8:30. In the morning? A.—Yes. 20

Q.—Where was she lying? A.—She was lying in Bedford Basin in a  
berth that they call B.

Q.—B? A.—That is in a circle on that chart there just above Mount  
St. Vincent.

Q.—I put in your hands “Alcoa Rambler” Exhibit 4 for identification.  
Is the letter B shown on that chart—anchorage B shown on that diagram?  
A.—On the regular?

Q.—On this diagram here, could you show it? A.—That is B. there.

Q.—And did you find the ship was anchored in that anchorage? A.—  
Yes, there was room for a number of ships to anchor in that anchorage 30  
called B.

Q.—Do you recall the position of your anchorage approximately in  
anchorage B? A.—What is that?

Q.—Do you recall what the actual position of your anchorage was on that  
morning in anchorage B? Did you take any anchor bearing? A.—No,  
I didn't take any anchor bearing or anything, but as far as I remember it  
she was anchored in B just slightly above Mount St. Vincent.

Q.—She was anchored in B just slightly above Mount St. Vincent.  
That is Mount St. Vincent Academy? A.—Academy, yes.

BY THE COURT:

Q.—Slightly above. What direction from Mount St. Vincent? A.—  
It would be north and east. 40

RECORD  
PART 1

*In the  
Exchequer  
Court  
of Canada,  
Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence.

No. 10.  
In the  
presence  
of Trial  
Judge.  
C. Tupper  
Hayes,  
Direct  
Exam-  
ination.

BY MR. SMITH:

Q.—Do you recall how far you were from the shore, or would you remember? A.—I would say we were approximately 500 yards from the shore.

Q.—Yes. And how was your ship heading, do you recall? A.—When I went aboard of the ship, she was heading about practically north.

Q.—North? A.—I didn't take any bearing at the time.

Q.—What sort of day was it as far as the weather was concerned?

A.—It was a moderate day, calm, very little wind and overcast.

Q.—When you boarded the ship, where did you go? A.—When I boarded the ship, I went to the Captain's room. 10

Q.—When you boarded the ship, you went to the Captains' room. And from there, where did you go? A.—I went on the bridge.

Q.—You went on the bridge. Was there a tug alongside? Did you come out in the tug or how did you come out? A.—I went out on the tug "Bansurf."

Q.—You went out on the tug "Bansurf"? A.—Yes.

Q.—Of the Maritime Towing Company? A.—Yes.

Q.—And you went on the bridge, you say, after seeing the Captain in his room? A.—Yes.

Q.—Who was on the bridge with you? A.—The Captain, the third 20 officer and wheelsman.

Q.—What was done as soon as you got on the bridge. A.—After we got on the bridge, the Captain said we would be a few minutes before they were ready in the engine room so I asked him to ring steam—put on the telegraph, which he did; and after a few minutes they rang that they were ready from below.

Q.—Yes? A.—And the Captain gave orders to the mate to heave away.

Q.—That is, to heave up the anchor? A.—To heave up the anchor.

Q.—Yes. Now, where was the tug in the meantime? A.—The tug was on the starboard bow. 30

Q.—She was made fast, was she? A.—He just put his line up, yes.

Q.—On the starboard bow? A.—Yes.

Q.—From then what was done? A.—After the mate rang "All clear, anchor all away" I gave orders to the tug to push the ship around to port.

Q.—Yes. Who was giving the orders as to the ship as navigator that day? A.—I was the pilot.

Q.—Where did you intend to proceed?

BY THE COURT:

Q.—To swing the ship to port? A.—Yes, the tug, pushed her around to port. 40

BY MR. SMITH:

Q.—Where did you intend to proceed? A.—We were going over the east side of the Basin to go over to the Degaussing Range.



RECORD  
PART I

*In the  
Exchequer  
Court  
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Nova Scotia  
Admiralty  
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Evidence.

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presence  
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Judge.  
C. Tupper  
Hayes,  
Direct  
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ination.

Q.—Would you look at “Norefjord” Exhibit 10, which is a chart of Bedford Basin, and you will note the position of the Degaussing Range as shown on that chart with the line drawn between the letters D and R. A.—Yes.

Q.—Will you tell us if that is the approximate position of the Degaussing Range? A.—Yes.

Q.—Well now, you said that you ordered the tug to push the ship's head around to port? A.—Yes.

Q.—What was done? Was that order carried out? A.—Yes.

Q.—How was your ship heading when the tug cast off her lines? A.—

When I let the tug go, we were heading practically east. 10

Q.—You were heading practically east. Did the tug cast off her lines? A.—Yes

Q.—And did you notice which way she proceeded? A.—No, after he let go we started ahead—he went around her stern and I didn't notice where he went, but I know he was going to the Degaussing Range to pick us up there.

MR. MCINNES:

I don't think that is evidence. I would move that that be struck out.

THE COURT:

No. 20

BY MR. SMITH:

Q.—Did you know if the “Bansurf” had anything to do with the—

MR. MCINNES:

Objected.

THE COURT:

I don't think, because I think he would have to find out by some hearsay evidence.

BY MR. SMITH:

Q.—Is it customary—

MR. MCINNES:

Objected to. 30

THE COURT:

Just a minute.

BY MR. MR. SMITH:

Q.—It is customary for ships, which go over the Degaussing Range, to be assisted by tugs in Halifax Harbour?

RECORD  
PART I

*In the  
Exchequer  
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ination.

MR. MCINNES:  
I object.

THE COURT:  
I think that is all right.

BY MR. SMITH:

Q.—What is your answer? A.—Yes, they always have tugs.

Q.—What is the purpose of having tugs? A.—When you go through that Degaussing Range going on a northerly course, after you get through you have to turn your ship around and go on southerly course and then turn around again and go back in a northerly course. 10

Q.—You say, it depends on how many runs you have to make? A.—Yes, sometimes you might get through in four runs and sometimes you might have eight runs and I know at times you might have as many as twelve runs.

Q.—I am asking this question, subject to Mr. McInnes' objection, and you don't have to answer until the Judge makes the ruling: What was your understanding as to the movements of the tug after she turned around?

MR. MCINNES:  
I object.

THE COURT.

No. Don't answer that. You have the other man. 20

BY MR. SMITH.

Q.—You ordered the tug to cast off her lines after turning around?

A.—Yes.

Q.—And you were going on what course then? A.—Approximately east.

Q.—What did you next do? A.—After the ship was turned around and heading in the position I wanted her heading, I told the Captain to put the ship full speed ahead, and the third officer, as far as I remember, was tending the telegraph. 30

Q.—Yes. Where was the telegraph? A.—It was on the left hand side of the bridge.

Q.—And did your ship proceed? A.—Yes.

Q.—And what was your course? A.—I wasn't steering any course.

Q.—No. You were steering no compass course? A.—No. The Basin was so congested with ships it was impossible to steer any course.

Q.—You might just tell the Court exactly what happened from the time you started ahead? You put the engine at full speed, did you? A.—Yes

Q.—All right. Just tell from there what happened? A.—After putting the engine full speed ahead, we continued on our course for a short distance and then noticed a tow boat with barge go across our bow going up the Basin. 40

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.  
Plaintiff's  
Evidence*

No. 10  
In the  
presence  
of Trial  
Judge.  
C. Tupper  
Hayes,  
Direct  
Exam-  
ination.

Q.—A tow boat with barge going up the Basin? A.—Yes.

Q.—How far was the tow boat away? A.—About 300 yards, and I blew one blast and starboarded her helm. The ship swung to the right.

Q.—And what happened to the tug and tow? A.—We kept on going and when I saw he was finally clear I told the fellow to ease his helm, which he did, and I told him to port his helm easy.

Q.—Now, what was your object in porting your helm easy? A.— I had to port where I was wanting to go up on the Degaussing Range.

Q.—All right. What was done from then on? A.—Asshe was swing-  
ing, when she started to swing to port, I happened to notice a ship's spars 10  
over another ship at anchor. The other ship at anchor was anchored about  
west of the Degaussing Range. When he came in the clear that I saw he  
was coming down the Basin to the Narrows, I blew one blast indicating  
that we were starboarding her helm. I told the helmsman to put the  
wheel hard to starboard because she had a port swing on her then.

Q.—How far do you estimate the other ship was when you first saw her spars? A.—A couple of thousand feet or more.

Q.—Then later, you say, she came in the clear? A.—Yes.

Q.—What do you mean by that, it was clear water between the two of you? A.—Yes, she came clear of the other ship. I had a clear view of 20  
her and I could see what she was doing.

Q.—What was her bearing as far as you could judge? A.—Her bearing as far as I could judge, was east northeast.

Q.—In points of the compass, what would she be? A.—I would say she would be about 4.

Q.—4 on which bow? A.—On my port bow.

Q.—And was that when you saw her clear or when you saw her masts first? A.—When I saw her clearly.

Q.—When you saw her clearly? A.—Because it was a very short time from the time I saw her spars until I saw her clearly. 30

Q.—I think you said you blew? A.—One blast.

Q.—One blast. Long or short? A.—One short blast to tell the helmsman to put his wheel hard to starboard, and the other ship answered me with three indicating he was putting his engines full speed astern.

Q.—What was the interval of time between these two signals? A.— It was just a matter of seconds.

THE COURT:

You mean, between his signal?

BY MR. SMITH:

Q.—Between your one short blast and his three short blasts? A.— 40  
Yes, when we blew the one short blast, he immediately answered with three.

Q.—And at that time how far would you judge the ships were apart?  
A.—Anywhere from 1800 to 2000 feet away.

RECORD  
PART I

*In the  
Exchequer  
Court  
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Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence.

No. 10.  
In the  
presence  
of Trial  
Judge.  
C. Tupper  
Hayes,  
Direct  
Exam-  
ination.

Q.—Yes. And what was your course at that time? A.—I couldn't say that.

Q.—What was the heading of your ship? Where was your ship heading for? A.—We were heading over for the eastern side of the Basin. I imagine we were heading northeasterly—east by south or east by north.

Q.—But do you recall which way your ship was heading with relation to any points on the other side of the Basin? A.—She was heading in a line between Turtle Head and the Degaussing Range.

Q.—I see. Well now, I think you have told us that the other ship answered with three short blasts? A.—Yes. 10

Q.—Could you observe the speed at which the other ship was coming when you first saw her clear of the other ships? A.—When I first saw her, I didn't think she had very little way onto her.

Q.—I see. And did you continue to watch her? A.—Yes.

Q.—And what did you notice after she gave the three signals? A.—Well, instead of slowing up, she seemed to me to gather more headway.

Q.—Instead of slowing up, she seemed to you to gather more headway? A.—That is the way it appeared to me.

Q.—Did you notice any alteration in course on her part? A.—Very little, if any; but if his engines would go astern, it would have a tendency to swing her bow to starboard. 20

Q.—But we haven't got to the point yet where you saw her engines going astern. Now, after you put your helm to starboard and gave the one-blast signal, which was answered by the three-short-blast signal, as you say, was was your helm kept to starboard? A.—Yes, because the ship when swinging to port it takes quite a little while before the starboard helm would take effect to bring her back again.

BY THE COURT:

Q.—How did your ship respond to the starboard helm? A.—She responded to the starboard helm, but it takes more time to make a swing than if she had been steady. 30

BY MR. SMITH:

Q.—What was the speed of your ship when the other ship was first observed? A.—I imagine five or six knots.

Q.—You say it appeared to you the other ship was gaining speed after she gave the three short blasts? A.—As far as I could see she didn't—in my estimation she didn't stop any and as we were closely together she seemed to me to be coming through the water faster than I figured she was when I first sighted her.

Q.—Yes, from your knowledge as a pilot and from your experience what do you say would have happened if the engine had been put full speed astern on that ship? 40

RECORD  
PART I

*In the  
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C. Tupper  
Hayes,  
Direct  
Exam-  
ination.

MR. MCINNES:

I don't know that we can go into speculations.

THE COURT:

No, I think that is something like the question Mr. McInnes was asking yesterday.

MR. SMITH:

Very well, My Lord.

BY MR. SMITH:

Q.—What was done next by either of the ships? What did you observe was done next by either of the ships? A.—I don't know what was done 10  
on his ship, but I know when I saw her coming through the water I thought that she was coming too fast and there would be a chance of collision, and I kept the helm hard to starboard and went full astern.

Q.—You went full astern? A.—Yes.

Q.—Was there any signal given by your ship when you went full astern?  
A.—Three blasts.

Q.—Short or long? A.—Short.

Q.—Was that signal the first signal that followed the three blasts that was given by the "Alcoa Rambler"? A.—To my knowledge, that is all I heard was three blasts from the "Alcoa Rambler". 20

Q.—Did you hear any other signal than the three short blasts that was given by the "Alcoa Rambler"? A.—No, I didn't hear any other.

Q.—Now, you say that you put your engines full astern and sounded three short blasts? A.—Yes.

Q.—Could you give an estimate as to the distance the ships were apart when the engines were put astern? A.—When we put the engines astern on our ship?

Q.—Yes. How far was the "Alcoa Rambler" away then? A.—I would say about 75 yards at that time.

Q.—75 yards. Did you make any change in the engines then? A.— 30  
Yes, we stopped the engines from full astern and put her full ahead again.

Q.—Between that time and the collision, you say that after you put your engines astern, you put them ahead again? A.—Yes.

Q.—And then you put them astern again? A.—Yes.

Q.—Well was there any other movement between the full astern and the collision? A.—I am not sure now, It is in my report, but I think we stopped and put her head again and then when I saw that the other ship was going to hit us, we stopped altogether.

Q.—You stopped altogether before the collision? A.—Yes.

RECORD  
PART I

BY THE COURT:

Q.—I am not so sure that you have got him right there. Was it only once you signaled for full speed astern. A.—Yes, your Honour.

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Q.—And when you think you were about 75 yards apart, what happened then? A.—That is the time we went full astern.

Q.—Full astern? A.—Yes.

Q.—And after that? A.—Then, Your Honour, she didn't seem to swing and we stopped and went full ahead again, then hard to starboard around.

Plaintiff's  
Evidence.

Q.—And then you put her astern again? A.—Yes. 10

Q.—And then you stopped her before the collision? A.—Yes, because we couldn't get too much speed on because we were getting too close to the eastern shore of the Basin.

No. 10.

*In the  
presence  
of Trial  
Judge.  
C. Tupper  
Hayes,  
Direct  
Exami-  
nation.*

BY MR. SMITH

Q.—Did the effect of your going astern reduce the speed of your ship? A.—Oh yes, to a certain extent.

Q.—Now, what do you say as to the speed of the other ship when she approached your ship? A.—Possibly three knots.

Q.—Yes. Was her speed being reduced between the time you went astern on your engines and the time of the collision? A.—What, the speed of the "Norefjord"? 20

Q.—The speed of the "Alcoa Rambler"? A.—I said before she didn't seem to slacken any speed.

Q.—Did you observe any flags on the "Alcoa Rambler"? A.—I observed two flags, to my knowledge; but the weather was moderate and they were just hanging down and I couldn't tell what they were, but I surmised, the ship being under way, one was a pilot flag.

Q.—Yes. Some evidence has been given in this connection about a small naval escort vessel in the vicinity of this collision. Did you observe any naval escort boat that day before the collision? A.—I saw this small naval launch heading towards the Narrows, but I didn't know at the time she was escorting anything because there is always a lot of naval launches around. 30

Q.—Were there any such flags on that naval craft to which your attention was drawn? A.—They always fly I.C., but that morning there were no wind to fly any flags out to tell what they were.

Q.—Did you see this naval launch come close to your ship before the collision? A.—He headed towards our ship but he didn't come very close to it. I should say within 150 yards I heard some fellow shouting, but I couldn't hear what he said; it was too far away to hear what he was saying. 40

Q.—Yes. Was there any reply made from your ship? A.—Not to my knowledge.

Q.—Did you reply? A.—No.

Q.—Did you hear anybody reply? A.—No.

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BY THE COURT:

Q.—Did I understand you to say that after you got under way there was a naval launch crossed your bow? A.—No, a tug and barge.

BY MR. SMITH:

Q.—A tug and a barge going up the Basin? A.—Yes.

BY MR. SMITH:

Q.—Did you notice the anchor or one of the anchors of the "Alcoa Rambler" being dropped before the collision? A.—Yes, it was the starboard anchor I think was dropped when we were very close.

Q.—How close would you say? A.—We weren't fifty yards away. 10

Q.—Did the starboard anchor appear to have any effect in reducing the speed of the "Alcoa Rambler"? A.—No, it was too close when it was dropped. It wouldn't have any effect.

Q.—Did the "Alcoa Rambler" have headway at the time of the collision? A.—Yes, very little.

Q.—How did the ships come into contact? A.—I was heading across and he was coming down and he just caught us right amidships.

MR. ERSKINE:

He indicated something with his hand. I would like to have it on the record. 20

MR. SMITH:

Yes, the stenographer can't put that down.

BY MR. SMITH:

Q.—What in your recollection, would be the angle of impact? How did the ships come together? Was it a right angle or less than a right angle or more than a right angle, do you think? A.—Whatever you call it, we were right across his stem.

Q.—You were right across his stem? A.—Yes.

Q.—And what do you say as to the nature of the blow that was struck by the stem of the "Alcoa Rambler"? A.—There is a considerable amount of damage done to the "Norefjord." Of course the "Alcoa Rambler" is a heavy ship; she wouldn't have to have very little— 30

MR. MCINNES:

I don't think the answer is responsive, My Lord.

THE COURT:

As I understand it, yes.

MR. MCINNES:

It doesn't matter very much.

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BY MR. SMITH:

Q.—Go ahead? A.—The ship would have to have very little way on to hit another one amidship with her stem that she wouldn't do damage.

Q.—Do you know where she hit? Was it on the bulkhead? A.—No, between the bulkheads as far as I found out.

THE COURT:

Have you a very accurate description of the damage to both ships?

MR. SMITH:

Yes, we have a survey. It wasn't our intention, My Lord, to give any evidence as to damages, but I have the evidence of the Halifax Shipyards 10 as to the nature of the repairs that were done there, and perhaps Mr. McInnes and I can agree as to putting the survey in.

MR. MCINNES:

I think there is some evidence in the record as to the sounding of the tanks and so on.

MR. SMITH:

I think it would be well to have some evidence to assist His Lordship.

THE COURT:

Yes.

MR. SMITH:

I think, as a matter of fact, Mr. Laurie of the British Corporation—he 20 was in a rather invidious position because he was acting for both sides. He made the survey but perhaps Mr. McInnes and I can agree on that about the evidence of the survey. There was a survey here on the ship and I can get access to the records.

THE COURT:

It would be helpful to me to get the nature of the impact.

Argument continues.

THE COURT:

What I want to get at, it might be supplementary as to the evidence given 30 here as to the exact collision. For example, if this was an absolutely head-on collision by the stem of the ship, it puts the thing in a different position than if it were a sliding blow.

MR. ERSKINE:

I understand that.



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MR. SMITH:

I suppose we can go into that phase of actual impact when we get the evidence which we mentioned.

BY MR. SMITH:

Q.—What would you say was the speed of the “Norefjord” at the time of the collision—your estimate? A.—I don’t think she had any more speed than two knots on her at the time, if she had that.

Q.—What was your object in putting your helm hard to starboard when you first observed the other ship? A.—As we had a course—

MR. MCINNES:

I don’t know, My Lord, if what went on in the witness’ mind is evidence what his object was? It is what he did. 10

THE COURT:

I suppose what he expected anyhow isn’t it. What he expected would be the response of his ship to that certain manoeuvre, if you can call it a manoeuvre, and I perhaps am in just as good a position to answer that. Not in as good a position because I don’t know anything about it as the witness does. He can say that. If you want to enlighten me, ask what would be the result of putting the helm to starboard, all right. Perhaps I can guess that. 20

BY MR. SMITH:

Q.—From the time you first observed the “Alcoa Rambler” were you heading towards a point on the eastern shore of the Bedford Basin between? A.—As I said before, between Turtle Head and the Degaussing Range.

Q.—Between Turtle Head and the Degaussing Range. And that was your course? A.—That is the way I intended to go over.

MR. MCINNES:

That is leading, but we have got it in once.

MR. SMITH:

Yes. 30

THE COURT:

I don’t think you can mislead this witness by leading.

MR. SMITH:

No, I don’t think so.

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Q.—Which end of the Degaussing Range did you intend to enter from?

A.—I intended to enter from the south end.

Q.—You intended to enter from the south end. And when you were going over the Degaussing, I think you said you have to get on a certain course? A.—It is practically north and south.

Q.—North and South magnetic, is it? A.—North and South magnetic yes.

Q.—You are not a technician on the use of the Degaussing Range?

A.—No, I don't know anything at all about that. 10

Q.—There was a gentleman by the name of Lieutenant Dyke. Do you know him—the man that makes the observation? A.—I might know the man if I saw him. There is more than one of those Degaussing officers, and I wouldn't know which one.

Q.—You wouldn't know him? A.—I would only know him by sight.

Q.—In any event, you intended to enter from the southern end? A.—From the southern end.

Q.—I see. There has been evidence given in this case that the "Nore-fjord" and the Alcoa Rambler were at the time they came in sight of each other on parallel or nearly parallel courses? 20

MR. MCINNES:

I don't know My Lord, that that is a question that can be asked. "There is evidence given that they were on"—He can ask what he saw.

THE COURT:

He can ask if they were on parallel courses.

BY MR. SMITH:

Q.—All right. From the time you first observed the "Alcoa Rambler" was she on a parallel course with your ship? A.—No.

Q.—And at any time whatever, was she on a parallel course? A.—No, I can't see how we could be on a parallel course because I was crossing 30 the Basin and he was going out.

THE COURT:

Q.—Apart from that, do you recollect the positions sufficiently well to know? A.—Your Lordship, I don't think we could be parallel at any time.

Q.—That wasn't just what I have asked. You have given a vague reason, of course, why you should say they weren't parallel; but, from your observation of the positions of the ships, did you see at any time they were parallel or were going parallel? A.—No.

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BY MR. SMITH:

Q.—Did you notice what his general course was—the course of the “Nor-  
effjord” was all the time you observed him? A.—No, I wasn't paying  
much attention to his course.

Q.—No, but did you know in which direction he was proceeding? I  
don't mean the points of the compass, but in relations to the Narrows or any  
other—? A.—The position he was in, he could have been heading about  
south southeast magnetic.

Q.—South southeast magnetic. And where would that course take him?

A.—From where I saw him, he would be heading down for the Narrows. 10

Q.—Down for the Narrows. And did you notice any perceptible change  
in his course from the time you first saw him until the actual collision?

A.—I would say the ship went slightly to starboard.

Q.—Slightly to starboard. When did you observe that change for the  
first time—that change in course? A.—When we were very close together  
I noticed that she had a slight swing to starboard and naturally his engines  
were going full astern and his starboard anchor down and she would go that  
way.

Q.—Was there any change in the course of your vessel—of the ship be-  
tween the time you put your helm to starboard up till the time of the col- 20  
lision? A.—Yes. We had a port swing and after I put the helm hard to  
starboard and going ahead a little then she steadied and than she started  
coming to starboard.

Q.—Was that swing to starboard assisted by going to stern? A.—Yes  
with a right hand screw, the ship going astern would swing her bow to star-  
board to the right.

Q.—Yes. At slow speed would the ship swing as quickly as if she had  
more speed? A.—The more speed the more quickly she would swing.

Q.—So, in other words, at slow speed she doesn't swing very quickly?  
A.—No. 30

Q.—But you say there was a swing to the starboard? A.—Yes.

Q.—Did you continue to swing to port—to circle to port right up to the  
time of the collision? A.—Oh no, she couldn't swing to port—continue  
swinging to port after we put the helm hard to starboard. She would for  
a short time until her port swing had stopped, and then she would come  
back to starboard.

Q.—You say your port helm movement was “Easy port”? A Yes.

Q.—What do you mean by that? A.—Not come too fast. You can  
put your helm hard over or you can put it quarter way over or half. If  
you want to swing fast, you put it hard over. 40

Q.—And the order you gave was “Easy port”? A.—Yes.

Q.—And you gave that order to whom? A.—The quartermaster.

Q.—The quartermaster, the helsman? A.—Yes.

Q.—Did he carry out that order? A.—Yes.

Q.—You saw him carry it out? A.—Yes.

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Q.—He put it over how far? A.—I didn't notice how far he put it over, but I know the ship was answering to the order I had given.

Q.—And then you gave the order to starboard, and that was hard starboard? A.—Hard starboard after I blew one blast.

Q.—And from the time the "Alcoa Rambler" came clear of the ship at anchor, was there clear water between the two ships up to the time of the collision? A.—Yes.

Q.—There were no ships obstructing your view? A.—No.

Q.—What would you say was the position of the two ships at the time of the collision? Could you mark on the chart? I show you a chart which is an American chart, I think, or a Canadian chart made by the Canadian Government, Norefjord Exhibit 10, a chart of Bedford Basin? A.—Yes. 10

Q.—Where, in your opinion, did the collision take place? A.—Right around here.

Q.—Now, could you mark where you think the collision took place? A.—The spar buoy off down here somewhere. It was out here somewhere. I am positive on that, Your Honour.

THE COURT:

Nobody could be positive. You put H. there. 20

(Witness marks on chart.)

MR. MCINNES:

Can I put it in larger letters, My Lord?

THE COURT:

Yes.

Q.—This is the position by circle at H? A.—Yes.

Q.—Is it usual or customary at the moment of a collision for somebody to identify the place where the collision took place? You know what I mean? A.—Your Lordship, not at all times.

Q.—No. I don't suppose it would be your duty anyhow? A.—The 30 engineer came up and said the water was coming in the engine room.

Q.—All right.

BY MR. SMITH:

Q.—Could you mark on that chart what judgment was of the respective headings of the two ships at the time of the collision? A.—I was going across there and he was coming down there.

(Witness marks on Norefjord Exhibit 10 the respective courses of the two ships at the time of the collision, the course of the "Alcoa Rambler" being shown by the initials A. C. and the course of the "Norefjord" by the initial N.) 40

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Q.—Will you look at this chart Exhibit Norefjord 10 and will you explain what those two red marks shown in the Narrows indicate? A.—They indicate you must go through the two to go down the channel.

Q.—What do those red marks indicate? Are they buoys? A.—They are buoys, yes.

Q.—And the fairway is between those two buoys? A.—Between the two.

Q.—And those buoys are opposite Turtle Head? A.—Yes.

Q.—And what is Turtle Head, a signal station? A.—It is a naval signal station.

10

MR. MCINNES:

I think we all agree on that.

BY THE COURT:

Q.—Just a minute. Is there any recognized fairway in the Basin itself—Bedford Basin? A.—Your Lordship, the only recognized fairway is this line right up here. They have range sights right up here in Bedford to agree with the range sights. That takes you up to the centre of the Basin.

Q.—Perhaps you might mark that line to recognize the fairway?

MR. SMITH:

It isn't marked fairway. It is marked—the letters are in line with 313 degrees 45 minutes true. Perhaps what Your Lordship had in mind was—I suppose Your Lordship had seen "Alcoa Rambler" Exhibit 4, which is the diagram?

20

THE COURT:

Yes.

MR. SMITH:

Perhaps I could show this diagram to the witness and straighten it out.

BY MR. SMITH:

Q.—Would you look at "Alcoa Rambler" Exhibit 4 and tell the Court what those two parallel lines drawn from the Narrows up towards the head of the Basin indicate? A.—There were a time there that those lines indicated prohibited anchorage.

Q.—Yes, but what do they indicate at the present time? A.—They don't indicate anything as far as I know, because you get enough ships to fill that place; you have got to anchor wherever you can anchor.

Q.—I see. So the object of that diagram is to show? A.—Was to keep the centre of the track right up the centre of the Basin clear.

Q.—But if there are ships in the Basin that cannot be put in the—if there are too many ships in the Basin—

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MR. MCINNES:  
I object.

MR. SMITH:  
This evidence has been given by Clarke anyway. I don't think we need bother with it. I wasn't bringing it out. It was just to answer the question Your Lordship asked.

BY THE COURT

Q.—I will ask you the same question as I asked the pilot yesterday—Captain Clarke: Who places ships that come into the Basin in their berths?

A.—The pilot, Your Lordship. 10

Q.—There is no naval authority looking after that? A.—No.

Q.—I had an idea there was. That idea was rather more or less strengthened yesterday by a statement made in the newspapers, to which I don't pay much attention. As far as the public was concerned and the observation of the rules, I can find out myself, so that if there is a breach of the rules I would like to give the proper authority, but you have the authority? A.—There may be some special anchorage they might order you to put a ship in, but that is only an occasional time that probably something particular the ship has got to have done to her that they want a certain berth, and they will tell you to put her in that. 20

BY MR. SMITH:

Q.—Are there certain anchorages for ships? A.—Yes, ammunition ships, they are anchored in the part of the Basin that is marked red—the examination anchorage.

Q.—Can you give us any idea where this ship was at anchor which was between your ship and the "Alcoa Rambler" at the time you first observed the masts of the "Alcoa Rambler"? Was she nearer to the "Alcoa Rambler" or was she nearer to you? A.—Oh no, she was nearer to the "Alcoa Rambler".

Q.—She was nearer to the "Alcoa Rambler". There were no other ships then, between you and the "Alcoa Rambler" but this ship that was at anchor? A.—Just that one ship, and the "Alcoa Rambler" was passing down to the eastward of that ship at anchor. 30

Q.—She was passing down to the eastward of that ship at anchor? A.—That is why I only saw her masts when I first sighted her.

Q.—Yes. Could you give any idea how close the "Alcoa Rambler" passed to her? A.—I didn't notice that. I would say he passed a safe distance but that is all I could say.

Q.—Could you assist the Court by giving an estimate as to the distance this anchored ship was from your ship? A.—At the time when I first sighted the "Alcoa Rambler", about 1500 feet approximately. 40

Q.—I see.

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THE COURT:  
That is the intervening ship?

BY MR. SMITH:

Q.—The intervening ship? A.—Yes, Your Lordship, the one at anchor.

Q.—You mentioned a tug boat with a barge was proceeding in the Basin and you altered your starboard. That is before you, saw the other ship?

A.—Yes.

Q.—Did you give any signal at that time for the ship with the barge?

MR. MCINNES:

I think he said that already.

10

MR. SMITH:

Has he said that already? He said that he did?

THE COURT:

Yes, he did. I thought that was the escort tug.

BY MR. SMITH:

Q.—I think you have already said you didn't specially notice the "Bansurf" from the time she left you until after the collision? A.—After the collision, the first I noticed she steamed over to us.

Q.—She steamed over to you. Which side did she come alongside?

A.—The port side.

Q.—She came alongside your port side? A.—He didn't come alongside of it. He came off of the port side, and after that we had to get him to take a line ahead and tow the ship down and put her on the bottom.

Q.—You beached her, did you? A.—Yes, we had to.

Q.—She was making water? A.—Yes.

Q.—Where did you beach her? A.—Down on the bottom of A there on the chart, right inside of the Irving Oil Wharf.

Q.—The chart Alcoa Rambler Exhibit 4? A.—Yes, right down on the bottom we put the ship on the bottom.

Q.—Could you use your own engines—the engines of the "Norefjord"? A.—After the collision, we could use them for just a few minutes and then we couldn't use them any more.

Q.—Why? A.—For the water in the engine room.

Q.—I see. The "Bansurf" towed you back to the Irving Wharf? A.—Yes.

Q.—Did you notice the launch "Tuna" near the collision that day? A.—No.

Q.—You didn't notice her. Or did you notice where this escort boat was at the time of the collision—the escort boat—the other escort boat was at the time of the collision? A.—We didn't pay much attention to

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him, and as far as I remember he started down the Basin. He was below the ships at the time of the collision.

Q.—He was below the ships at the time of the collision?

MR. MCINNES:  
To whom is he referring?

MR. SMITH:  
An escort boat.

BY MCINNES:  
H. C. 58 I think it is.

THE WITNESS:  
Harbour craft they call it.

10

THE COURT:  
The "Tuna"? What was that?

MR. SMITH:  
The "Tuna" was the launch used to take Lieutenant Dyke, the Degaussing man, over; and there was a witness, Stanley Cook, he was the operator of her.

BY MR. SMITH:

Q.—Were the orders, which you gave to the engine room, or which were given on the telegraph, were they carried out on your ship? A.—They 20 were answered every time the telegraph was rung.

Q.—Answered from where? A.—From the engine room.

Q.—From the engine room. And do you know, as a matter of fact, whether or not, from what you could see or feel on the bridge, your engines were put astern or put ahead when it was telegraphed for them to do so? A.—You can tell by the movement of the ship whether her engines are moving or not.

Q.—Yes. Vibration, do you mean? A.—No, whether you want to go to starboard or port and you put your helm over and your engine ahead and if she doesn't answer the engine isn't going and if she does it is going. 30

Q.—Yes. Did you observe at any time the wash of the propeller of the "Alcoa Rambler"? A.—No.

Q.—Why didn't you see the wash of the propeller of that ship? A.—Well, in my opinion I don't think the "Alcoa Rambler" went astern until she was almost into us.

Q.—I see.



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MR. MCINNES:

My Lord, I don't know if the witness—perhaps my objection is not proper, I don't know.

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THE COURT:

It is only an opinion. He should tell what he saw.

BY MR. SMITH:

Q.—Tell what you saw? Were you able to see if there was any wash from the propellor of the Alcoa Ramble? A.—I don't think I did because I was too busy watching what we were doing ourselves to watch the other ship. 10

Q.—And were you watching the other ship too? A.—Naturally, she was coming right onto us and I was on the port side of the bridge. I could see her and see what we were doing ourselves too.

Q.—Yes. And you saw her drop the anchor? A.—I didn't see him, but when I heard the chain start to run I looked and I saw he dropped his anchor.

Q.—Yes, but did you notice at any time any wash from her propeller? A.—No.

Q.—I think you told us you just heard the one three-blast signal from the other ship? A.—That is all. 20

Q.—And I think also you told us that the courses of the two ships were practically the same except that the both ships canted somewhat to starboard? A.—Yes.

Q.—Before the collision? A.—Yes.

Q.—I suppose you didn't keep any record of the times? That is done by the members of the ship's company? A.—All the times were taken by the ship's officers.

Q.—All the times were taken by the ship's officers. I mean, you don't keep any records at all? A.—No. Sometimes we do.

THE COURT RECESSED AT HALF PAST ELEVEN FOR TEN 30  
MINUTES:

C. TUPPER HAYES, resuming the stand, the cross-examination commenced as follows:

*C. Tupper  
Hayes,  
Cross  
Exam-  
ination.*

CROSS EXAMINED BY MR. MCINNES:

Q.—A. R. 15, No. 5289. I am handing you A. R. Exhibit No. 15, which is a chart of Bedford Basin, and I want, first of all, to have you mark on this chart the position of the anchorage of the "Norefjord" on the 20th of August, 1942 prior to the collision? A.—If I had—

Q.—Do you want dividers? A.—If I remember it off-hand.

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MR. SMITH:  
Do you want the small chart?

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MR. MCINNES:  
I would just as soon he would do it with a fresh chart.

THE WITNESS:  
To my knowledge, it is about there.

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BY MR. MCINNES  
Q.—You had better mark that N. anchorage and put H underneath it.

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THE COURT:  
Make a little circle where he says it was. 10

MR. MCINNES:  
Yes, there is a circle here, My Lord.

MR. SMITH:  
It is marked N. anchorage, is it?

MR. MCINNES:  
N anchorage and Hayes underneath.

BY MR. MCINNES:  
Q.—Will you mark the point of collision on the chart?

MR. SMITH:  
He has already marked the point of collision on this other chart. Is it 20  
fair to ask—

THE COURT:  
I think it is all right. I suppose the charts are the same Are the mar-  
kings of the charts all the same?

MR. MCINNES:  
No, this is different. I would like him to take a fresh chart.

THE COURT:  
That is all right. Why aren't the charts the same?

MR. MCINNES:  
The charts are the same, My Lord. No, they area little different. They 30  
are different dates.

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THE COURT:

I don't see any material difference in the charts. (Witness marks)  
(Hayes identifies the point of collision with the circle and written memo.  
"Hayes, cross examination")

BY MR. MCINNES:

Q.—I want you to show on this same chart the course of the "Norefjord"  
from the leaving of anchorage up to the time of collision? A.—We didn't  
have any course.

Q.—I want you to draw it?

BY MR. ERSKINE:

Q.—Draw a steady line from one point to the other? A.—As the ship  
was pushed around to port, she was heading across here, we starboard.

Q.—I want you to draw a line.

MR. SMITH:

I don't think this, My Lord, is a fair question.

THE COURT:

He said he wasn't pursuing any particular course. He can indicate gener-  
ally what his course was.

(Witness marks.)

BY MR. MCINNES:

Q.—Will you also mark on this chart the Degaussing Range as you under-  
stand it? A.—It is there.

Q.—I know it is, but I want you to draw it here? A.—I am not sure  
now the exact position.

Q.—Give your idea of it?

MR. SMITH:

I don't think he should have to mark that Degaussing Range. He is not  
professing to be an expert.

THE COURT:

I will take all that into consideration.

BY MR. MCINNES:

Q.—You might mark the position of the Degaussing Range? (Witness  
marks "S. T." indicating the Degaussing Range as identified by Hayes)  
A.—This Degaussing Range isn't all that line. There is only two spar  
buoys.

Q.—Show where they are? A.—The two spar buoys are about here and  
here. We must go between those to come down.

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Q.—K. L. we will mark the buoys, is that right? A.—Just spar buoys.

Q.—Would that be all right, K. L. the position of the buoys marking the Degaussing Range? A.—Yes, the building opposite those two stakes is where they test the ship as she goes through between those two stakes.

Q.—If you can, you might mark the place of the building? A.—Just opposite here.

Q.—The building is opposite the letters K. L., is that correct? A.—Yes.

Q.—I have taken the dividers here, and the distance between the N's anchorage and the point of the collision as shown on the Exhibit A. R. 15 is approximately three-quarters of a mile. Would that be correct from your understanding of it? You can measure it yourself. A.—Where from? 10

Q.—The point of the "Norefjord's" anchorage to the point of collision—I want you to tell me the distance? You can use the dividers.

THE COURT:

As the crow flies, is it?

MR. MCINNES:

As the crow flies, yes, My Lord, in a direct line.

THE WITNESS:

About 1700 yards.

Q.—With a right-wheel propeller and a hard right rudder—the "Nore- 20 fjord" had a right propeller? A.—Yes.

Q.—I want you to tell me what the tendency of the stern of a ship with a right propeller and hard right rudder is? Where does it throw the stern? A.—It throws the stern to port.

Q.—Yes. And where does a ship pivot from in making any turn? Where is the point of pivot? A.—The stern.

Q.—Does not a ship turn a little ahead of the funnel about one-third of the distance from the bow? A.—She practically all turns.

Q.—The pivot—when a ship moves it makes a pivot? A.—The pivot would be, I would say, about amidships. 30

Q.—The pivot would be about amidship. Perhaps a little ahead of the amidship? A.—I would say about amidships.

Q.—I am showing you A. R. Exhibit No. 2, which is a photograph and which shows the point of impact on the "Norefjord". You recollect that, no doubt? A.—Yes.

BY THE COURT:

Q.—Is that what the photograph does: that it shows the point of impact? A.—Yes.

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Q.—Tell us what the photographs shows? It shows a break, does it not, and some scraping? A.—I saw that damage there myself and I could tell more about it than by the photograph.

Q.—Yes? A.—She was dented right at amidship.

Q.—And that photograph represents the damage on the port side of the “Norefjord”, does it not? A.—This here wasn't there when I saw it.

Q.—The boards were not there when you saw it; is that correct? A.—That is after she was on the ground.

Q.—Other than the boards, does it correctly show the damage that was done to the “Norefjord”? A.—No, it only shows a little scrape there, but she was dented. 10

Q.—There is a dent, which the boards cover, is that correct? A.—The dent was right from the top to the water line, as far as I could see, and I guess it was under the water line, but I couldn't see that.

Q.—You see some further markings towards the stern on this photograph? A.—I see some markings there, but I don't know what did them.

Q.—You tell us that the tendency of a ship with a right propeller and right hand well is to throw the stern to port? A.—Yes.

Q.—I am asking you if you think-you can take these models, if you will, and show the “Norefjord” and the “Alcoa Rambler” and describe to us, under your explanation that you had your propeller astern and your wheel to starboard, how the two ships would come into contact? A.—This is the “Norefjord” going across here and this is the “Alcoa Rambler” is coming down. 20

Q.—Mark it on a piece of paper? A.—That is the position I would say they came together in.

(Witness marks on piece of paper).

Q.—Now, we will mark with an N the “Norefjord” and with an A. R. the “Alcoa Rambler” and we will mark this diagram, marked exhibit A. R. 16. Now, having in mind the fact that your stern would be thrown to port if your statement as to the right hand rudder and right propeller is correct would not the tendency have been to have thrown the “Norefjord” along the starboard bow of the “Alcoa Rambler”? A.—Yes, that is what I was trying to do. 30

Q.—Yes. And if what you say happened, would there not have been further markings and further damage down the port side of the “Norefjord”? A.—I wouldn't say so because the “Alcoa Rambler” was practically stopped when she hit us. She was just moving.

Q.—Or if the “Alcoa Rambler” had been going astern, similarly there would be no markings at the time of impact? A.—If she was going astern? 40

Q.—Yes. A.—She was supposed to be going astern but his turbine engines only have about one-third power-most turbine engines only have about one-third the power astern as they have ahead.

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Q.—It is a fact that all engines—both reciprocating and turbine engines there is some tardiness in getting the motion astern, is there not? A.—A.—No, the reciprocating engine goes practically astern or ahead as quick as you move the telegraph.

Q.—And the “Alcoa Rambler” was practically stopped at the time of impact? A.—She had very little way. If she had had much way, she would have sunk us right there.

Q.—Now, in coming across on your course there when you saw the “Alcoa Rambler” coming down the Basin, whose duty did you understand it was to keep clear? A.—The “Alcoa Rambler”.

Q.—You are familiar with the Public Traffic Regulations of the Port of Halifax are your not? A.—Yes.

MR. SMITH:

Now, My Lord, I am going to make an objection.

THE COURT:

If he is going to interpret those rules—

MR. SMITH:

If he is going to interpret those rules, here is the rule to which my learned friend has reference. I submit that is not a proper question for interpretation.

MR. MCINNES:

All I asked him was if he was familiar with it.

MR. SMITH:

I am going to make my point and Your Lordship can make a ruling on it.

THE COURT:

I think Mr. Hayes is quite well able to interpret it.

MR. SMITH:

The witness can be excluded, but my submission is it is not fair to ask the witness a question about a section in these regulations which would obviously, if Your Lordship will look at them, would have absolutely no bearing on this question, and I put the clause in your hand.

MR. MCINNES:

This is all a matter for argument.

THE COURT:

He didn't come to the point. His objection is: If you are going to ask this witness to interpret them.

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MR. MCINNES:

No, I am not going to ask the witness to interpret them.

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BY MR. MCINNES:

Q.—You are familiar with these regulations, then? A.—I have a copy of them.

Q.—And is it not a fact that ammunition ships carry a red flag? A.—Yes, they are supposed to.

Q.—Both incoming and outgoing? A.—Yes, at times.

Q.—And is it always the practice or the rule—call it what you will—for ammunition ships to be preceded by an escort vessel? A.—Yes. 10

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MR. SMITH:

I am objecting.

Mr. MCINNES:

This is cross-examination.

MR. SMITH:

My point is I don't think this man can be asked if it is the practice to have vessels escorted by an escort vessel out of the Basin if there is no regulation which requires that practice. That is my submission.

MR. MCINNES:

That is a matter of argument. 20

MR. SMITH:

That is my objection, My Lord, and I would ask for Your Lordship's ruling.

THE COURT:

What is your question?

MR. MCINNES:

My question is: Is it not the practice for ammunition ships to be escorted.

THE COURT:

Is it the rule?

MR. MCINNES:

It is the rule. 30

THE COURT:

Then, if it is the rule, escorted under the rule?

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MR. SMITH:  
No.

THE COURT:

I know what you mean. They are supposed to be escorted when they enter the harbour and going out of the harbour.

MR. SMITH:

No, going out to quarantine ships entering the harbour . . . . . (reads.)

THE COURT:

Yes, quarantine. The rule speaks for itself. If there is any other practice than the rule.

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MR. SMITH:

That is my point.

MR. MCINNES:

My learned friend is saying there is no practice at all.

MR. SMITH:

If there is no other practice, than, according to the rule it is irrelevant.

THE COURT:

The rules make the provision for those things, and whether there is another practice or not, you would have to call practically every pilot in the country or you would have, first of all, to call the superintendent of pilots to show the custom.

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BY MR. MCINNES:

Q.—Would you expect ammunition ships to be escorted by small naval craft under the rule? A.—I have nothing to do with that. The naval authorities handle all that.

Q.—I am asking you if you would expect an ammunition ship to be under escort? A.—Yes.

Q.—Both in and out? A.—If they are going out—

MR. SMITH:

What he would expect has nothing to do with the question at issue in this case.

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THE COURT:

So much the better for you.



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BY MR. MCINNES:

Q.—I am asking, going in to harbour and going out? A.—Not at all times going out are they escorted.

Q.—And at what times are they not escorted going out? A.—As far as movements of ships and this stuff, you are asking me, I am sworn to secrecy by the navy in that stuff.

Q.—Have you ever taken an ammunition ship out of the Basin that was not under an escort vessel? A.—Yes.

Q.—Under some special circumstances? A.—Do I have to answer that, Your Lordship? 10

THE COURT:

I don't know what the special circumstances are.

MR. MCINNES:

When you see a vessel preceded by a launch flying the I. C. flag.

MR. SMITH:

Aren't we getting into the same question?

BY MR. MCINNES:

Q.—When you see a vessel preceded by a launch flying the I. C. flag, what does that mean to you? A.—She is escorting an ammunition ship. It may not be a ship; it may be a barge with ammunition—anything that 20 have ammunition on board.

Q.—Does that apply in and out? A.—With small craft, it is.

Q.—That is, if you see a launch carrying the I. C. followed by a vessel?

THE COURT:

Isn't there some identification of the vessel?

BY MR. MCINNES:

Q.—Followed by steamer, barge or any kind of craft? A.—It indicates she is escorting something that is carrying ammunition.

Q.—If you saw that vessel going either in or out of the Basin into the harbour, does it indicate to you that the vessel is carrying ammunition? 30

A.—Yes.

BY THE COURT:

Q.—Are you always able to identify that it is being escorted? A.—Yes

Q.—In Bedford Basin you see a little ship going out carrying the flag, can you identify right away then what ship she is taking out? A.—Not at all times because when the Basin is full of ships—

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Q.—There may be a movement of twenty ships at the same time? A.—  
And you couldn't tell at a glance.

Q.—Hasn't the ship that is carrying the explosives got to have some sig-  
nal too?

MR. MCINNES:  
Yes, My Lord.

THE COURT:

You have got to put the question fairly to the witness.

BY MR. MCINNES:

Q.—It is the custom to always carry a flag? A.—A B. flag—an escort 10  
flag.

Q.—Could you see this escort vessel, that is referred to, coming towards  
the "Norefjord"? A.—Yes.

Q.—And you saw flags on that ship that day? A.—I saw some flags  
but I couldn't tell what they were because there was no wind at all and they  
were lying down.

Q.—Don't you think it was important for you to determine what flags  
an escort vessel was carrying? A.—If they were blowing out, I would see  
what they were.

Q.—And this escort vessel, what speed would she be going at? A.— 20  
When I saw it, she wasn't going any higher speed than the "Alcoa Rambler"  
three knots, I would say.

Q.—In any event, you say you saw this escort vessel with flags and you  
didn't pay attention to it. Did you pay attention to it? A.—Yes.

Q.—What did you do about it when you saw the escort vessel? A.—  
When I saw the escort vessel, I continued on my course because when  
I made out that the "Alcoa Rambler" was coming out of the Basin and I  
blew one blast and he answered with three, I felt perfectly safe at the time  
that the distance between us was sufficient for the "Alcoa Rambler" to stop  
and let me get over on the range. 30

Q.—That is, you intended to go across in front of the "Alcoa Rambler"—  
to cut across? A.—Yes, because when I saw the "Alcoa Rambler" she  
was practically stopped as far as I could see from the distance and when he  
answered me three blasts right away—possibly if he hadn't answered at all,  
I would have stopped and when he answered me three I was sure there was  
sufficient time for the "Alcoa Rambler" to stop; there was no danger of col-  
lision at all.

Q.—And at the time you first saw the "Alcoa Rambler" your engines  
were going at full speed, were they not? A.—Yes.

Q.—And you saw her at a distance of how far? A.—I would say it was 40  
a couple of thousand feet—1800 or 2000 feet.

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Q.—And you kept on at full speed with this vessel in sight? A.—For a time; for a short time, I did.

Q.—You put your engines reversed and astern when you were within seventy-five yards of the "Alcoa Rambler" you say, is that correct? A.—Yes.

Q.—So that you travelled your full speed ahead a distance of 2000 feet or so? A.—No, I didn't travel that far.

Q.—How far did you travel full speed ahead after the "Alcoa Rambler" was in sight? A.—Probably 1600 feet.

Q.—And up to that time, you neither changed your course nor speed, is that right? A.—Yes, I also said I changed my course when I had a heading starboard from the towboat and the barge.

Q.—I am referring to after the time you had the "Alcoa Rambler" in sight

MR. SMITH:

He said he was in a starboard helm all the time. Surely that is not fair to put.

BY MR. MCINNES:

Q.—I am referring to the period of time when you first had the "Alcoa Rambler" in sight until the time you reversed your engines. Did you change your course or speed during that interval? A.—Yes, when I got the "Alcoa Rambler" in view and saw that she was going down for the Narrows towards the harbour, I ordered the helm hard to starboard.

Q.—At what point did you order the helm hard a starboard after seeing the "Alcoa Rambler" first? A.—At what point?

Q.—What distance did you travel from the time you saw the "Alcoa Rambler" until the time you put your wheel to starboard? A.—I didn't measure it.

Q.—Can you give us an estimate?

Mr. Smith:

At what distance did you travel. Where do you mean? The question doesn't make sense.

THE COURT:

It doesn't make sense.

BY THE COURT:

Q.—From the time you saw the "Alcoa Rambler" until he put his helm hard to starboard, how far did you travel? A.—Probably 100 yards.

BY MR. MCINNES:

Q.—When you first saw the "Alcoa Rambler" the Captain gave you a caution, did he not? A.—Which Captain?

Q.—Captain Skelbred? A.—Not to my recollection.

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Q.—You have no recollection of any caution he gave you? A.—No, the only caution I have any recollection of him giving me was after the collision, to put her on the beach. otherwise she would sink.

Q.—I am reading from Page 30 of his evidence. The question is: When you saw the "Alcoa Rambler", you told the pilot to be careful? A.—Yes, but the pilot blew one whistle.

Q.—Do you recall receiving any caution from Captain Skelbred? A.—No, not at first.

Q.—Do you say it wasn't given or you didn't hear? A.—It wasn't given. 10

Q.—Up to the time you put your engines astern, you had intended to proceed across the Basin to-wards the range? A.—Yes.

Q.—Although you knew the "Alcoa Rambler" was coming down the Basin? A.—Yes.

Q.—There was no doubt where the "Alcoa Rambler" was going at any time? A.—When I saw her, she was heading down towards the Narrows.

Q.—And she continued to head down towards the Narrows? A.—Yes.

Q.—And while you had her under observation, at all times she was heading towards the Narrows? A.—Yes.

Q.—Now, when you first saw the "Alcoa Rambler" you feared a collision 20 at that time, did you not? A.—No, I did not. I didn't have any idea that there was any chance of collision because the distance was too great between us and noticing the "Alcoa Rambler" had no way on her.

Q.—And the "Alcoa Rambler" had no way on her when you saw her first? A.—She was moving very, very slowly and if his engines went astern he should have stopped a long time before he ever came down and run into us.

Q.—You recall handing in a report—what is called a Branch Pilot's Report—do you not? A.—A Branch Pilot's Report?

Q.—You make a report about collisions? A.—Yes, we make that to 30 the superintendent.

Q.—And you made a report following this collision? A.—Yes.

Q.—The day of the collision, did you file it? A.—Yes.

Q.—I am reading from the copy of the report that I have that you made. You can read it over if you like. A.—That is your report, is it?

A.—Yes.

Q.—Marked N. 17. And you have in this report: "I ported easy to clear a ship at anchor"? A.—Yes.

Q.—"After clearing ship at anchor, I noticed spars of "Alcoa Rambler"? A.—Yes. 40

Q.—Now, was it not till after you cleared the ship at anchor that you saw the spars of the "Alcoa Rambler"? A.—After yes, I had a starboard to clear the towboat and barge and I had a port to clear the other ship at anchor.

Q.—"And I noticed . . . on the other side of the ship at anchor heading towards Narrows approximately one cable away on my port bow". A.—Yes, I know that is in the report.

Q.—How much is a cable? A.—600 feet.

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Q.—“Fearing a collision, I blew one short blast”. Did you fear a collision at that time? A.—No.

Q.—And the time you blew one short blast, did you fear a collision then? A.—No.

Q.—So what you say in the report here is not correct, is that right? A.—What I say in the report there, when I first saw the “Alcoa Rambler” I blew one blast to indicate that I was putting my helm to starboard and when he answered me with the three whistles, I had no idea in the world that there would be any collision.

Q.—And you didn't fear a collision at that time? A.—No. 10

Q.—In your report you made the same day, you thought you did? A.— If I am crossing and I see a ship coming down—

BY THE COURT:

Q.—That is why you give a signal? You give a signal to avoid it? A.— Yes, to avoid it.

BY MR. MCINNES:

Q.—After seeing the “Alcoa Rambler”, what movements of your engines did you give? What was the sequence of the movements of your engines? A.—It was ahead and astern.

Q.—You were going full speed ahead at the time you had her first in view? 20 A.—Yes.

Q.—And you continued full speed ahead for some period of time? A.— A very short time until I saw the “Alcoa Rambler” was coming faster than I estimated she was, and then I stopped and put her astern.

Q.—You were going full speed ahead and then you put your engine astern What did you do next? A.—Stopped her and put her ahead again.

Q.—You actually made a stop? A.—Yes.

Q.—Did you ring the stop yourself? A.—No, the third officer.

Q.—Did you order him to give a stop signal? A.—Yes.

Q.—And after you gave the stop signal, what did you do? A.—Put 30 her astern again.

Q.—Did you put your engines ahead after you had your engines ahead and astern? A.—Yes.

Q.—And you say stopped? A.—Yes.

Q.—Did you give her ahead again? A.—Yes.

Q.—These were all prior to the collision? A.—Stopped and put her full astern again and when I saw he was going to hit us stopped again.

Q.—That is five different movements of your engines, is it not? A.— As far as I can recollect, it was.

Q.—And the preliminary acts that have been handed in by Mr. 40 Smith for the “Norefjord” says that at about 9.15 the engines of the “Norefjord” were put full astern. Would that time be correct? A.—I couldn't say because I didn't take any times of the movements of the engines. The engineers that is on watch in the engine room takes all those times.

Q.—At 9.16 the engines were put full speed ahead. That would be a minute afterwards, so you were astern for a minute and you put it ahead.

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MR. SMITH:

I think it is only fair to say that the evidence of the engineer is that minutes do not signify that there was an actual minute. I think the evidence is they don't take anything less than a minute; it might be half a minute.

MR. MCINNES:

As the preliminary acts of my learned friend is here, it speaks for itself.

BY MR. MCINNES:

Q.—At 9.16 the engines were put full ahead. You have no reason to contradict that? A.—No, if that time was taken from the engine room. 10

Q.—At 9.17 a minute afterwards, the engines were put full speed astern.

You agree with that? A.—If it is down there, it must have been.

Q.—And at 9.18 the collision took place.

MR. SMITH:

There was another one between there.

THE COURT:

Shortly before the collision, they were stopped.

BY MR. MCINNES:

Q.—I hadn't read that. Shortly before the collision, they were stopped That is correct? A.—Yes.

Q.—You boarded the "Norefjord" at what time in the morning? A.— 20  
Approximately 8.30.

Q.—And I am reading from an extract from the log: that the vessel moved ahead at 9.08 and then there were several other movements from the engine room log: 9.08, 9.10, 9.11. I suppose those would be the turning movements, would they not? A.—Would be the turning movements?

Q.—I suppose those would be the turning movements, that is you were coming away from your anchorage and turning to port? A.—I just forget now whether we moved when we were turning around or not. We usually do.

Q.—After your turning movements, how did you put your engines? After you turned and shaped your course? A.—We put them full ahead. 30

Q.—Having in mind these times, can you give us the time when you first put your engines full ahead? A.—No, that should be all down there from the ship's log.

Q.—Did you put your engines full ahead immediately after shaping your course? A.—Yes, after I got the ship's head pointing to where I wanted it, I put her ahead because a loaded ship dead stopped takes a long time to start.

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Q.—Can you tell us how far you were in distance from your anchorage when you put full ahead? Could you give us an idea of what—

MR. SMITH:

How far he was from his anchorage? That is an impossible question I would say.

THE COURT:

I don't know whether he put it on gradually or not. He was, when he turned around, practically at his anchorage. He would make a little headway to turn.

THE WITNESS:

Mostly, the ship turns better when it has some headway. 10

BY MR. MCINNES:

Q.—Immediately when your ship was away from the point of anchorage your ship went full ahead? A.—Yes.

Q.—Now, in turning from your anchorage, how did you turn? A.—The ship was shoved around port.

Q.—And at some time in that turn to port you would be, would you not, on a course parallel with that of the "Alcoa Rambler" if she was heading towards the Narrows? A.—During the time I was pushing around I would be. I think the "Alcoa Rambler" saw the "Norefjord" a long time before I saw him. 20

Q.—Well, what you think perhaps doesn't matter? A.—No.

Q.—The report that you handed in to the superintendent of pilots, N/17 you referred to only one engine room movement. I will read an extract "Fearing a collision, I blew one short blast and put wheel hard to starboard. As soon as vessel started to swing, I blew three blasts and came full speed astern to put vessel parallel with "Alcoa Rambler". How does it happen that you only refer to one engine room movement when you have made four or five as you have told us? A.—That is the report I made to the superintendent? 30

Q.—That is the report you made to the superintendent. A.—I don't see that has anything to do with this question, what the other reports were.

Q.—Your recollection is at the time you made this report you made only one engine room movement? A.—I don't know just what I made out I know I had to make out a report, and that is what I made out.

Q.—Did you intend this report to be accurate? A.—Yes.

Q.—In what direction is the bulk of the traffic in Bedford Basin? How does it move, north and south? A.—It moves every way.

Q.—Yes, but would not most movements be of ships going to and from

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the harbour, that is, through the Narrows to the Basin and from the Basin down to the Harbour again? A.—The most movement would be in and out, yes.

Q.—Yes. How many ships would you say were in the Basin on this morning? A.—I would judge there were a hundred ships in there that morning because it was pretty well filled up.

Q.—Would you describe the waters as being congested? A.—All waters were congested except over the eastern side. The Deguassing Range was a forbidden anchorage.

Q.—Would you regard it as good practise in seamanship to take a fully 10 loaded vessel at full speed across the Basin from west to east? A.—Absolutely for the short distance I had to go I had to give enough way on the ship for her to answer her helm.

Q.—And you thought a ship in congested waters should go at full speed, is that it?

MR. SMITH:  
That is not fair.

BY MR. MCINNES:

Q.—Do you want us to understand you have to go full speed to answer her helm? A.—No. 20

Q.—For three-quarters of a mile? A.—No, she would answer her helm if she was going three-quarters.

Q.—Do you think the "Alcoa Rambler" was negligent at only having his speed at half speed? A.—I don't know what his speed is. If he was going half speed, he should be going seven or eight knots of the "Alcoa Rambler."

Q.—What would you estimate your top speed to be on this day? A.—The top speed wouldn't reach six knots.

Q.—Although you travelled a distance of more than three-quarters of a mile, as shown by your marks on the chart, you think your top speed was 30 only six knots at the most? A.—Absolutely, because a ten-knot ship might only do four at full speed.

Q.—Were there many launches or boats moving about on the Basin that morning? A.—Yes, every morning there is a lot of launches moving around the Basin.

Q.—And you came around this anchored ship, as I understand it, at full speed? You were still at full speed at that time? A.—I didn't come around her. I went across ahead of her.

Q.—What I am saying, at the time you passed astern of her, you were going at full speed? A.—I passed the bow of her. 40

Q.—You crossed the bow of the anchored vessel? A.—Of the anchored vessel.



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Q.—How was the anchored vessel lying? A.—That morning they were all headed pretty well west. Mornings like that, when there is no wind at all, all ships don't swing the same.

Q.—On this particular morning this anchored vessel, to which you refer, in what direction was she lying? A.—I figured she was lying pretty well north and south.

Q.—And did you not come around the stern of this anchored vessel? A.—No, because he was anchored right down in the very bottom of the Basin.

Q.—Did you not pass the stern of this anchored vessel at one time? 10  
What you say was you went across her bow, is that right? A.—Yes.

Q.—As you went across her bow, how was the "Alcoa Rambler"? A.—I don't mean that the ship that was at anchor obstructed the view of the "Alcoa Rambler" and myself.

Q.—I am talking about the most southerly ship in the Basin.

BY THE COURT:

Q.—The ship that intervened and obstructed your sight of the "Alcoa Rambler". A.—That one, I would go across her stern. I was answering on another one.

BY MR. MCINNES:

20

Q.—There was a little confusion between us. And at the time you crossed under her stern, you were going at full speed? A.—It was quite a ways away from the stern of that ship.

Q.—At the time the "Alcoa Rambler" broke into view, you were going at full speed? A.—Yes.

Q.—Although you had seen her spars some time previously? A.—Yes, when I saw her spars, I didn't know whether she was at anchor or moving or what.

Q.—Did you consider it good practise in seamanship to go under the stern of an anchored vessel at full speed? 30

MR. SMITH:

The evidence has been given she was 1500 feet away.

THE COURT:

I think he answered all right.

MR. SMITH:

I object to the form of the question. He says he was going under the stern of a ship, which he has given in direct examination he was 1500 feet away from.

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BY MR. MCINNES:

Q.—I will change that word “under” to “around”—around an anchored ship at full speed? A.—Just according to what distance you are away from that ship when you go around it.

Q.—What distance were you away? A.—1500 feet.

Q.—At the time you went around it? A.—I didn’t go around it, because he was way up the north of me.

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THE COURT:

He passed it. He is simply showing his course, that he passed through these. 10

BY MR. MCINNES:

Q.—Yes. And after seeing the “Alcoa Rambler”, you picked up speed, did you not? After first seeing the “Alcoa Rambler”, you picked up speed? A.—I didn’t notice any difference in the speed.

BY THE COURT:

Q.—I suppose naturally you would pick up speed? A.—She would pick up a little.

BY MR. MCINNES:

Q.—Now, on which side of the bridge of the “Norefjord” were you standing? A.—On the port side. 20

Q.—Yes. At all times? A.—I wouldn’t like to say for sure at all times but from the time I saw the spars of the “Alcoa Rambler” and up to the time of the collision I was.

Q.—At the time of first seeing the “Norefjord”, I suppose there was nothing to stop you stopping your engines or put them in reverse? A.—When I saw the “Alcoa Rambler”

Q.—When you first saw the “Alcoa Rambler”? A.—No, nothing at all. The only thing when he blew the three blasts was the only thing that stopped me.

Q.—Had you stopped your engines at that time, would this collision ever have happened, in your opinion? A.—I don’t imagine it would. And if he had stopped his, it would never have happened. 30

Q.—That is all right, but I am asking you if you stopped yours. Now, I think you told us in direct examination that you did see the man on the escort launch shout something, did you not? You saw a man on the escort launch? A.—Yes.

Q.—And did you see him shout anything or hear him? A.—I heard a shout but I couldn’t make out what was said.

Q.—Yes. And at that time, did you see the flags of this vessel on the escort launch? A.—I saw she had something up on her spar, but I 40

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couldn't say what they were because they were just lying down. You can't tell what a flag is unless it is blowing out.

Q.—Did you have binoculars with you that day? A.—No, I didn't use them. I guess all ships have them. I didn't see any need of using them.

Q.—At the time the escort vessel bespoke you, was the "Alcoa Rambler" in view? A.—I didn't see the "Alcoa Rambler" up to that time because I was watching another ship that had gone out and I watched until he was down clear and I didn't think anything else was moving.

Q.—How close did the escort vessel come to you at the time you saw 10 this man shouting something? A.—I don't know, around fifty yards, I imagine.

Q.—And were you the one that moved your hand in acknowledgement? A.—I don't know whether I waved my hand. I don't imagine I did.

Q.—You have no recollection if you did or you didn't? A.—No.

Q.—Did you hear somebody on your craft call out: "You had better look out for yourself", or words to that effect? A.—No.

Q.—Did you call out those words yourself? A.—No.

Q.—Now, when you saw the "Alcoa Rambler", was it the only vessel that was moving in addition to the escort vessel? A.—There were a lot 20 of small stuff around but she was the only ship of any size that I saw moving at the time.

Q.—And as she came into view, can you tell us how far she was behind the escort vessel? A.—I didn't see her for a time after I saw the escort vessel.

Q.—Did two or three minutes elapse? A.—A couple of minutes.

Q.—And when you saw the escort vessel—when you saw this launch to which you may or may not have waved—

MR. SMITH:

That is not quite true, to which you may or may not have waved. He 30 said he didn't wave.

MR. MCINNES:

Perhaps it is unfair.

BY MR. MCINNES:

Q.—When you saw this escort launch, did you take any steps in relation to your own vessel? A.—No, because he wasn't interfering with me and he was far enough away so that I wasn't going to interfere with him.

Q.—Did you not think it would be good practice to find out what these flags meant on this escort vessel? A.—How could I find out when I couldn't see. I could see there were flags hanging down. 40

Q.—What does I. C. flag mean? A.—Keep out of my way, I have a dangerous cargo on board.

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Q.—And I think you told us the third flag means munition flag? A.—  
Yes.

Q.—Do you know the naval launch H. C. 58? A.—Not especially.  
They have so many of them up there, they all look alike.

Q.—And these escort launches with these ammunition ships following  
them, they do fly the I. C. flag, do they not? A.—Yes.

Q.—There was a mast in the escort launches with these ammunition  
ships following them, was there? A.—They have a little space—enough  
to hoist a flag on.

Q.—Would you not have thought that a launch which approached you 10  
with some flags on it—did you think it would not be wise to find out what  
they were saying to you? A.—The only way to find out what he was say-  
ing to me would be if he had come over to me, and if he didn't I would have  
to go to him, because I couldn't hear what he was saying the distance he  
was away.

Q.—I am asking you, would it not be wise to find out what he was saying?  
A.—I tried to.

Q.—In what way? A.—By listening to hear what he had to say.

Q.—Did you shout something back to him? A.—No.

Q.—You heard a man calling out to you and you wanted to hear what he 20  
had to say? A.—Yes.

Q.—Could you not have called out to him too? A.—I couldn't call out  
to him while he was calling to me because neither one of us would hear.

Q.—You would have time to call out something not reply after? A.—  
He shouted something and I put my hand on my ear like that, and I didn't  
have time to reply and he started down the Narrows.

Q.—Could you have beckoned to him or anything of that nature? A.—  
I could have beckoned to him.

Q.—Well, did you? A.—No.

Q.—You didn't stop at that time to find out what was wrong? A.— 30  
There was nothing wrong to stop for.

Q.—Did you do anything about your own ship when you saw this launch?  
A.—No.

Q.—And after he shouted to you? A.—No.

Q.—You were still going full speed ahead at that time? A.—Yes

Q.—I suppose you have piloted ships, that are preceded by escort laun-  
ches, from time to time? A.—Sometimes they get a couple of hundred  
yards ahead of us and other times they get under your bow that you can't  
see them, which is a nuisance.

Q.—I suppose they would naturally vary somewhat? A.—Yes. 40

Q.—Now, you heard the three-blast whistle of the "Alcoa Rambler"?  
A.—Yes.

Q.—Yes. And at the time you heard that three-blast whistle, did you  
think you could still cut across her bow? A.—Absolutely. I thought I  
had ample room to go across her.

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Q.—And it wasn't until you were seventy-five yards from her that you realized you couldn't cut across her? A.—Yes.

Q.—And it was at that time you took these other movements of which you spoke? A.—I figured at the time the only thing left to do was what I did do, and if he had let two anchors go instead of one he still wouldn't have hit us.

Q.—Now, there is evidence that there was another signal given from the "Alcoa Rambler" in addition to the three whistles for astern. Did you hear any other signal, do you recollect? A.—I can't recollect hearing any signal except the three whistles? 10

Q.—What is the signal for the letter K? A.—Danger signal.

Q.—How is the danger signal given? A.—Long, short and long.

Q.—And did you hear that danger signal on this day? A.—He might have thought he was blowing that and only below the three.

Q.—But, in any event, you only heard one series of blasts? A.—Three blast.

Q.—Three blasts. If the danger signal had been given by the "Alcoa Rambler", should you have heard it or would you have heard it? A.—I heard the three he gave. I would hear the danger signal.

Q.—Do you think it wasn't given at all, is that your—? A.—It wasn't given because I never heard any signal. Captain Verge on the deck didn't hear any. 20

Q.—Never mind what Captain Verge said. Had it been given, were you close enough to hear it did he give it? A.—If he had given it after he had given the three?

Q.—Yes? A.—Yes, if he had given the danger signal, I could have stopped her.

Q.—You could have stopped, following giving the three whistles, astern of the "Alcoa Rambler"? A.—I didn't get that?

Q.—I am saying, had the "Alcoa Rambler" given the danger signal following the three blasts, you would have still had time to stop? What do you say? 30

BY THE COURT:

Q.—I think the question is this: If you had heard the danger signal following say a minute or a half minute following the starboard signal, would you have had time to stop then? A.—Oh absolutely. That ship I was on went full astern. If he had given the danger signal then and we would have gone full astern, I imagine that ship would stop in the length of herself.

BY MR. MCINNES:

Q.—Your ship would have stopped in the length of herself? A.—With that speed we had, I imagine she would. 40

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Q.—What was the speed of your ship at the time you put your ship in reverse to astern? A.—I don't think we ever reached six knots.

Q.—Did you yourself give the three blasts on the "Norefjord" indicating the movement astern? A.—I wouldn't say for sure I did or not.

Q.—Do you think they were given at all? A.—Yes.

Q.—But you didn't give them? A.—I am not sure now whether I gave them myself or gave the order to be given, but I know the three blasts were given.

Q.—You were the one that was giving the orders on the "Norefjord" this day? A.—Yes. 10

Q.—Now, when you came away from anchorage and returned to port, did you give any whistle at that time? A.—No.

Q.—If you had given a whistle on a movement to port, it follows that that whistle would have been heard in that vicinity, in any event?

A.—If a ship is dead stopped and a towboat is shoving her around, it is seldom you would give any signal.

Q.—You didn't in any event? A.—No.

MR. MCINNES:

What I am suggesting, My Lord, is a ship under motion.

THE COURT:

There is a movement. 20

MR. SMITH:

There is only a movement is she has to manoeuver for another ship—she has to give a signal.

BY MR. MCINNES:

Q.—You saw a tug and barge at some time on your course in the Basin? A.—Yes.

Q.—Was this tug and barge far from your position of anchorage? A.—They were going up directly up the center of the Basin.

Q.—What I am saying is: had you been under way any appreciable length of time from your anchorage till the time you saw the tug and barge? A.—Not long, no.

Q.—And what did you do when you saw this tug and barge? A.—I blew my blast. Starboarded the helm easily.

Q.—In going over the range—you have given evidence and I think every body agrees—that you go over a south-north course and then a north-south course? A.—Yes.

Q.—And in making your voyage across to the range, you intended to approach from the south, did you not? A.—Yes.

Q.—You cross the range in a magnetic compass direction? A.—Yes. 30

Q.—That is, you have to be going north on the compass at the time you

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cross the range? A.—Yes, it is practically north and south, the range.

Q.—Now, to go on this course from your place of anchorage, did you not intend to make a sweep—one curved course, so that you could reach the range in one manoeuvre? A.—When I went across there, I would have to come up around to port to get up onto it.

Q.—You would have to be heading gradually? A.—No.

MR. SMITH:  
He didn't say that.

MR. MCINNES:  
I am asking him.

MR. SMITH:  
You are putting a question in his mouth. He didn't say that at all. He has to be fair to the witness. There was nothing said about gradually at all in his answer.

10

BY MR. MCINNES:

Q.—Did you, in fact, make a curved course? A.—No, I didn't because the "Alcoa Rambler" stopped me from doing it.

Q.—Was it your intention to go on a curved course? A.—Yes.

Q.—At some time, you had ported your helm prior to the collision, had you not? A.—Yes, the ship was swinging to port when I sighted the "Alcoa Rambler". 20

Q.—At what point were you heading? A.—I was heading between Tupper Head and the Degaussing Range.

Q.—That is a wide distance—a lot of turning. Did I understand you to say, first of all you were heading for Turple Head? A.—No, I was never heading for Turple Head. I wasn't going to Turple Head.

Q.—I am asking you if you were heading for Turple Head at all? A.—No.

Q.—At what point north of Turple Head were you heading? A.—Between the stake buoys and Turple Head—the Degaussing buoys. 30

Q.—You started out heading near Turple Head and came north, is that correct? A.—The only way the anchorage was to go across. There was nothing in your way to stop you.

Q.—Do you mean to say you came on an absolute straight course across the Basin until the time of the collision? A.—Absolutely.

Q.—Absolutely? A.—Except the time I starboarded and ported clear those other barges and ships.

Q.—At the time you saw the "Alcoa Rambler", where were you standing on the bridge?

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THE COURT:  
When he first saw her?

BY MR. MCINNES:

Q.—Yes, when he first saw her? A.—On the port side of the bridge.

Q.—And did you remain on that side of the bridge at all times? A.—  
Yes, from then on I did. Before that, I don't know exactly where I was.

Q.—Where was the Captain standing? A.—I don't know. I wasn't  
paying much attention to where he was. I am not sure, but I think he was  
on the port side too, and also the third officer.

Q.—Did you discuss the situation of the "Alcoa Rambler" with him at 10  
the time she came in sight? A.—Not a thing.

Q.—There was no interchange of words between you? A.—No.

THE COURT:  
About her?

BY MR. MCINNES:

Q.—Concerning the "Alcoa Ramblers" at any time? A.—No.

Q.—Did the Master of the "Norefjord" take part in the navigation of  
the "Norefjord" at all? A.—No.

Q.—You were the only one that gave any orders? A.—Yes.

Q.—Is it not a common understanding of Halifax pilots that the rule re- 20  
lating to escort launches—

MR. SMITH:  
Now, My Lord.

MR. MCINNES:  
Perhaps we will have the question first.

BY MR. MCINNES:

Q.—Is it a common understanding of Halifax pilots that the rule relating  
to escort launches is in respect to out-bound as well as in-bound ships?

THE COURT:  
It wouldn't affect me one bit in the world what the practice is.

MR. SMITH:  
I am objecting.

30

THE COURT:  
If you can come down to a practice among pilots.

MR. MCINNES:  
Not so much a point of custom; it was more on the understanding.



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MR. SMITH:

If it is on the understanding, I think it is irrelevant.

MR. ERSKINE:

May I say a word, Your Lordship?

THE COURT:

Yes.

MR. ERSKINE:

This man is in charge of this ship. He is a local authority—a pilot. It seems to me what he does and what he did on that day is necessarily affected by what he knows the practice is. Now, our contention is going to be that that rule obviously was intended to work both in and out because there would be just as much danger to the ammunition ship going out as coming in, and if it was acknowledged at the time, that that rule applied as a matter of practice both in and out, we are entitled in cross-examination to have him admit what he did that day. 10

THE COURT:

Is it not asking him to interpret the rule?

MR. ERSKINE:

I don't think the question Mr. McInnes put asked for an interpretation but as to his understanding of what was being done on that day, whatever the Court may say about the rule; but certainly if he knows that a vessel going out with an escort launch and the launch flying those flags that made it an ammunition ship and he knows it is the practice for that escort launch to escort that ammunition ship, certainly, I submit, it must have a bearing on what he is going to do on his ship. 20

THE COURT:

Any question of the boat doesn't come into it.

MR. ERSKINE:

We might have difficulty in proving by our own man, but when we are cross-examining the other side's pilot, I think we are entitled to ask him what he knew. 30

MR. SMITH:

My objection has been noted.

BY MR. MCINNES:

Q.—Is it not common understanding of Halifax pilot that the rule relating to escort launches is in effect on out-bound as well as in-bound ships?

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THE COURT:

I wouldn't use the word "understanding". I would say "practice".  
Recognize the rule as such.

THE WITNESS:

I don't know what you mean.

BY MR. MCINNES:

Q.—Would you like me to repeat the question? A.—Yes.

Q.—Is it not the common practice that the rule relating to escort  
launches is in effect for out-bound as well as in-bound ships? A.—I  
said before, not at all times. 10

THE COURT:

Yes, he answered that question, and you remember that he refused to go  
any further because he was sworn to secrecy.

MR. MCINNES:

There was some evidence of that.

BY MR. MCINNES:

Q.—Does it apply at all to out-bound ships, that is, to south-bound ships  
for escort vessels?

MR. SMITH:

The same objection, My Lord. 20

THE COURT:

That is asking him a clear interpretation.

MR. SMITH:

Clearly a question of interpretation whether that rule applies. Surely  
that is objectionable.

THE COURT:

Yes.

BY MR. MCINNES:

Q.—When you see an out-bound vessel with an escort launch flying the  
I. C. flag, what does that mean to you? A.—It means she is escorting an  
ammunition ship. 30

C. Tupper  
Hayes  
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RE-EXAMINED BY MR. SMITH:

Q.—Mr. McInnes showed you a copy of a report that you made to your  
superintendent of pilots. In that report it was stated that you noticed

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the spars of the "Alcoa Rambler" on the other side of a ship at anchor heading towards the Narrows approximately one cable away on port bow, and in the evidence you have given today you have stated that the distance was a considerably greater distance. Now, which of those two statements do you say is correct? A.—The one that the distance is far greater.

Q.—Yes. The distance you gave to me or the cable distance? A.—No, the distance I gave today is the correct distance.

Q.—How did it come to happen that you put in one cable as the distance?

A.—Pilot Clarke and myself, we both started to make out our reports at the same time and he said to me: "What will we put down? We will say we were a cable." We wanted to both have it as near as possible alike. Although I thought it was a greater distance, I agreed and we both put the same in our report.

Q.—I think he made the same change. You don't know. A.—That is how I come to put that distance in my report.

MR. MCINNES:

I will tender my exhibits, My Lord.

THE COURT WAS THEN ADJOURNED UNTIL THE FOLLOWING MORNING AT THE HOME OF PILOT VERGE, 23 VICTORIA RD. 23 VICTORIA ROAD, JULY 10, 1943. 20

LEIGH R. VERGE, being called and duly sworn, testified as follows:

Plaintiff's  
Evidence.

No. 11.  
Leigh R.  
Verge,  
Direct Ex-  
amination.

EXAMINED BY MR. SMITH:

Q.—You are the Master of the Steam Tug "Bansurf"? A.—Yes.

Q.—And were the Master of that tug on August 20, 1942? A.—Yes.

Q.—Who are the owners of the Steam Tug "Bansurf"? A.—Maritime Towing & Salvage Company.

Q.—What type of a tug is she? A.—Steam Tug. She was built in Scotland.

Q.—What size? A.—175 tons gross, 90 some feet long—98 or 97 feet long. 30

Q.—What is her speed? A.—Ten knots.

Q.—Did you have occasion on August 20th, to go in the "Bansurf" to the steamer "Norefjord"? A.—Yes, in the Basin.

Q.—Where was she? A.—She was anchored in the Basin on the west nearly in the vicinity of Mount St. Vincent. They call it Anchorage B in the Basin.

Q.—Did you take the pilot? A.—I took him out to where she was to the Deguassing Range.

Q.—Do you remember the name of the pilot? A.—Yes, Tupper Hayes

Q.—Do you remember approximately what time you got out there? A. It was in the vicinity of nine o'clock maybe be a few minutes before or 40 something like that.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

No. 11  
Leigh R.  
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Direct Ex-  
amination  
Plaintiff's  
Evidence.

Q.—And did the pilot board the ship, the tug? A.—Yes. We put the tug alongside and he got aboard the ship. She was loaded and he stepped from the tug onto the rail.

Q.—Do you remember how the ship was heading? A.—The ship was heading in the vicinity of northwest.

Q.—Did you make fast to the ship? A.—We put a line up on the bow—on the starboard bow of the “Norefjord”.

Q.—And then did you get some orders from the man on the bridge? A. Yes.

Q.—Who was giving the orders? A.—The pilot gave the orders. He 10 told me when they got the anchor—it would be some time when they did get the anchor up—to push her around to port. There was a lot of ships anchored. We had to look for the best channel to get out to the range.

Q.—What did you do then? A.—We pushed her around. She would be heading in the vicinity of Turtle Head. When she got in the range she was a straight course between the other ships. When I got around it he was a straight course down. When he got to the straight approximately over the range, he blew to let the tug go. He blew a police whistle they use. I let go. Then I would have to go to the range—meet him over at the range after he would go to the range and push him back again around. 20

Q.—Yes. Then what? A.—After I started, I came around their stern passing around the starboard quarter and headed over in an easterly direction for the range.

Q.—Yes? A.—After passing a ship or two that was anchored there, I saw the ship under way coming out the Basin.

Q.—You saw the ship? A.—Heading in the range of the Narrows. I wasn't ahead far enough to cross her bow. I stopped her engine and let the other ship cross my bow. I was out 300 feet or 400 feet from her then and the man on the bridge come out;—I took him to be the pilot he was in plain clothes—and another fellow with a uniform on. The man in plain 30 clothes asked me if this ship was going over the range, which he explained he meant the “Norefjord” and that is what I had turned the ship around for—meaning the “Norefjord”.

Q.—On your way over, did you notice how the “Norefjord” was proceeding? A.—She was going over in a southeast direction then as far as I could tell. The opening would be down there.

Q.—Yes. How far did she have to go before she would have a clear opening for the “Degaussing Range”? A.—She would have to go 500 or 600 yards, I suppose before she could clear the ships—before she could haul across. 40

Q.—And did you see her haul across? A.—I didn't notice. I was watching myself.

Q.—Go on. A.—I didn't start the engine.

Q.—Was there any reply from the man on the vessel after you told him that the ship was going over the range? A.—No he made no reply.

RECORD  
PART I

*In the  
Exchequer  
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Q.—He made no reply.? A.—His engine was stopped. I could see her coming by the stern. Two boats were going. I was meaning my towboat and the "Rambler". That is when he spoke to me.

Q.—When he bespoke you, on which side of his ship were you? A.—I was on the starboard side.

Q.—You were on the starboard side of the ship? A.—Yes.

Q.—And after you had finished this conversation, what did you do? A.—I just let the boat go. The boat slipped by mine and I went by his. I passed his stern. I had to cross over to the port. I wasn't 25 or 50 feet from him—right under his stern. His engine was stopped and my engine 10 was stopped.

Q.—Then what did you do? A.—I just lay there.

Q.—After you went around his stern, did you go either way? A.—I just let her go. We were passing her stern about at right angles. The "Rambler" blew three blasts.

Q.—What kind of blasts, short or long? A.—Three short blasts, because I understood she was going to go astern of her engine.

Q.—How far away were you when the three-blast signal was given? A.—I suppose I might have been 75 feet then.

Q.—75 feet from what part of the ship? A.—The "Rambler" you 20 mean?

Q.—Yes, from what part of the "Rambler"? A.—The port quarter, across on the port quarter.

Q.—Now, what did you notice after the three blasts? A.—I looked to see the water turn up for the ship to go astern—for the propeller to start the water for going astern.

Q.—Now, you said something about seeing the other ship—

MR. MCINNES:

I am suggesting that my learned friend is leading a bit.

THE COURT:

He has already said it.

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MR. SMITH:

Mr. Hart didn't get it. That is why I asked the question.

THE WITNESS:

I started to say about the other one. The towboat coming with the barge was approaching the "Norefjord".

BY MR. SMITH

Q.—When was this? A.—That was when I left the 'Norefjord'

Q.—Yes? A.—She was coming up in the same direction as the "Norefjord".

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RECORD  
PART I

*In the  
Exchequer  
Court of  
Canada.  
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District.*

Plaintiff's  
Evidence.

No. 11.  
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presence  
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Leigh R.  
Verge  
Direct  
Exam-  
ination.

Q.—On your way over to the “Alcoa Rambler” did you notice any other vessels in motion under way? A.—No, the only one that was under way was the towboat with the barge.

Q.—You noticed a tow boat with a barge? A.—Yes.

Q.—Where was this towboat with a barge proceeding? A.—She had came through the Narrows and proceeding somewheres in the vicinity where we took the “Norefjord” from.

Q.—Where was she when you first observed her? A.—She would be a quarter of a mile down towards the mouth of the Basin coming up.

Q.—Coming up? A.—Yes. 10

Q.—A quarter of a mile from the end of the Narrows? A.—Yes, she would be a quarter of a mile from the end of the Narrows.

Q.—And she was coming into the Basin? A.—Into the Basin.

Q.—Towing a barge? A.—Towing a barge. She was tied fast alongside of it.

Q.—In towing, but made fast alongside of it? A.—Yes.

Q.—All right. Did you hear any signals from that barge? A.—Yes, she blew this one blast.

Q.—She blew this one blast? A.—Yes.

Q.—And did you hear the “Norefjord” blowing at that time? A.—I 20 heard another one blow. I took it to be the “Norefjord”.

Q.—What did you hear? A.—I heard one blast. I knew the towboat whistle and the other one answered and I took it to be the “Norefjord”.

Q.—But you didn't actually see the steam from the whistle? A.—No.

Q.—It was after that you approached the “Alcoa Rambler”? A.—Yes.

Q.—And you went around the stern of the “Alcoa Rambler”? A.—Yes.

Q.—And I think we arrived at the time when you said that there was 30 three short blasts from the “Alcoa Rambler”? A.—“Alcoa Rambler”, yes.

Q.—All right. You might go on from there? A.—I was watching to see the water turn up when she blew the three blasts to go astern.

Q.—Yes? A.—But the water, as I took it to be, came out and went astern—the engine went ahead and the boat picked up speed.

MR. MCINNES:

I ask that the answer be struck out, “the engine went ahead”.

THE COURT:

Of course, he is making the inference which I would make from his evi- 40 dence, that is all: that instead of indicating that she was going to starboard that she proceed ahead.

RECORD  
PART I

*In the  
Exchequer  
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Direct Ex-  
amination.

MR. SMITH:  
That she was going astern.

THE COURT:  
Yes.

BY MR. SMITH:

Q.—All right, go on from there? A.—I started the engine of the tug and I kept on the way I was going. She was heading about east—the tug was— and I swung and I went about 300 yards, I suppose, and I swung around about south again in the direction of where the two ships were. Of course, I couldn't see the "Norefjord", only her spars. The "Rambler" was between me and the "Norefjord". I couldn't see if the "Rambler" was going astern until the "Norefjord" bow came out past the bow of the "Rambler". I heard the chain running and I could see the water then stirring up foam and white from the propeller. At that time she was about I would say about 75 or 100 feet from the "Norefjord". I came right up then to the two ships that the "Rambler" had struck the "Norefjord" on the port side. It didn't look as though she was damaged much. The "Rambler" she pulled away from her—backed away, but the "Rambler's" stem was pressed around. By the dent, it looked like there was an awful lot of damage to the "Norefjord". The pilot told me—

Q.—You can't say what the pilot told you. Did you notice how the ship came together? What did you judge to be the angle of impact? A.—It looked to be pretty near right angle as far as I could tell. I couldn't just tell exactly, the way I was back further.

Q.—And what part of the "Norefjord" came into contact with the bow or stem of the "Alcoa Rambler"? A.—It would be somewhere around the stoke hold or the engine room.

Q.—Amidships? A.—Just right near where the funnel is, after the bridge.

Q.—Where did you go after the collision? A.—The pilot told me to push her around again. She was headed towards the shore. I said: "We can't go to the range to push her around," so we did go the anchor. I pushed on the starboard bow of her and pushed her bow around to starboard again. He told me that that would do, to stand by, he was going back to anchor; so he started the engine up and she started away and they hollered for me to come alongside. The mate was dragging some lines out from the hatch forward. They asked me what the trouble was.

MR. MCINNES:  
I don't know that this is evidence against the "Alcoa Rambler".

THE COURT:  
It isn't evidence against anybody.

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RECORD  
PART I

MR. SMITH:  
No, it isn't evidence against anybody.

*In the  
Exchequer  
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of Canada  
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BY MR. SMITH:

Q.—Tell just what happened? You needn't tell what any of the conversations were. I just want generally what happened after the collision. You said there was some conversation passed between you and the mate?  
A.—Yes.

Q.—As a result of that conversation what did you do? A.—They gave me a line and I towed her in on the shore in Fairview. She had lost all control of her engine and her steering gear and everything. 10

Q.—How long have you been going to sea? A.—Practically all my life.

Q.—Do you have any Master's certificate? A.—Yes.

Q.—What certificate? A.—Coast certificate.

Q.—A coastwise certificate? A.—Yes, a coastwise certificate.

Q.—And have you acted as Master on a coastwise vessel? A.—Yes.

Q.—In steam? A.—Steam and sail both.

Q.—Steam and sail and motor vessel? A.—And motor vessel, yes

Q.—How long have you been engaged as a harbour tug master? A.—  
Three years.

Q.—Three years. With the Maritime Company? A.—Yes. 20

Q.—Perhaps you could tell me what your estimate is as to the distance the two ships were apart—the "Norefjord" and the "Alcoa Rambler" were apart when you went around the stem of the "Alcoa Rambler"? A.—  
How far she would be from the "Norefjord"?

Q.—Yes? A.—She must have been about 700 yards.

Q.—About 700 yards? A.—Yes.

Q.—Was it shortly after you got around her stern that the three blasts were given? A.—Yes.

MR. MCINNES:  
That was a bit leading. 30

MR. SMITH:  
He has already said that.

I don't know he has said that in quite that fashion, you know. However it is there now.

BY MR. SMITH:

Q.—I think you started to say something one time—I think Mr. Hart didn't get it down—you said something at some point you saw the masts of the "Norefjord" approaching when you were on the port side of the "Alcoa Rambler". Will you tell us what you were going to say when there



RECORD PART I was an interruption? A.—That was after we had passed over on the port side?

*In the Exchequer Court of Canada Nova Scotia Admiralty District.* Q.—That was after you had passed over on the port side, yes? A.—You asked me a question. Didn't you ask me a question if I could see the "Norefjord"?

Q.—Yes, could you see the "Norefjord"? A.—No, not after I passed on the port side, only her masts.

Plaintiff's Evidence. Q.—You could see her masts? A.—Yes.

No. 11. Q.—And how did the masts appear to be coming? A.—I couldn't very well tell that, being on the opposite side of her, but she couldn't be much 10 out of position of the course the way I left her, the way she was heading for

*In the presence of Trial Judge. Leigh R. Verge, Direct Examination.* Q.—She was heading for where? A.—Down in the vicinity where she would be able to approach the range.

Q.—That is the position where you left her? A.—Yes.

Q.—How long do you think elapsed from the time the three-blast signal was given by the "Alcoa Rambler" till you observed the engines going astern on the "Alcoa Rambler" and heard the chain being dropped? A.—It might be three minutes anyway, probably a little more by not looking at a watch, but it seemed to be quite a little bit of time and the distance that the boat had got away from me, she must have been three minutes 20 anyway. I didn't look at any watch; I am only approximately making that.

Q.—What sort of a day was it? A.—Clear. The sun was shining and it was calm.

BY THE COURT:

Q.—Any perceptible wind at all? Any wind that you could notice? A.—No, I couldn't. There was no ripples on the water at all.

CROSS EXAMINED BY MR. MCINNES:

*Plaintiff's Evidence.* No. 11. Q.—Did you take the same course as the "Norefjord" after she got away from anchorage? A.—No. 30

*In the presence of Trial Judge. Leigh R. Verge, Cross Examination.* Q.—She was heading in a more southerly direction than you, is that not correct? A.—Yes, she would be, yes.

Q.—And her heading was in the general direction, first of all, for Turtle Head? A.—First of all it would be yes.

Q.—Now, there were some anchored ships on her port side, were there not? A.—Yes.

Q.—And in order to avoid those ships, would she not turn in a southerly direction? A.—No, she wouldn't. after the way I left her, she wouldn't Her course was clear then. She wouldn't have to change her course.

Q.—I thought you told us there were some anchored ships, and she had to 40 change her course for them? A.—That is why he had to turn around. He couldn't start from where he was anchored and make heading for the range?

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*In the  
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Leigh R.  
Verge,  
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amination.

Q.—Did you have to make a full half circle from where she was anchored?

A.—Yes.

Q.—You did turn 180 degrees? A.—Yes.

Q.—You went straight across? The “Norefjord” was heading, first of all for Turtle Head and you went straight across for the range is that so?

A.—Yes, over in that vicinity.

Q.—The “Norefjord” would be obliged to go on the range in a south-north direction? A.—Yes.

Q.—And in consequence it would have to make quite a sweep in order to get on this magnetic north-south course? A.—Not necessarily; she 10  
wouldn't, no; she wouldn't have to make such a large sweep.

Q.—Did you see her? A.—I couldn't see her as she passed back of the other ship.

Q.—In any event, you went straight across yourself on a somewhat different course? A.—Yes, I wasn't on the same course she was.

Q.—Did you pass any anchored ships on your voyage across the Basin?

A.—Oh yes.

Q.—That is, after the time of leaving the anchorage until the time you sighted the “Alcoa Rambler” how many anchored ships did you pass, would you say? A.—I don't just remember. I remember passing by 20  
a few right close.

Q.—And there may have been more, is that so? A.—There was other ships around there.

Q.—At what distance did you first sight the “Alcoa Rambler”? A.—Oh I wouldn't be over a hundred yards from her. He just came out from the back of the stern of another ship and I saw the thing looming up right ahead of me. Where I was first after I turned around I didn't take notice of her because there was ships between her and me. She was coming out alone I just came out by stern of another ship and she was coming across.

Q.—How do you explain you didn't see her masts before that or did you 30  
see her masts? A.—I didn't take notice of her masts, no.

Q.—At the time you first saw her, her engines were stopped you have told us? A.—When I got to her stern, she was stopped. I didn't take notice first she was stopped. I mean, I got up close to her after he spoke me, I saw the engines were stopped.

Q.—Can you give us any explanation of why you wouldn't see the masts of the “Alcoa Rambler”? A.—I wasn't looking for any ship that I didn't expect because if she was back of another ship the other ship—some of them are light and some of them are pretty high. You can see over them very well. 40

Q.—You didn't see them? A.—I didn't see them until I saw the ship myself.

Q.—I suppose the bulk of the traffic in the Basin moves north and south is that so? A.—Yes, in and out. Of course, there is all kinds of traffic in there.

RECORD  
PART I

*In the  
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amination.

Q.—So far as steamers are concerned? A.—They are usually going in and out.

Q.—Most steamers are going to anchorage or coming away from anchorage? A.—Yes.

Q.—That is, going either in or out of the Narrows? A.—Yes, but there was a lot crossing to go to this Degaussing Range. There is some there every day.

Q.—How many ships would you estimate were in the Basin this day? A.—I don't think there were over seventy-five or eighty. There weren't so many as I have saw many times. 10

Q.—Tell me what flags you saw on the "Alcoa Rambler"? A.—I don't remember.

Q.—Yes. Did you see any flags? A.—The "Alcoa Rambler" I saw first. I noticed first she had a navy escort boat ahead of her.

Q.—I am asking you about the flags of the "Alcoa Rambler"? A.—When I saw this escort boat.

Q.—I am just asking you about the flags of the "Alcoa Rambler"? A.—I saw some red flag. I didn't check up on that. I didn't know what it was.

Q.—Did you have any difficulty in seeing this red flag on the "Alcoa Rambler"? A.—No. 20

Q.—And she carried some other flags in addition to that? A.—I am not sure of that.

Q.—What did this red flag on the "Alcoa Rambler" signify to you? A.—There was explosives. They all carry a red flag.

Q.—And you spoke of an escort vessel? A.—When they are moving in and out with explosives ships, the navy sends an escort boat ahead of them.

Q.—Was that both in-going and out-going? A.—Yes, both in-going and out-going.

Q.—Where was this vessel when you first saw her? A.—100 yards or 50 yards ahead of her. 30

Q.—When you say 100 or 50, have you any idea of the exact number of yards? A.—It is pretty hard to judge that.

Q.—I realize that. She carried some flags also? A.—Yes, she had some flags.

Q.—Do you know what I. C. flags mean? Do you know what the I. C. flags mean? A.—The I. C. flags?

Q.—Yes? A.—Danger.

Q.—Yes. And did you see these on the escort vessel this day? A.—I never took notice if there was or not, but I saw there was flags there—danger flag onto her. 40

Q.—You saw some danger flags on the escort vessel? A.—Yes. we have ammunition scows; they always come to us. They can't move without they have one of those boats.

Q.—These escort vessels have a mast, have they not? A.—They have a little mast on them.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
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Plaintiff's  
Evidence.

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presence of  
Trial  
Judge.  
Leigh R.  
Verge,  
Cross Ex-  
amination.

Q.—And the flags were flying on the halyard? A.—Yes.

Q.—And you saw those flags and recognized them as danger flags?

A.—Yes.

Q.—How far would you say the escort vessel was away from you on your starboard side when you first saw the escort vessel? A.—About 300 yards.

Q.—What did the escort vessel do? A.—I didn't see him do anything. After I had passed on the port side of the ship, I didn't see him.

Q.—Yes. Now, did you see some other naval craft on this day? A.—

There was other motor boats around there. I didn't pay much attention 10 whether they were naval or those taxi boats. There is a bunch of them running around.

Q.—Did you see any naval launch pass under the stern of the "Alcoa Rambler"? A.—No, not that I remember of. There is always Degaussing boats coming out, but I didn't see her.

Q.—Did you see that Degaussing boat at any time? A.—No, I didn't take notice of her. She may have went by; there is so many boats goes around.

Q.—You know, as a matter of fact, there is a range officer put on a vessel that goes over that route? A.—Yes. 20

Q.—And you are unable to tell us whether, when you first saw the "Alcoa Rambler", if her engines were going or not? A.—I couldn't say.

Q.—But some time when you were about her stern? A.—Yes, when I passed over her stern, her engines were stopped.

Q.—What whistles did you hear from the "Norefjord" after the time she left anchorage? A.—I only heard the one whistle, that I thought was two short blast whistles from two different boats. I would take it it was one of the tow boats and her. They were passing to port.

Q.—You are guessing at that, are you not, as to who gave these? A.—Sure, I would be. I heard a whistle. I heard a tug whistle; I know that; 30 but I didn't look to see if it was the other one. I took it to be the "Norefjord"; I didn't look to see the steam or not.

Q.—What you say, you only heard the one whistle, which may have come from the "Norefjord"? A.—Yes.

Q.—Is that the only whistle of any kind you heard from the "Norefjord"

Q.—And immediately, say within two or three minutes prior to the impact did you hear any other whistles from her? A.—No, I don't remember.

Q.—Can you tell us now exactly what whistles you heard from the "Alcoa Rambler"? A.—All I heard was the three short blasts when I just came around on the port bow, but I thought he was going to go astern 40 on his engine.

Q.—What is your estimate of the distance from the bow of the "Alcoa Rambler" to the "Norefjord" at the time you passed under the stern of the "Alcoa Rambler"? A.—I think then it would be about 600 yards or 700 yards. They were a long way apart then.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Plaintiff's  
Evidence.

No. 11.  
In the  
presence of  
Trial  
Judge.  
Leigh R.  
Verge,  
Cross Ex-  
amination.

Q.—You have told us that you went in a somewhat different course across the Basin than the “Norefjord” at the time you left her? A.—Yes.

Q.—And what part of the Basin were you heading for? A.—The De-gaussing Range, the north part of it.

Q.—You would be heading for the north part of it? A.—Yes. We don't have to go with the ship until she goes through the range.

Q.—And your purpose in being in the north part was to turn? A.—Yes to turn her back.

Q.—Where were the tug and barge that you referred to, when you last saw them, in respect to the “Norefjord”? A.—I didn't see the barge after I turned the “Norefjord” around and I passed out, I didn't look again. I kept coming over and, of course, she got in back of other ships. 10

Q.—What I understand from what you say is, this tug and barge were in the vicinity of the anchorage and you didn't watch them after the “Norefjord” got away? A.—The vicinity of what anchorage?

Q.—The vicinity of the “Norefjord”? A.—I said she was approaching I didn't say she was in the vicinity. I said she was approaching coming in that direction. There would be some ship up in that direction.

Q.—When you last saw the tug and barge, on what side of the “Norefjord” were they? A.—They were end on then. 20

Q.—Ultimately, something happened to the tug and barge? A.—What is that?

Q.—Ultimately, the tug and barge were somewhere in relation to the “Norefjord”. Can you tell us? A.—I didn't look where she went. I heard the two blasts. I knew it was the two boat whistle and the other ship I thought they were passed to port. Each blew a starboard blast. Of course, I didn't look and check up.

Q.—You would know most of the tugs in the harbour, of course? A.—We know pretty well.

Q.—What was the name of the tug? A.—“Sandusky”. 30

Q.—That tug is owned by your own people? A.—Yes.

Q.—That is, the Maritime Towing Company? A.—Yes.

Q.—This is correct? A.—Yes.

Q.—At the time you were swinging the “Norefjord” around in her anchorage, was she using her engine? A.—No.

Q.—Do you know that? A.—I would know it yes. If she started to use her engine ahead, my tug would be falling back alongside the ship. She would be shoving ahead, I would be starting to haul in. For instance if he didn't use his engine, I would just push right straight ahead.

THE WITNESS THEN WITHDREW. 40

GILBERTS. HART  
Official Court Reporter.

Taken in New York under commission not in presence of Trial Judge.

RECORD  
PART I

MR. R. S. ERSKINE FOR ALCOA RAMBLER & MR. GRIFFIN  
FOR "NOREFJORD."

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Defendant's  
Evidence.

No. 12-A  
Not in  
presence of  
Trial  
Judge.  
Ernest  
Henke,  
Direct Ex-  
amination.

ERNEST HENKE, being duly sworn and examined as a witness for the "Alcoa Rambler" testified as follows:

BY MR. ERSKINE:

Q.—Are you master of the Alcoa Rambler? A.—I am, Sir.  
Q.—About how long have you been master of that vessel? A.—Since

July 18, 1942.

Q.—Were you in command of that vessel at Halifax on August 20, 1942?  
A.—I was. 10

Q.—What license do you hold? A.—Master's ocean.

Q.—From what Government? A.—Department of Commerce.

Q.—United States? A.—United States Department of Commerce.

Q.—About how long have you held that license? A.—Since 1919.

Q.—How many years have you been going to sea altogether? A.—  
Forty years.

Q.—Is the Alcoa Rambler on drydock repairing right now? A.—She is

Q.—And are you expecting to sail in the near future? A.—Expect to  
complete repairs Wednesday.

Q.—Give me the dimensions of the Alcoa Rambler. length, bredth depth. 20  
A.—Length 417 feet over all, 54 feet wide, 32 feet deep.

Q.—Do you know what her gross tonnage is? A.—5500 even gross and  
3381 net.

Q.—At what port had you loaded previously to August 20th? A.—  
A.—In New York.

Q.—Tell us generally the character of your cargo. A.—General supplies  
for United States Army and 1500 tons of bombs.

Q.—And did you proceed from the port of New York to Halifax? A.—  
We did, via Boston.

Q.—You were going there for convoy? A.—Yes sir.

Q.—What is the Alcoa Rambler powered with, what kind of engine? 30  
A.—Turbines.

Q.—And single screw? A.—Single screw, 3000 horse power.

Q.—Which way does the screw turn? A.—Right screw.

Q.—Tell us under normal conditions loaded as she was when she left  
New York what her normal speed is at full speed ahead. A.—Normal  
speed loaded, 11 knots

Q.—And her half speed? A.—Half speed, 7-12.

Q.—And her slow speed? A.—Slow speed, 4.

Q.—On the morning of August 20, 1942 were you to proceed in convoy  
on that day? A.—No, I was going to sea for gun practice. 40

Q.—From whom had you received those instructions? A.—From the  
Naval Control Office in Halifax the previous day.

Q.—Before you started for gun practice on that morning, tell me general-  
ly, where the Alcoa Rambler was? A.—We were anchored in the upper  
end of Bedford Basin, northwest end.

RECORD  
PART I

*In the  
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Evidence.

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Q.—While you were there, did you have a small mimeographed chart of that Basin laid off in sections? A.—I did not have that.

Q.—Did you know in what section your vessel was anchored? A.—The pilot told me that we were anchored in 2-D.

Q.—Did you see his document after the collision (referring to chart)?

A.—I saw it later, after, yes, I saw it.

Q.—After the collision? A.—Yes.

Q.—At that time after the collision did you have any talk with the pilot regarding that area, 2-D, that you mentioned? I mean did someone discuss it with you on this paper? A.—No, sir. All they mentioned to me, 10

for the reason for the crew to get back. They had to mention where the ship is—we had so many ships anchored there hard for the launch to find the ship.

Q.—That was before the collision? A.—That was before the collision.

MR. ERSKINE: I ask that this document be marked for identification. The chart is marked Alcoa Rambler Exhibit 4 for identification.

Q.—Did you take any bearings of your position at anchor in the upper end of the Basin? A.—I couldn't say whether the officers took it or not.

Q.—Did you have any bearings of your exact anchorage up there? A.— 20  
No Sir.

Q.—Well now, looking at this Exhibit 4 for identification, I call your attention to the square in the line of "2" and the column "D" (indicating). A.—Yes, that would be our anchorage.

Q.—Would you say from your best observation of your position that is approximately where you were? A.—That is approximately where I was.

Q.—As you got under way on the morning of August 20th was there a pilot aboard? A.—Yes sir.

Q.—Do you remember whether there was any attending vessel? A.— 30  
There was.

Q.—What was it? A.—Naval Patrol Vessel.

Q.—And what type of boat was it, a big one? A.—A large launch.

Q.—What was the weather? A.—Overcast, visibility about two miles.

Q.—Can you tell us if your vessel was flying any flag signals as you started away from the anchorage? A.—We had flag B flying all the time day and night, while we were at anchor and when we left anchorage, and flag H when the pilot came aboard.

Q.—And also th. B? A.—B all the time.

Q.—So that when you left the anchorage you had the pilot flag and the B flag? A.—Yes. 40

Q.—Do you know what the condition of those flags was? A.—H signifies that we have a pilot aboard and B that we have explosives aboard.

Q.—But generally what size were they? A.—We had our Navy flags, 4 by 4.

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Q.—Do you know according to the International flag code whether or not the display of two flgs, any two flags, means anything? A.—It means important—warning signal.

MR. GRIFFIN: I object to the answer as incompetent. The codes speak for themselves, I think.

Q.—Did you notice whether the Navy launch that you mentioned was flying any flag signals? A.—It was, but I didn't take notice of the flags they was.

Q.—Did you notice how many there were? A.—Two.

Q.—When you started away from the anchorage do you remember what time it was that you commenced to heave up? A.—Approximately 8.30 in the morning. 10

Q.—Do you wish to refer to your logbook to be sure about that? Do you recognize that book (handing witness book)? A.—Yes sir.

Q.—What is it? A.—Our rough deck logbook.

Q.—Is that the rough or the smooth? A.—That is rough deck log book.

Q.—All right. Now, will you check there and tell me again the time you commenced to heave up anchor? A.—(Referring to log) 8.30 A.M.

Q.—When was the anchor finally aweigh? A.—8.55 A.M.

Q.—Did you have any attending tug? A.—No sir. 20

Q.—Got under way under your own power? A.—Yes sir.

Q.—And generally in what way did you manoeuvre to leave the anchorage and shape your course? A.—We made a turn to port and got on our regular course heading for the Narrows.

Q.—Were you using your own engine during that manoeuvre? A.—Yes sir.

Q.—Can you tell me, and refresh your recollection if necessary from the log, when you were finally manoeuvred around so as to head on your course what was the first engine movement under which you proceeded on your course? 30

MR. GRIFFIN: I suppose he was on the bridge?

MR. ERSKINE: Yes. I will ask him that.

A.—(Referring to logbook) Slow ahead.

Q.—At what time was that? A.—8.56.

Q.—Where were you yourself as you got away from the anchorage—where were you standing? A.—I was on the bridge.

Q.—And who was on the bridge with you? A.—The pilot.

Q.—Do you have a closed wheelhouse on the Alcoa Rambler? A.—Yes sir.

Q.—Armored? A.—Armored. 40

Q.—Who was in the wheelhouse? A.—The man at the wheel and the third officer.



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amination.

Q.—Was there anybody stationed up forward? A.—The chief officer with one seaman.

Q.—Do you remember whether there was anybody stationed on the poop? A.—No, I do not.

Q.—Does your bridge on the Alcoa Rambler go across in front of the wheelhouse or do you have to walk through the wheelhouse? A.—Right across in front of the wheelhouse.

Q.—So you can be outside at all times? A.—Right.

Q.—From the time of that signal, slow speed ahead, that you mentioned a minute ago, can you tell me what was the highest speed which you 10 signaled or that was signaled to the engine room before the collision occurred? A.—Half speed was the high speed.

Q.—That would be the highest speed ahead? A.—The highest speed ahead.

Q.—And as you started, generally what were you heading for? A.—We were heading for the Narrows.

Q.—What was the condition of Bedford Basin that morning with respect to other anchored vessels? A.—Very many ships laying at anchor.

Q.—And on which side of the course on which you were heading were the Narrows when you got straightened out? A.—On both sides of our 20 course

Q.—As you straightened out for the Narrows, did you yourself notice this Navy launch, where it was? A.—It was keeping in front of us.

Q.—What was the first that you yourself observed of the vessel which afterward proved to be the Norefjord where was she? A.—I saw a ship on our starboard side beyond other ships moving what appeared to me in the same direction.

Q.—Did you say there were other ships between you and her? A.—Several ships.

Q.—Where they moving or anchored? A.—Other anchored ships.

Q.—And when you first noticed the Norefjord could you see whether 30 or not she was moving? A.—I could see, and she was moving.

Q.—And in what general direction? A.—General direction—in the same general direction as we were probably about two points more towards us.

Q.—Where did she bear generally from your ship when you first saw her A.—A point or two forward our starboard beam.

Q.—And what is your best estimate as to how far off your starboard side she was at that time? A.—Approximately four ship lengths.

Q.—Referring to your ship? A.—Length of our ship.

Q.—When you first saw the other ship did you have any conversation 40 with your pilot? A.—I pointed out to the pilot saying “There is another ship going out.”

Q.—Did he say anything to you at that time that you remember? What did he say? A.—He didn't say anything. He just looked at the ship and didn't say anything.

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Q.—At that time did you have any thought that there was any danger of collision? A.—None whatever.

Q.—After that to what extent did you yourself watch the Norefjord? A.—I kept watching him.

Q.—Did there come a time when you yourself thought there was something wrong in the situation? A.—It appeared that she was turning towards us.

Q.—Where was she then with respect to the ships that were anchored on your starboard side? A.—She was still beyond the ships.

Q.—What was she doing? A.—Turning towards us, turning to port. 10

Q.—That is turning to her port? A.—To her port.

Q.—That would be turning? A.—Towards us.

Q.—In the direction of your course? A.—That's right.

Q.—What was done at that time on your ship? A.—First the pilot stopped the engines, then he ordered full astern. He ordered the third officer to blow three whistles.

Q.—Now, did you say anything to him about any other whistle? A.—a little later I suggested he blow the danger signal several short. He told he told the third officer to blow the letter "K".

Q.—And what is the letter "K"? How is it blown? A.—Long, short, 20 long.

Q.—Was that signal blown? A.—That was blown.

Q.—Do you know what that signal means? A.—You are standing in danger.

Q.—Do you know what general rules of navigation apply up in Halifax? A.—International rules of the road.

Q.—Did you yourself at any time up to the blowing of those signals by your ship hear a one-blast signal from the Norefjord? A.—I did not.

Q.—I have discussed that phase of the case with you, have I not? A.— 30 You did.

Q.—And I have told you that the Norefjord says that she blew a one-blast signal before your signals and that the other men on your ship heard it?

A.—Heard it.

Q.—And you yourself did not? A.—I probably was in the wheelhouse when she did.

Q.—You did not hear it? A.—I did not hear it.

Q.—How did the Norefjord appear to move or proceed from that time? A.—I took it that she was going full speed from the boil of the water.

Q.—And in what direction? A.—Across our bow.

Q.—At any time from the blowing of the three-blast or the K signal on 40 your ship to the collision, did you observe any change of course by the Norefjord to her right? A.—To her left—it appeared to me to her left.

Q.—Did you observe any change to her right? A.—No sir,

Q.—Now, you spoke about a signal full speed astern on your engine.

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amination.

Do you know who it was that actually rang the telegraph for that signal? A.—The third officer, Mr. Johnson.

Q.—Did you yourself do anything after that with respect to the engine movement? A.—Yes.

Q.—What did you do? A.—Later I kept, jingled full astern, jingled twice.

Q.—When you say “jingled” how do you do that? A.—Just give a ring on the telegraph and leave the telegraph on the full astern again.

Q.—That is a repeat of the order? A.—A repeat.

Q.—Was anything else done on your ship before the collision with respect to checking her speed? A.—I ordered drop her starboard anchor. 10

Q.—Was that done? A.—Yes sir.

Q.—Can you give me your best estimate of how far away the port side of the Norefjord was from the bow of your vessel at the time your anchor was dropped? A.—I will say fifty feet.

Q.—How much? A.—Fifty feet.

Q.—Was any anchor dropped by the Norefjord, as far as you saw? A.—As far as I know, they did not drop anchor.

Q.—What can you tell us by way of describing the headway or speed of the Norefjord up to the time of collision? A.—She was moving ahead rapidly. 20

Q.—Did you notice anything about the Norefjord at all before the collision with respect to any reversing of her engines? A.—Just before, prior to the collision I saw from the boil of the water that her engines were working astern.

Q.—Had there been any such condition as that before while you were looking at her, any such condition of the water? A.—No sir, she was going ahead.

Q.—And what do you say as to the speed of the Alcoa Rambler at the time of the collision? A.—She was almost, if not altogether, stopped. 30

Q.—Will you take these two models I will give you and put them together to indicate the way the ships were heading at the time of the collision (handing witness models). You take the pencil and draw the outline around those models. A.—(Using models) Is that supposed to be amidships, that thing here (indicating knob on the model)?

Q.—Well, you can draw it any way you please. A.—It struck right amidships (placing models).

Q.—You want to show that the contract was about amidships? A.—Yes

MR. ERSKINE: This is the Alcoa Rambler and that is the Norefjord (outlining models)? 40

THE WITNESS: Yes.

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amination.

MR. ERSKINE: I ask that that be marked in evidence.  
The diagram is marked Alcoa Rambler Exhibit 5.

Q.—Now, after the contact, which you say was approximately on the port amidships of the Norefjord, where did the Norefjord go? A.—She continued right across our bow.

Q.—And as she continued across your bow was there any contact or rubbing of the after port side of the Norefjord? A.—None whatever.

Q.—Where did you go after the collision? A.—I went ashore with the pilot.

Q.—Well, I mean the ship herself, where did she go? A.—Back to 10 our original anchorage.

Q.—Did the collision cause any damage to your vessel? A.—Yes sir.

Q.—In a rough way, what was it? A.—Set our stem to port.

Q.—Had there been anything wrong there before the collision? A.—No sir.

Q.—Did you make any repairs at Halifax before proceeding on your voyage? A.—Temporary repairs.

Q.—Do you remember on what date you finally got away from Halifax in convoy? A.—The 23rd.

Q.—The permant repairs are now being made here in New York, are they? 20 A.—That's right.

Q.—Did you hear any danger signal or K signal from the Norefjord at any time before the collision? A.—I did not.

Q.—Were your flags flying right down to the time of the collision? A.—Yes sir.

Q.—On your bridge on that morning was there anyone who had the duty of making notes of the times of the signals? A.—That is the third officer's duty.

Q.—Do you know on what paper or document he made his first original notes? A.—After the collision I saw that he made notes on a pad, 30 from a pad.

Q.—Did you see them immediately after the collision? A.—Yes sir.

Q.—I show you four slips of paper—do you recognize them (handing witness papers)? A.—Yes sir.

Q.—Are those the slips which the third officer showed you after the collision? A.—These are.

Q.—And I call your attention paticularly to this slip which starts with the name at the top on one side "R. L. Clark, pilot". That slip, as I read it, seems to cover the signals from the time of starting down until after the collision, is that right? A.—That's right. 40

Q.—Now, when you saw that slip did you yourself notice anything about it? A.—I noticed there was, that it was incorrect.

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Q.—In what respect? A.—That he showed that we dropped the anchor prior to full astern, which I know was incorrect.

Q.—Did you notice whether or not he had all of the signals that had been given when you first looked at it? A.—I couldn't say that.

Q.—Well, was there anything about the signals themselves, that is the times of the entries, that attracted your attention? A.—Yes, it appeared they were incorrect.

Q.—What did you tell the third officer to do, if anything? A.—Told him to get the correct bells from the chief engineer.

Q.—I call your attention to the fact that a number, if not all, of these 10 times have been erased and rewritten. Were the erasures there when you first looked at it? A.—No sir.

MR. ERSKINE:

I ask that the four slips be marked for identification. I will clip them to a piece of yellow paper.

The four slips of paper, clipped to a piece of yellow paper, are marked as one exhibit, Alcoa Rambler Exhibit 6 for identification.

MR. ERSKINE:

I am agreeable that Mr. Griffin shall have any opportunity he wants to 20 examine those. I will offer them in evidence-also the logbooks. They are so marked.

Q.—Is there any doubt in your mind as to what the engines were doing when the anchor was dropped? A.—I know the engines were going full astern.

Q.—And what were the engines doing at the time of the collision? A.—Still going full astern.

Q.—From the time that they were put full astern and you rang the jingle twice were they kept full speed astern? A.—They were kept full speed 30 astern at all times.

Q.—So far as you observed, from the time that the first whistle was blown on your ship, the three-blast, until the collision occurred was there any substantial change of heading of your ship? A.—I couldn't notice any change at all.

Q.—Did you take any bearings to determine the exact place where the collision occurred? A.—No sir.

Q.—Was it inside the Narrows? A.—Inside the Narrows in Bedford Basin, inside the Narrows.

Q.—You had not reached the Narrows? A.—No sir.

Q.—Were there any current conditions up there as far as you knew? 40 A.—As far as I knew there were no current.

Q.—The signal flags that you were flying on your ship, were they old flags? A.—new flag, put aboard by navy.

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Q.—So far as you observed, was there any delay of any sort in carrying out the orders given by the pilot on this day? A.—No sir.

Q.—What is your best estimate of the distance of your ship from the Norefjord when your engine was put full speed astern? A.—About two and a half ships lengths.

## CROSS EXAMINATION BY MR. GRIFFIN

Defendant's  
Evidence.

Q.—Captain you say there was about two miles visibility on this day?

No. 11 A  
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amination.

A.—Yes sir.

Q.—Any tide in that basin? A.—As far as I know, there is not.

Q.—Any wind that morning? A.—Very light.

Q.—What is your log entry about the wind for that day? A.—(Refer-  
ring to log) North northeast 2.

Q.—You say that your full speed loaded is about 11 knots? A.—Right.

Q.—How many revolutions does she make for that, do you know? A.—

90.

Q.—And how many revolutions does she turn at half speed? A.—60.

Q.—And at slow? A.—About 40.

Q.—Do you know what the diameter of the propeller is? A.—15 feet,

15 feet pitch.

Q.—I asked for diameter, but I was going to ask for pitch next? A.—  
I don't know the diameter.

Q.—You say it is a righthanded propeller? A.—Right.

Q.—And that means, I suppose, that when you reverse, your bow goes  
starboard and your stern to port? A.—That's right.

Q.—Does that occur as soon as you reversed your engines? A.—No sir,  
some time after.

Q.—Some time after you give the order? A.—Some time after I give  
the order.

Q.—Do you know about how long it takes for the bow to begin to swing?  
A.—Well, a loaded ship, it takes quite a long time before she starts swinging

Q.—You have never timed it, I suppose? A.—No sir.

Q.—In general what was the character of the supplies that you had for  
the Army? A.—Guns, provisions trucks.

Q.—And what port were you bound for? A.—We did not know until  
we arrived in Belfast. Actually we did go to Swansea, Wales.

Q.—Where is that? A.—Bristol Channel.

Q.—Your ship was built in 1919, wasn't it? A.—That's right.

Q.—Were the engines built the same time? A.—Yes sir.

Q.—They are Westinghouse turbines? A.—I believe it is Parsons  
turbines.

Q.—Are you sure of that? A.—I am not sure.

Q.—When you started from your anchorage on that morning, I suppose  
your engines were cold? A.—Yes sir.

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Q.—You had not warmed them up before starting? A.—It is warmed up all the time.

Q.—I mean had you operated the engine before you got your anchor up? A.—Yes sir.

Q.—While you were still at anchor? A.—Yes sir. These particular engines they always have to do that—that is what the chief engineer told me

Q.—Why is that? A.—I don't know. It is a certain thing that they have to do.

Q.—Does your log show when you started to operate the engines that morning? A.—Yes sir. 10

Q.—What time was it? A.—You mean trying out prior to heaving up?

Q.—Yes. A.—Not mine—the engineer's log would show.

Q.—The deck log does not show?

MR. ERSKINE: I show the captain the engineer's log (handing witness book). Do you recognize that as the engineer's log?

THE WITNESS: Yes sir. (Referring to engineer's log) We used the engines several times while we were heaving up anchor.

Q.—Well, what is the first movement, what time? A.—Slow astern 8.42.

Q.—And how long did they run then? A.—8.43 stop. 20

Q.—And what is the next? A.—Slow ahead.

Q.—What time? A.—8.44, and stop 8.45.

Q.—And then what? A.—Slow astern 8.51, stop 8.52.

Q.—And what is next? A.—Full ahead 8.53, half ahead 8.56.

Q.—At that time your anchor was up? A.—At that time the anchor was up. Slow ahead 9.03.

Q.—And what is the next entry after that? A.—Half 9.12.

Q.—And the next? A.—Slow 9.14, stop 9.15.

Q.—And the next? A.—Full astern 9.16-1/2.

Q.—Then what is the next entry? A.—Full astern 9.17—that is my 30 jingle.

Q.—And the next? A.—Full astern again 9.17-1/2, stop 9.19.

Q.—Your first astern order was 9.16, did you say? A.—16-1/2.

Q.—16-1/2? A.—Yes sir.

Q.—What time was the collision? A.—9.18.

Q.—Do you know whether your deck and engine clocks had been synchronized? A.—The third officer told me that they did.

Q.—Which officer said that? A.—Johnson, the third officer.

Q.—Did he say when? A.—Prior to starting on our way.

Q.—That same day? A.—The same day. 40

Q.—You had a pilot? A.—Yes sir.

Q.—Were all the orders given by the pilot? A.—All the orders were given by the pilot.

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Q.—Right up to the collision? A.—Yes sir.

Q.—What color was this launch you spoke of—was she black? A.—

Gray.

Q.—All the same color or were there different colors on her? A.—I don't remember—it might have been black too.

Q.—Do you know what your heading was while you lay at anchor? A.—I never looked at the compass but we were heading for the Narrows. From the land I see that we were heading for the Narrows.

Q.—So you did not have to turn before you started ahead? A.—We did turn a little bit, dodged the ships, the channel was not clear. 10

Q.—It was necessary to make change of course from time to time because of the anchored ships? A.—Yes sir.

Q.—Was the channel left clear or were they anchored all over? A.—Anchored all over. It was more clear in the middle but the channel wasn't left clear.

Q.—You said that you first saw the Norefjord—did you happen to see her or did someone call your attention to her? A.—No, I noticed myself.

Q.—Did you get any report from forward about her at any time? A.—No sir.

Q.—Could you show on the chart approximately where your ship was when you saw the Norefjord? I have a large chart here if you care to use that. A.—(Indicating on chart) About there. 20

MR. GRIFFIN: The witness marks on chart No. 5268 a cross surrounded by a circle, which is marked "Position of Rambler when captain sighted the Norefjord".

Q.—At that time as I understand you, you were heading for the Narrows? A.—Right.

Q.—And that would be about the heading of this line which passes through the position you have marked, which is printed on the chart (indicating)? A.—Yes sir. 30

Q.—Where was the Norefjord at that time as near as you can fix it? A.—Around there (indicating on chart).

MR. GRIFFIN: The captain marks a cross surrounded by a circle, which is marked "Position of Norefjord when sighted by Rambler's captain".

Q.—Captain, in that position she was about four points on your bow, wasn't she? A.—No sir, then I am poor at marking. She was about two points on my starboard.

Q.—Two points on your starboard bow? A.—No, starboard beam, forward the starboard beam. 40

Q.—Do you know where the degaussing range is? A.—Yes sir.

Q.—Could you indicate on the chart? (Witness indicates).



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Nova Scotia  
Admiralty  
District.*

Defendant's  
Evidence.

No. 11. A  
Not in  
presence of  
Trial  
Judge  
Ernest  
Henke,  
Cross Ex-  
amination.

MR. GRIFFIN: Witness draws a line marked with the letters "D R".

Q.—You said that you could not indicate the place where the collision occurred? A.—Approximately. I say I did not draw good to show two points forward the beam, that is what I meant.

Q.—But I thought you said to Mr. Erskine that you did not know exactly where the collision occurred? A.—Not exactly, no, I took no bearings.

Q.—At the time when you sighted the Norefjord were your engines at half speed? A.—Yes sir.

Q.—Now, what time was the half speed order in the engineer's log?

A.—(Referring to log) Half ahead 9.12, slow ahead 9.14, stop 9.15. 10

Q.—Why did you stop the engines? A.—The pilot ordered stop—probably for the other ship.

Q.—Did he say anything when he gave that order? A.—No sir.

Q.—Why do you think he stopped them?

MR. ERSKINE: I object to that on the ground that the captain is not called upon to speculate as to the pilot's reasons.

MR. GRIFFIN: Well, the captain was there.

Q.—Do you think it was wise to stop the engines? A.—I think so.

Q.—Why? A.—We thought that ships going out through the Narrows, only one ship goes at a time—when a convoy leaves one ship goes at a time—all ships go slow then. 20

Q.—Well, was there a convoy going? A.—No sir, but there was one going out way ahead of us, a lot of ships going out all the time.

Q.—Ships do go over the degaussing range, do they not? A.—Yes sir.

Q.—But you assumed that this ship, the Norefjord, was going out through the Narrows? A.—In the beginning we did.

Q.—If you had known she was going to the degaussing range what order would you have given? A.—Stop.

Q.—In order to let her pass in front of you? A.—Well, either let her pass or see what is going to develop. 30

Q.—She was on your starboard bow at all times until the collision? A.—On the starboard side, yes.

Q.—Starboard side, and I suppose the starboard bow as you drew near her? A.—Yes sir.

Q.—Had you seen a tug turning the Norefjord around before she left her anchorage? A.—I did not. I saw the tug later.

Q.—When you first saw the Norefjord she seemed to be swinging to her port, as I understand? A.—That is what appeared to me.

Q.—Did you see a barge crossing—I think crossed your bows? A.—I did not. 40

Q.—You did not see a barge anywhere? A.—No sir.

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PART I

*In the  
Exchequer  
Court  
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Evidence.

No. 11.<sup>A</sup>  
Not in  
presence of  
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Judge.  
Ernest  
Henke,  
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amination.

Q.—You said that your wheelhouse was armored. How much opening is left in the wheelhouse—just a little slit? A.—Six holes, about eighteen inches long by four inches wide, in front, and four or five—bigger on the side.

Q.—How many in front? A.—Four.

Q.—And one on each side? A.—One on each side.

Q.—Are there splinter shields in front of those openings? A.—No, just openings. We have windows on the inside but the windows are all down at all times.

Q.—Do you know what I mean by splinter shields? A.—Yes, sir. 10

Q.—And do you not carry those? A.—No.

Q.—I gather that you were in the wheelhouse part of the time? A.—I was.

Q.—Do you remember when you went in? A.—I went in to give the jingle twice, full astern, and I was there before.

Q.—You say there was one time before? A.—Might be one or more times.

Q.—What did you go in for before? A.—Twice I went in to give the jingle.

Q.—I mean before that. A.—I don't know, just to see the man at the 20 wheel and the third officer. I got to watch them too.

Q.—You would stay inside there? A.—No, a very short while.

Q.—Did you look at the compass? A.—No sir.

Q.—You went in to say something to the wheelsman? A.—No, just keep an eye on them.

Q.—And you went in and out that way several times, did you? A.—Several times.

Q.—When the order of half speed was given, were you inside or outside? A.—Half ahead.

Q.—Yes. A.—Outside. 30

Q.—And then when the engine was ordered stopped did you go inside? A.—I don't remember. All I remember, I went inside to give the jingles.

Q.—You think that you saw the Norefjord just when she was about, did you say, of four ships lengths away? A.—Approximately.

Q.—That would be about a quarter of a mile? A.—About that.

Q.—And she was then moving? A.—She was moving.

Q.—And you were then at half speed? A.—Yes.

Q.—What speed do you think your half speed gave you through the water? A.—Starting out from port we don't get the regular half speed because the engines are cold, they never give half speed.—I will say six 40 knots.

Q.—And then, as I remember it, the next order was slow? A.—Yes sir.

Q.—And what speed do you think you were making at slow? A.—Oh, I will say four knots.

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amination.

Q.—And then the next order was stop? A.—Yes sir.

Q.—How much did her speed fall off then under the stop order? A.—

Very little—a loaded ship—very little.

Q.—Well, it would fall off, wouldn't it? A.—It would fall off, yes.

Q.—And how long a time was it between the order to stop and the order to go astern? A.—(Referring to log) In the log here, stop, 15—a minute and a half.

Q.—So you stopped a minute and a half? A.—Yes sir.

Q.—And the propeller was dragging, I suppose? A.—Yes.

Q.—That would slow you down some wouldn't it? A.—It would slow 10  
me down some.

Q.—To three knots, do you think? A.—Oh, I couldn't say.

Q.—At all events, there came a time when an order of full astern was given? A.—Yes sir.

Q.—But your ship still had headway at the time of the collision? A.—  
Yes sir.

Q.—Was the first full speed astern order given by you or by the pilot?  
A.—By the pilot.

Q.—Did he say anything when he gave it? A.—No sir.

Q.—Why did you give the jingles? A.—That is our understanding, to 20  
give all the power he has for going astern.

Q.—When that order of full astern was given, were there any anchored ships between you and the Norefjord? A.—We were about abreast the last ship on our starboard side when we give the order full astern.

Q.—How far off do you think your ship was from the Norefjord when you gave that first jingle? A.—About 400 feet.

Q.—You thought it was a dangerous situation then, I suppose? A.—  
Yes, sir.

Q.—Why didn't you let go the anchor then? A.—We did let go of it  
almost immediately. 30

Q.—Well, you said, as I understood you, that you were about fifty feet from the Norefjord when the anchor was let go? A.—Yes—well, that is in front, but she was still on the side.

Q.—At the time when the first order to go astern was given did you think there was danger? A.—Well, I thought there was danger, otherwise I wouldn't give full astern.

Q.—But you did not let go the anchor then? A.—No sir.

Q.—At that time when you gave the first order to go full speed astern you knew that the Norefjord was going to cross ahead of you? A.—  
When we give full astern? 40

Q.—Yes. A.—I thought he was going to back up.

Q.—His heading was such that if he continued to go he would cross ahead of you? A.—He would cross ahead of us, yes.

Q.—How do you think the Norefjord bore from your ship when you gave the first order to go full speed astern—that is, how many points on your

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amination.

bow do you think she was? A.—About four points on the bow.  
Q.—So her bearing was drawing forward all the time, wasn't it? A.—

Yes sir.

Q.—Getting more and more forward? A.—Yes sir

Q.—And that would be an indication that she was going to cross your  
bow? A.—That's right.

Q.—Was the bearing drawing forward in that way continuously from the  
time you first saw her? A.—Not from the time I first saw her. She  
appeared to be going almost the same direction as we were.

Q.—But from the time she began to move across towards the degaussing 10  
range her bearing was drawing ahead, wasn't it, of your ship? A.—Yes  
sir.

Q.—Your ship has a straight stem, has she? A.—Yes sir.

Q.—What is it, a steel bar? A.—Steel bar.

Q.—Do you know the dimensions? A.—No.

Q.—You say that was turned over to port? A.—Yes sir.

Q.—And, I suppose, damage the plating? A.—Plates buckled and some  
cracked at the stem.

Q.—How far abaft the stem? A.—About the six-foot draft.

Q.—And how far abaft the stem? A.—Just on the stem.

20

MR. GRIFFIN:

Mr. Erskine, have you any photographs of the Alcoa Rambler's stem?  
If so, I call for their production.

MR. ERSKINE:

I do not remember any. There were some photographs offered in evi-  
dence which were unfortunately left up there in Halifax.

MR. GRIFFIN:

I call for their production at the proper time.

Q.—There was no order given to the Alcoa Rambler's helm, was there?  
A.—As far as I know, there was not, not just prior to collision. Of course, 30  
we changed course coming down the channel.

Q.—Did you have to change course several times to avoid anchored ves-  
sels? A.—Yes sir.

Q.—And that would be necessary for any ship navigating in Bedford  
Basin that morning, wouldn't it? A.—That's right.

Q.—There were so many you had to thread your way in and out? A.—  
That's right.

Q.—Did you mean to indicate on the diagram, Exhibit 5, that the col-  
lision was exactly at right angles? A.—No, about 75 degrees.

Q.—75 degrees which way? A.—More this way (indicating). 40

Q.—That is, you indicate that the Alcoa Rambler was heading somewhat  
towards the bow of the Norefjord? A.—Yes sir.

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Q.—And the angle you estimated is 75 degrees? A.—75 degrees.

Q.—Now, these four slips of paper were shown to you immediately after the collision? A.—I asked for the bellbook and that is what he showed me.

Q.—In most cases one can read what the original entry was. Suppose you look at this and follow me, if you will. The entry which now reads "8.43" was "8.44" originally wasn't it? A.—Yes, that is "4".

Q.—Now, the next one—I am not sure—8.45, it looks like. A.—Yes, 5

Q.—That is the entry that is now 8.44? A.—Yes.

Q.—Then the entry that is now 8.45 A.—That is 8.46. 10

Q.—You think it was originally 8.46? A.—Yes.

Q.—8.51 was not changed apparently? A.—No.

Q.—And 8.52 was not changed? A.—No.

Q.—8.55 was not changed? A.—No.

Q.—The one that now reads "8.53" full speed ahead"—do you know what that was originally? A.—I don't know—8.53, that is still at anchor.

Q.—You don't know how that read? A.—No.

Q.—And the next one, 8.56, has not been changed, as far as I can see? A.—No.

Q.—And the following one, which is 9.03 do you know what that was 20 originally? A.—I can't make out.

Q.—And the next one, which now reads "9.12" it looks like 9.14 doesn't it? A.—9.14, yes.

Q.—And then, turning the slip over on the back side, the one which now reads "9.14" was originally 9.15? A.—Yes.

Q.—And the one which now reads "9.15" was originally 9.16, would you say? A.—I can't make out.

Q.—That is the order to stop, isn't it, 9.15? A.—Yes.

Q.—And then opposite that the mate wrote the words 'Let go St', for starboard anchor—that is right, isn't it? A.—Yes sir. 30

Q.—Then the following entry, which is full speed astern, is now 9.16½ Can you make out what it was? Wasn't it 9.18? A.—It looks like 9.18.

Q.—And then there are two entries which looked as though they were inserted afterward in small writing? A.—Yes.

Q.—And those are the jingles of 9.17, 9.17½? A.—Yes sir.

Q.—Now, did you tell the third mate to put those in? A.—No sir.

Q.—Were they in when you first saw the paper? A.—I don't know. All I noticed that the time between dropping the anchor was incorrect and I told him "You have the wrong bells" and I told him to get the cor- 40 rect bells from the first engineer.

Q.—What are these (indicating on the slip of paper)? A.—We picked up a big cable in the harbor and we had to move around to get clear of that cable

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Q.— Was the chief officer on the forecandlehead all the time? A.—All the time from the time we started to heave up until we dropped anchor again

Q.— What was his duty there? A.— To heave up anchor and keep look-out going out the harbor, standing by.

Q.— What was the sailor there for—to help the chief officer? A.— To help the chief officer.

Q.— What condition was your anchor in? A.— It was up two blocks.

Q.— And how was it secured? A.— Just by brake in harbor.

Q.— What does that mean—you said the anchor was up two blocks?

A.— Right in the hawse pipe. 10

Q.— I suppose the longer you proceeded after leaving your anchorage, the more your engines warmed up? A.— Yes sir.

Q.— And therefore your speed would increase, I suppose? A.— Would increase.

Q.— You said, I think, that when you gave the first order full speed astern you were just coming clear of a ship so there was no longer anything between you and the Norefjord? A.— That is correct.

Q.— Had you changed your course to pass that ship, do you remember? A.— I don't remember, I don't think so.

Q.— She was on your starboard side, I suppose? A.— On my star- 20 board side, yes.

Q.— So if you had made any change it would have been a change to port probably? A.— Yes sir.

Q.— Where was the pilot standing on the bridge? A.— On the starboard side of the wheelhouse, in front.

Q.— And the third officer was in the wheelhouse? A.— Right inside the wheelhouse.

Q.— And what part of the bridge were you on when you were outside? A.— Alongside of the pilot.

Q.— There was no record, I suppose, kept of helm orders on your ship, 30 Was there? A.— No sir.

Q.— I think you said that these positions you have marked on the chart for me were approximate positions? A.— That is approximate.

Q.— But you are not sure they are exactly accurate? A.— No sir.

MR. GRIFFIN: I offer the chart in evidence as Norefjord Exhibit 10, Chart No. 5268 of the Hydrographic Office, entitled Bedford Basin, and dated August 12th.

The chart is marked Norefjord Exhibit 10.

## REDIRECT EXAMINATION BY MR. ERSKINE:

Ernest  
Henke  
Re-Direct Ex-  
amination.

Q.— Captain, looking again at that book which you identified as the en- 40 ginerroom log, I call your attention to this entry "Cut steam in at 6 o'clock". Do you see that? A.— Yes sir.

Q.— Do you know what that means? A.— The warming up.

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MR. GRIFFIN: Of the boilers?

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THE WITNESS: Yes sir.

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Ernest  
Henke,  
Re-Direct  
Examination

MR. ERSKINE: I will ask that this engineroom log be marked for identification, the page of the logbook dated August 20, 1942, as Alcoa Rambler Exhibit 7 for identification.

The page of the logbook is so marked.

MR. ERSKINE: I will offer the deck logbook, the page of August 20, 1942, as Alcoa Rambler Exhibit 8 for identification.

The page of the deck logbook is so marked.

RE-CROSS EXAMINATION BY MR. GRIFFIN:

10

Defendant's  
Evidence.

No. 11.A  
Not in  
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Trial  
Judge.  
Ernest  
Henke,  
Re-Cross Ex-  
amination.

Q.—Captain, referring to the deck log, Exhibit 8 for identification, in whose handwriting is this? A.—That is my handwriting.

Q.—Now, you say “Shortly afterwards observed that the other was turning towards us and attempting to cross our bow”. You realize then that she was going to attempt to cross your bow. A.—That appeared to me.

Q.—And then your next entry is “Stopped and reversed our engines to full astern”. That is the order of events, isn't it? A.—Yes sir.

Q.—You noticed that she was attempting to cross your bow and then you stopped your engines? A.—That is what I understood. The pilot stopped the engine, but that was my understanding of the other ship.

Q.—At the time you stopped then you understood that the other ship was attempting to cross your bow? A.—It appeared to me that way.

Q.—But you did not reverse at that time? A.—We reversed as soon as we saw she was going across.

Q.—Well, you stopped at 9.15 didn't you? A.—Yes sir.

Q.—And you reversed at 9.16-½. That is correct, isn't it? A.—Yes sir.

Q.—Now you have 9.18 as the time of the collision? A.—That's right.

Q.—Did anybody take that time on the clock? A.—That was—since the third officer's time was incorrect, that is the engineroom time.

Q.—Well, the engineroom time of what—of the collision? A.—Yes sir.

Q.—I have not yet looked at the engineroom log. Then on the bottom of the page you have the details of the orders. A.—That is not my writing I told the third officer to get the correct bells from the engineroom and he and he wrote them in.

Q.—That is the third officer's writing then? A.—Yes.

Q.—And that was after he had gotten the bells from the engineroom, you understand? A.—Yes.

Q.—You say that this was written by the third officer after he got the bells from the engine room? A.—Yes.

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Re-Cross  
Exam-  
ination.

Q.—And yet in this log he says “9.16” stop, let go starboard anchor 30 fathoms in water, 9.16- $\frac{1}{2}$  full speed astern”. A.—That is still wrong then.

Q.—So he is still. A.—Still wrong. It was done about the same time, just right after the full astern we dropped the anchor.

Q.—After your jingle? A.—No, the jingle was after the anchor, I believe, dropping the anchor I believe. I don't remember correctly.

Q.—Perhpas I misunderstood you, but I did not understand before that you dropped the anchor immediately after your first full speed astern, order

A.—That is what I did. 10

Q.—Did you? A.—Yes sir.

Q.—Well, you said you dropped the anchor when the ships were fifty feet apart and you said she went full astern when they were two and a half lengths apart. Now, which is right? A.—Well, she is coming from the starboard side—when I put her astern she wasn't moved up that far ahead yet, she was moving ahead, but going full speed she came up quick in front.

Q.—And she was fifty feet away when the anchor went down, according to your estimate? A.—About that.

Q.—How far away was she when you went full speed astern? You still say two and a half lengths? A.—That is what I said before? 20

Q.—Yes. A.—About that.

Q.—Well, it would appear from that that you did not drop your anchor immediately after the full speed astern order, wouldn't it? A.—I still think that ship did not intend—was not going across our bow, because she she had no chance.

Q.—Because of your headway? A.—Yes sir.

Q.—Your engines were, according to this log, put half ahead at 9.12 and then they were slowed at 9.14. Do you know why they were dropped from half ahead to slow? A.—I don't know. That is the pilot's orders.

Q.—You had already seen the Norefjord? A.—Yes sir. 30

Q.—Isn't that the reason they were slowed? A.—Probably so.

Q.—You keep a smooth deck log too? A.—Yes.

Q.—Is that the same as this Exhibit 8? A.—That is a copy.

MR. GRIFFIN: Have you got that here?

MR. ERSKINE:

Yes (producing same). Is that your smooth deck log, Captain?

THE WITNESS:

Yes sir.

Q.—The blow of collision was a pretty heavy one, wasn't it? A.—I see the engineer says? “A heavy jar? A.—Well they always say that. 40

Q.—They always say that? A.—Well, I wouldn't say it was a heavy one. It was a gentle blow.



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Henke,  
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amination.

Q.—You think it was a gentle blow? A.—Well the blow of a ship with 9000 tons behind it—if we had a heavy blow it would go right through.

Q.—Your deck log says that you sighted the Norefjord about 9.13. Did anybody take that time? A.—No sir.

Q.—Or is that an estimate? A.—That is an estimate.

Q.—Who wrote up the smooth log? A.—The third officer too.

Q.—He has an entry in the smooth log “8.43 stop, various bells logged in bellbook”. What does he mean by the bellbook? A.—The book where they enter all the bells.

Q.—You mean the engine bellbook? A.—No, the deck bellbook. We don't enter our bells in a book except in the occasion of collision—we keep a book for that, bellbook. 10

MR. ERSKINE:

I may save time. He made the slips of paper and then he copied it into this bellbook, then he copied it into the rough log. I am showing to Mr Griffin the smooth deck log and the deck bellbook.

Q.—In whose writing is this deck bellbook? A.—That is the third officer.

Q.—He has an entry here “9.16 stop” which appears to have been erased and I think it was 9.15 before that. Can you tell? A.—It looks like that 20

Q.—And then the next entry is “9.15 let go starboard anchor” and “9.16.  $\frac{1}{2}$  full astern”. You say that is a mistake? A.—That is not correct. That is exactly as in the logbook.

Q.—Well, he evidently had not gotten that part of his record straightened out at the time he wrote these? A.—No.

MR. GRIFFIN:

Are you going to mark the bellbook?

MR. ERSKINE:

Yes.

Q.—Your forepeak was leaking after the collision, was it? A.—Yes 30  
sir.

MR. ERSKINE:

I ask that the smooth deck log be marked for identification, Alcoa Rambler Exhibit 9 for identification the left hand page. It is so marked.

MR. ERSKINE:

And the deck bellbook, the righthand page, Alcoa Rambler Exhibit 10 for identification. It is so marked.

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REDIRECT EXAMINATION BY MR. ERSKINE:

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Admiralty*

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Evidence.

No. 117A  
Not in  
presence  
of Trial  
Judge.  
Ernest  
Henke,  
Re-Direct  
Exam-  
ination.

Q.—Captain, going back to those slots or openings in the wheelhouse—you spoke of the sides of the wheelhouse. Do the sides of the wheelhouse start back from the forward section directly fore and aft or at an angle?

A.—An angle.

Q.—I have drawn on this piece of paper a single straight line indicating the forward edge of the bridge. Now, I intend this shorter line to indicate the front of the wheelhouse (indicating on sketch). A.—Yes sir.

Q.—Now, will you draw the two sides as they start away?

(Witness does as requested).

Q.—I understood it that there were four slots in the foreward section?

A.—That's right.

Q.—Just mark them in there, please.

(Witness does as requested.)

A.—One on each side (sketching).

Q.—Of course, those marks you put in the form of squares do not represent any projection? A.—No.

MR. ERSKINE:

I will offer that sketch in evidence. It is marked Alcoa Rambler Exhibit 11. 20

Q.—I think you told Mr Giffin that at the time your engine was put full speed astern the Norefjord was just coming around the last of the anchored ships, is that correct? A.—That is correct.

Q.—As I understand you, that would mean that there were no more anchored ships between you and her then? A.—That's right.

Q.—Or between her and the Narrows? A.—That's right.

Q.—So from that time on there were no anchored ships— A.—It was clear.

Q.—(Continuing) wait a minute—that necessitated any special course by the Norefjord? A.—No sir. 30

Q.—And at that time as she came around the last of the anchored ships what was it she was doing that then attracted your attention? A.—She was turning towards us.

Q.—That is, swinging to you? A.—Swinging to our port.

Q.—From that time on, as far as you could see, what was she doing in the way of course, the Norefjord? A.—She was crossing our bow, crossing our port side.

Q.—Well, what was she doing with respect to the heading of her ship, as you observed it—was she steady or what? A.—She appeared to be swinging to her port. 40

Q.—On this chart, Norefjord Exhibit 10, you indicate by the line "D R" the degaussing range? A.—Approximately.

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Re-Direct  
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ination.

Q.—At the time of the collision, how was the Norefjord heading with respect to that general area of the degaussing range? A.—It was just heading for it.

Q.—Now, I think you were asked a question about the fact that when you first saw the Norefjord, as you described it no one on the fore-castlehead made any report to you about it. Under the existing conditions, as you yourself saw them, was there any reason for anyone on the fore-castlehead to report the Norefjord to you at that time? A.—None at all because she was way out of, clear out of our way.

Q.—You were asked several questions by Mr. Griffin about the fact that when you saw the Norefjord swinging to the left you thought that she was then attempting to head across your course. When you first saw that did you have any reason to believe that she was going to keep on doing it? A.—No sir, I did not expect any time up to the last minute that she would cross our bow.

Q.—That figure of fifty feet which you stated as the distance between the vessels at the time of the dropping of your anchor was, I assume, an estimate? A.—Estimate.

Q.—I neglected to ask you under direct examination did you notice any movements of the escorting launch before the collision with respect to the Norefjord? A.—I saw her approach the Norefjord prior to the collision.

Q.—Were you able to hear whether there was any hail between the launch and the Norefjord? A.—No sir.

Defendant's  
Evidence.

No. 11. A  
Not in  
presence  
of Trial  
Judge.  
Ernest  
Henke,  
Re-Cross  
Exam-  
ination.

#### RECROSS EXAMINATION BY MR GRIFFIN:

Q.—Captain you spoke of the Norefjord's apparently swinging to port. Do you say that she continued to swing in that way right up to the time of the collision? A.—It appeared to me.

Q.—Well now, what was it you judged her swing by? I mean were her masts coming more nearly in line or something of that kind? A.—By the wake of the water from her propellers.

Q.—By the wake? A.—Yes, you can see.

Q.—Did her masts seem to get nearer in line with each other? A.—Originally when I saw her she appeared to me to be going pretty nearly the same course as we were.

Q.—That does not answer my question. You said she was swinging to port, you thought all this time. Were her masts appearing to line up more nearly? A.—She appeared at a broader angle all the time.

Q.—Well, that is just a result that would be produced by your own forward movement, isn't it? A.—I wouldn't say that.

Q.—When did you write up the accounting in that log, right after the collision, that same morning? A.—Fifteen minutes after—after we anchored.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada,  
Nova Scotia  
Admiralty  
District.*

Defendant's  
Evidence

No. 11. A

Not in  
presence of  
Trial

Judge.  
Ernest  
Henke,

Re Cross Ex-  
amination.

Defendant's  
Evidence

No. 12.

Not in the  
presence of  
Trial

Judge.  
Julius M.  
Kaost,

Direct Ex-  
amination.

Q.—Things were fresh in your mind, of course? A.—Yes—before I went ashore.

Q.—And you wrote at that time that you saw she was attempting to cross your bow and then you stopped and reversed? A.—I have not told that.

Q.—Well, that is the way it reads in the log? A.—Yes sir.

Q.—And isn't that a correct account of it? A.—Yes sir.

Q.—As near as you can make it? A.—Yes sir.

JULIUS M KAOST, being duly sworn and examined as a witness for the Alcoa Rambler, testified as follows:

BY MR ERSKINE:

10

Q.—Are you the chief officer of the Alcoa Rambler? A.—Yes.

Q.—And were you chief officer on August 20th as the time of the collision with the Norefjord? A.—Yes sir.

Q.—How long have you been chief officer of the Alcoa Rambler? A.—From the 6th of July.

Q.—What license do you hold? A.—I hold master's license, American, since 1921.

Q.—From what Government? A.—American.

Q.—The United States. A.—Yes.

Q.—How long have you held that license? A.—Since 1921.

20

Q.—And how long have you been going to sea altogether? A.—I have been going to sea since 1895. I was master the first time in 1903.

Q.—On the morning of August 20, 1942 do you remember your ship getting under way from anchorage in Bedford Basin? A.—Yes sir.

Q.—And where were you yourself on the Alcoa Rambler as you got under way from the anchorage? A.—I was standing by at the anchor because that is the habit while we are in dangerous waters going out or coming in harbour I am to stand by at the anchor.

Q.—Well, who was it supervised the weighing of the anchor, taking it up? A.—I was supervising the weighing of the anchor.

30

Q.—Did you remain on the forecandlehead from the time the anchor was up until the collision occurred? A.—Yes sir.

Q.—After your anchor was up and as you were proceeding out of the Basin, did you notice what flag signals were flying on your ship? A.—Yes sir, we were flying the American flag and we were flying the danger signal or explosive signal, letter B.

Q.—Did you see anything of any escort vessel as you started away from the anchorage? A.—We had a small British vessel sitting around us a little before we started to weigh the anchor and all the time going down the Bay.

40

Q.—And as you were going down the Basin before the collision where was that other vessel? A.—She was on our starboardside.

RECORD Q.—Aft or forward? A.—She was about a hundred or two hundred  
PART I feet away on the starboard bow.

*In the* Q.—Was she forward of your bow or aft of the bow? A.—She was a  
*Exchequer* little forward and then sometimes even with the bow.  
*Court of*

*Canada.* Q.—Did you notice if she was flying any flags? A.—Yes, she was flying  
*Nova Scotia* the International I—C.  
*Admiralty*

*District.* Q.—How many flags? A.—Two flags.

Defendant's Q.—Where was the Norefjord when you first saw her yourself? A.—  
Evidence. I first saw the ship going parallel with those few ships away from us because  
No. 12. there were a few ships anchored between us and her and then I paid atten- 10  
Not in the tion to her when she blew one short blast, which means "I am going to direct  
presence of my course to the starboard."

Judge. Q.—You say that when you first saw her you saw her over or beyond  
Julius M. some other anchored ships? A.—Yes.

Kaost, Q.—When you first saw her there were some anchored ships between  
Direct Ex- you? A.—Yes.

amination. Q.—And you say at that time she appeared to be heading about parallel  
to you? A.—Yes.

Q.—At that time did you have any thought in your mind about any  
danger of collision? A.—No, because there were too many ships between 20  
us.

Q.—And at that time did you see any reason for you to make any report  
to the bridge? A.—No sir, I did not see any reason to.

Q.—Who was up on the forecandle with you at the time? A.—An ordi-  
nary seaman was on lookout at the time when I was on the forecandlehead

Q.—Where was the Norefjord with respect to the vessels anchored on  
your starboard side when you say you heard her blow a signal of one  
blast? A.—She was at four points or 45 degree angle when she first blew  
the one short blast, and about a thousand to fifteen hundred feet away.

Q.—Where was she at that time with respect to the other anchored ships 30  
that had been between you and her? A.—Well, it happened to be clear  
space there when she come out from behind the other ships and she blew  
the one blast.

Q.—Now, when she blew that one blast did you hear any reply blown by  
your ship? A.—Our captain blew three short blasts, which means "I am  
going full speed astern".

Q.—Did the Alcoa Rambler blow any other signal after that? A.—Yes,  
after that blew one long, one short and one long blast, which means the  
letter K. That is a local signal.

Q.—You know that is the letter K signal? A.—Yes, letter K signal, 40  
that is the local harbor signal.

Q.—Now, did you continue to watch the Norefjord after you heard her  
blow the one blast? A.—Yes.

Q.—And how did she shape her course or heading? A.—She seemed  
to keep her course—I couldn't judge any difference as she kept the present  
course which she had, about 45-degree angle or might be a little less.

RECORD  
PART I

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amination.

Q.—You understand I was asking you about the Norefjord? A.—Yes.

Q.—After you heard her one-blast signal could you tell whether she was steady or changing course one way or the other? A.—Well, this is very hard to say, if you are facing a ship which is 45-degree angle, if she is changing her course or not, That is very hard to say.

Q.—At any time after the one-blast signal did you see the Norefjord change her course to her right? A.—To her right? I couldn't say that she changed course to the right. She kept her course as she was or maybe she directed a little bit to the left yet.

Q.—When you first saw her over where the other anchored ships were 10 she appeared to be about parallel to your course? A.—Yes.

Q.—And then when she blew the one-blast signal you say she seemed to be heading toward your course at an angle of about 45 degrees? A.—Yes sir.

Q.—What can you tell us about the headway or speed or the Norefjord as you watched her? A.—Well, I think she was making at least five or six knots at the time when she blew the one blast. That is hard to judge the distance, for speed of a vessel.

Q.—From the time of the one blast until the collision occurred did you see any evidence of her going any slower? A.—When we had the collision she 20 was not going so very fast. She might have been going a mile or might be a mile and a half speed.

Q.—After the collision where did she go? I mean with respect to your ship after the collision where did she go, with respect to your ship? A.—I didn't pay any attention where she went because I had my hands full with hoisting my own anchor and we got fouled with some cable we had there and we had to take care of that. I didn't pay attention where she sent or what happened to her.

Q.—After you heard the whistles you described, the one blast and then the three and the K by the Alcoa Rambler, did there come a time when 30 you were ordered to drop the anchor? A.—Yes, the captain ordered me to drop the anchor.

Q.—Did you do it? A.—Yes, I did it.

Q.—Which anchor. A.—The starboard anchor.

Q.—At the time that that was done could you tell what your engine was doing? A.—I knew when the three blasts were blown, then when the ship starts to work astern from the head—or she was going slow ahead—the ship starts to shake and you can feel that the ship is going astern because you can feel shaking more from going astern than going ahead.

Q.—Just answer the question. When you dropped the anchor could you 40 tell what your engine was doing, how it was operating? A.—She might have gone ahead—from the vibration, because I know that once the captain blows three short blasts the engine is going to go astern, by the vibration of the vessel.

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Q.—Now, Chief would you just listen to me and answer my question?

A.—Yes.

Q.—When you got the order to drop the anchor could you tell how your engine was operating at that time? A.—It was only guesswork because I heard the vibration of the engine and I surmised the ship is going full speed astern because the ship is shaking.

Q.—Going full speed how? A.—Full speed astern.

Q.—You say the vibrations indicated that to you? A.—Yes.

Q.—How far away do you think your bow was from the Norefjord when you dropped the starboard anchor? A.—I think we were about fifty 10 feet away.

Q.—Take these two models and put them on the pad showing how the ships came together—put them right together the way they hit (handing witness models). (Witness places the models).

Q.—Is that about right? A.—Yes.

Q.—Will you take the pencil and draw around the models. (Witness does as requested).

Q.—This is the Alcoa Rambler (indicating)? A.—The Alcoa Rambler yes.

MR. ERSKINE: I will mark it and mark the other the Norefjord 20 (marking diagram). I will offer that in evidence.

The diagram is marked Alcoa Rambler Exhibit 12.

Q.—Now, after the vessels hit how did the Norefjord move with respect to your vessel? A.—The Norefjord was still going ahead. We backed away from her.

Q.—She was going ahead? A.—Yes.

Q.—You intended by this diagram to indicate approximately where your ship hit the Norefjord, is that right? A.—Yes.

Q.—Now, after the collision, were you still on the forecandlehead? A.— 30 Yes.

Q.—Was there any rubbing or scraping along the after port side of the Norefjord? A.—Yes, there was some, but very little.

Q.—Where was it? A.—It was just under the port lifeboat No. 1 on the portside.

Q.—And after that was there any more scraping? A.—There was not might be ten or fifteen feet our ships were in contact.

Q.—You mean there was an area of fifteen feet where there was some scraping? A.—No, the Norefjord happened to move about ten or fifteen feet ahead when we were against her.

Q.—Now, on the stern section of the Norefjord was there any more scraping there? A.—No, only amidships. 40

Q.—Did you say anything to anybody on the Norefjord at the time of the collision? A.—Yes, I did.

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Q.—What did you say? A.—I told him couldn't they see the red flag, because on account of the blast was the explosion, when thousands of people were killed in Halifax.

Q.—What did you actually say to him? A.—I said "Can't you see the red flag?" I don't remember, might have said something else on top of that, but that is all I can remember.

Q.—When was that with respect to the collision? A.—Because they should have kept—

Q.—Wait a minute. When did you say that with respect to the collision? Did you say that before or after the collision? A.—After the collision 10 when our anchor was in already.

Q.—Before the collision occurred, that is while the Norefjord was over on your starboard side or bow, did you see the escort launch do anything with respect to the Norefjord? A.—Yes, she went away from our side—she was close to us and that moment when the Norefjord, blew the one whistle then the escort vessel speeded to the Norefjord, and what she was telling the Norefjord I don't know but I saw her going to the Norefjord.

Q.—Where did the escort launch go? A.—To the Norefjord's side.

Q.—Were you able to hear whether they said anything between them? A.—No. 20

Q.—Did you hear any danger signal or K signal from the Norefjord before the collision? A.—No, the only signal I heard was the one short blast.

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CROSS EXAMINATION BY MR. GRIFFIN:

Q.—Where is the anchor windlass? A.—It is right on the bow of the vessel as far forward as possible.

Q.—Were you standing abaft the windlass or in front of it? A.—I was standing next to it ready to anchor.

Q.—Which side were you standing? A.—I was standing on the starboard side because I was going to use the starboard anchor. 30

Q.—And where was the ordinary seaman who was there with you? A.—He was standing a little bit before me, also on the starboard side.

Q.—Did he help you drop the anchor? A.—No, you don't need any help because there is a brake on and one man can do it.

Q.—Was any report made by either you or the ordinary seaman to the bridge of any vessel that morning? A.—No.

Q.—There were vessels at anchor but you did not report any of them? A.—No.

Q.—And did either you or the ordinary seaman report the Norefjord? A.—No, because they heard when she blew her whistle, we answered her 40 with three short blasts—that was the signal that I knew she was taken care of on the bridge.

Q.—You did not see the Norefjord until she blew her one short blast? A.—I noticed her on the other side of the anchored vessels before she blew the one short blast.



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aminaton.

Q.—She was moving then? A.—She was moving in the same direction as we were going.

Q.—You did not report her then? A.—No.

Q.—You said the captain ordered you to drop the anchor. How did he give the order? Did he shout or gesture or what? A.—He shouts from the bridge "Let go the anchor".

Q.—What did you have to do to let go the anchor? A.—There is a brake on the wheel about eighteen inches in diameter which you screw which releases the brake and then the anchor drops down.

Q.—How much chain did you let out? A.—About thirty fathoms— 10  
very deep water.

Q.—Did you put the brake on again? A.—Yes.

Q.—Before the collision? A.—Yes.

Q.—How far apart were the vessels then when you put the brake on? A.—The vessels were apart fifty feet.

Q.—I thought you said fifty feet when you dropped the anchor? A.—Well, that is instantly, what they call—the dropping of the anchor, in less than a minute the anchor is down.

Q.—How long did it take your thirty fathoms to run out? A.—About 20  
one minute.

Q.—And then after they had run out you put on the brake? A.—Yes.

Q.—And how far away was the other ship then when you put on the brake? A.—I figure when the anchor was down the other ship was fifty feet away.

Q.—When you put on the brake after the thirty fathoms ran out, which you say about one minute— A.—Yes.

Q.—(continuing) how far was the other ship away then? A.—I figure it was fifty feet away when the anchor was in the water.

Q.—And about a minute later you put on the brake? A.—When the anchor was in the water with chain on I put on the brake. I couldn't stop 30  
it before because it takes some time in deep water—the brake might snap if you stop it all of a sudden.

Q.—Do you know how deep the water was there? A.—I didn't look on the chart but I knew in Halifax harbour it is very deep. Some places thirty-five some is ten, fifteen fathoms.

Q.—How did your chain lead after it got down? A.—The chain led aft.

Q.—On the starboard side? A.—Yes, starboard side.

Q.—And as I understand it, when you let the anchor go was the time when you felt this vibration from the engines? A.—Yes—I felt the vi- 40  
brations before, right after the three short blasts.

Q.—You said this escort launch was carrying some flags. Describe those flags. A.—I. and C. [I is a yellow flag with black center and C is blue, white, red, white, blue horizontal stripes.

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Q.—When the collision happened the Norefjord was right across your bows in front of you? A.—Yes.

Q.—When you heard her blow the one whistle how many points was she on your starboard bow? A.—Four points.

Q.—And from that time she gradually got three points, two points, one point, and then across your bow? A.—Well, she must have been one point or a half point across the bow at the time of collision.

Q.—Yes, but she was drawing ahead on you all the time? A.—Yes.

Q.—You said there were a number of ships at anchor there. Which way were they heading as they lay to their anchors? A.—I can't swear right now which way they were heading when we were going out but I think they were heading like facing us, as I can remember. 10

Q.—Heading towards you? A.—Yes.

Q.—So that you passed across their bows as you went along? A.—No, no, they were anchoring like this and we were going like this (indicating)

MR. ERSKINE:

Witness indicates heading in opposite directions. Is that right?

A.—Yes, setting to the wind and the current in the harbour.

Q.—And they were heading about parallel with you but in the opposite direction? A.—Yes. Well, I can't swear to that exactly because that is a long time ago. I didn't take particular notice. 20

After Recess, 2 P. M. Present as before.

Defendant's  
Evidence.

No. 13  
Not taken  
in presence  
of Trial  
Judge.  
Clarence J.  
Johnson,  
Direct Ex-  
amination.

CLARANCE J. JOHNSON, being duly sworn and examined as a witness for the Alcoa Rambler, testified as follows:

BY MR. ERSKINE:

Q.—Are you the third officer on the Alcoa Rambler? A.—I am.

Q.—Were you the third officer on August 20, 1942 at the time of the collision with the Norefjord? A.—Yes sir.

Q.—How long have you been third officer of the Alcoa Rambler? A.— Since the 6th of July, 1942. 30

Q.—What license do you hold? A.—A thirds mate's any ocean, any tonnage.

Q.—You have held it since when? A.—Since December 10, 1941.

Q.—How long have you been going to sea altogether? A.—Off and on since 1917.

Q.—Were you standing a regular watch on the Alcoa Rambler? A.— Yes, I stand the 8 to 12 watch.

Q.—Do you remember getting under way from an anchorage in Bedford Basin on the morning of August 20th? A.—Yes sir, I do.

Q.—Were you standing your regular 8 to 12 watch at that time? A.— No, sir it was no sea watches set. There was no regular sea watches set. Anchor watches had been set. 40

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Q.—Well, as you got under way and you have up anchor and started out where were you? A.—I was in the wheelhouse.

Q.—What were you doing? Generally what were your duties? A.—I was to stand by the engineroom telegraph.

Q.—Was anybody else in the wheelhouse with you? A.—The quarter-master—the sailor at the wheel.

Q.—Who was on the bridge? A.—The captain and the pilot.

Q.—Do you know if there was anybody up forward? A.—Was the chief officer, who is the man that takes care of the anchor windlass, and he had a man with him. I think it was the boatswain. 10

Q.—Did you do anything with respect to the steering gear before the anchor was hove up? A.—Yes, that is one of the things that is done before we leave. We test the steering engine hear and the engineroom telegraph and telephone and compare the clocks with the engineroom.

Q.—What condition did you find the equipment in? A.—In good shape We always mark down OK when it is all right. The chief engineer usually has charge of the checking with the steering engine he telephones me how to turn the wheel. If he says "Go right" I do that and then he checks it, telephones back it is O K.

Q.—From the time that you started away from the anchorage—I mean 20 by that from the time you started to heave up the anchor until the collision occurred was there anything wrong so far as you were aware with the steering gear or any other equipment? A.—No, there was not.

Q.—Now, how did you keep the times of any signals which you noted after you started to heave up the anchor? A.—If you mean what clock?

Q.—Well, I had more particularly in mind what record you made of them—how did you make a record of them? A.—We have a bellbook, a book where we put all the signals that we put on the engineroom telegraph—we call it the bell book.

Q.—Well, were you writing them directly in the bellbook that day? 30 A.—Well, sometimes

Q.—I am talking about this particular day, what were you doing that day? A.—Well I put it on a rough piece of paper, like rough scratch pads, you know.

Q.—I show you these four sheets of paper, which have been marked Alcoa Rambler Exhibit 6 for identification (handing witness exhibit). Do you recognize them? A.—Yes, that is my handwriting and that is the papers I used.

Q.—What are those four white slips of paper—what are they? A.—They are from a little notebook I have, I usually carry in my pocket, you 40 know.

Q.—What do these pieces of paper represent—what are they? A.—That is the bells, the different bells we had.

Q.—Are those the notes you made of the time? A.—Yes, the rough notes, yes.

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Q.—Those are in your handwriting? A.—Yes, that is my handwriting.

Q.—Now, is there a clock in the wheelhouse? A.—There is.

Q.—And what did you use for observing the time of these signals?

A.—Most of the time I used the wheelhouse clock but I had a pocket watch and it was dark there, you now, and sometimes it wasn't so easy to see the clock, I would pull out my watch, so that was approximately the same time that was in the wheelhouse because I checked it.

Q.—Can you tell me with respect to Alcoa Rambler Exhibit 6 for identification when it was that you yourself first saw the Norefjord, before or after what signal or time as entered on that exhibit? A.—Well, I have here, 10  
if you will notice, "Collision" and the name of the ship.

Q.—No, just strike that out. Please listen to my question and answer it. I want you to look at those times and tell me if you can when it was with respect to any of those times that you yourself first saw the Norefjord?

A.—A little after 9 o'clock.

Q.—Well, was it before the first signal that is written on those papers? A.—It was after the first signal.

Q.—What was the last signal that you wrote before you saw the Norefjord yourself? A.—I must trust my memory, or could I look at that note-  
book. 20

Q.—Let me put it to you this way: Looking at the list there do you remember what engine signal you were operating under when the collision occurred? A.—Full astern, I am pretty sure.

Q.—Would you look at that Exhibit 6 and tell me what time the full astern was given? A.—(Referring to Exhibit 6) 9.16-1/2—9.17-1/2.

Q.—Are there three full astern entries one right after another? A.—There is two one after the other.

Q.—Looking at the reverse of the first sheet, the figure 16-1/2 full astern, there is another one? A.—Yes, there is three there, yes, there is.

Q.—There are three, is that right? A.—Yes, I didn't see it. 30

Q.—Who rang the telegraph on the first full speed astern? A.—I did.

Q.—Who rang the next? A.—The captain.

Q.—And the third? A.—The captain.

Q.—Can you tell me whether it was before or after those full astern orders that you yourself first saw the Norwegian ship Norefjord—you yourself? A.—Well, I remember seeing it when I put the full astern the first time, I saw it, I saw the Norwegian flag, that is the way I remember it.

Q.—When you first saw the Norefjord yourself how did you see her and where was she? A.—When I saw her she was about two or three points  
off our starboard bow. 40

Q.—Were you in the wheel house yourself when you first saw her? A.—I was in the wheelhouse. I was not out on the bridge at any time during that particular time.

Q.—Being in the wheelhouse how did you see the Norefjord? A.—I saw her through one of those side slits we have there, through the armor plate in the wheelhouse.

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amination.

Q.—You saw her through one of the slots? A.—Yes, slots, slits.

Q.—And at that time she was two to three points on your starboard bow?

A.—Two to three points on the starboard bow, yes.

Q.—Now, as your first saw her what did the Norefjord appear to be doing with respect to her course? A.—She seemed to be bearing toward us, toward our ship—that is, she was going to the left.

Q.—And what did you observe with respect to her headway or speed? A.—She seemed to be going much faster than we because at that time, now that you speak of it, we were stopped or slowed down or something, I don't recall exactly. 10

Q.—Were there any signals blown on your ship that morning before the collision? A.—Yes.

Q.—What was the first one that you recall? A.—It was three blasts on the whistle.

Q.—What was the next one? A.—Well, I personally blew K—a long, short and long—I was told to do that by the—

Q.—Who ordered you to blow that? A.—The pilot, the Halifax pilot.

Q.—When were the three blasts blown with respect to your engine movements? A.—When we were going full astern.

Q.—How soon after that was the K blown? A.—Well, if not instantly, 20 maybe two or three seconds—it was so close together there was no mark of demarcation there.

Q.—Had you heard any whistle signal from any other vessel besides yours before your ship blew the three blasts. A.—I recall hearing one whistle from the Norwegian.

Q.—Did you at that time know whom it was from, when you heard it? A.—No, I couldn't see the ship from where I was.

Q.—But you did hear some other vessel blow a signal, one blast? A.—I heard one blast, yes.

Q.—Did you have a view of the Norefjord at the time the ships came 30 together? A.—Yes.

Q.—Will you take these two models and put them on the pad there the way they came together, the two ships (handing witness models). A.—(Placing models) That is the Norefjord, and we hit him right amidships.

Q.—Now, take a pencil and draw the outline around those models, will you? Get it as correctly as you can as to their respective headings.

A.—Now, what I am drawing now is the actual collision, is that what you want?

Q.—That's right, right as they were together. A.—(Drawing) Yes, we hit him just about that way—assume that is the funnel, that is about 40 where we hit him.

Q.—This is the Alcoa Rambler (indicating)? A.—That is the Alcoa Rambler.

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in presence  
of Trial  
Judge.  
Clarence J.  
Johnson,  
Direct Ex-  
amination.

MR. ERSKINE: I will write in the names. I offer that in evidence. The sketch is marked Alcoa Rambler Exhibit 13.

Q.—After that contact how did the Norefjord move with respect to your ship? A.—She went to our port. She completely crossed our bow and went to the port.

Q.—Coming back to this Exhibit 6, those four sheets of white paper, as I understand it, contain entries which you made up to the time that you returned to anchorage after the collision, is that right? A.—That's right.

Q.—The first sheet with the heading on it 'R L Clark, pilot'— A., That is the time he comes aboard. 10

Q.—(Continuing) is the start? A.—Yes.

Q.—Did you write that name yourself? A.—Yes, I did.

Q.—And the entries on the front and reverse of that first sheet carried down through the collision, is that correct? A.—Yes.

Q.—I notice a good many of the times on that first sheet have been rewritten over obvious erasures. Will you tell me who made the erasures and made the rewriting? A.—Well, I guess I made the erasures.

Q.—Answer my question. Who made the erasures and who did the re-writing? A.—I.

Q.—And how did that come about? A.—Well, because of all the excitement, you know, you may not put down the full signal, you know, you make just a little mark and you go back at it because we write these things in the bellbook, keep a neat data. 20

Q.—Where did you get the time that you rewrote—that is, the new times written over the erasures—where did you get them from? A.—The engineroom.

Q.—How did you come to check up with the engineroom? A.—Because I remembered that I had forgotten to put down a few of the signals.

Q.—Did you have any conversation with anybody before you went and checked up in the engineroom? A.—No. 30

Q.—Didn't you have a conversation with the captain? A.—Oh, with the captain, yes. He saw that I had put down that the anchor let go—I hadn't marked down the time.

Q.—Did you get the engineroom record before you posted those sheets any further? A.—I don't understand.

Q.—Before you entered those entries in anything else did you get to the engineroom and make those corrections? A.—Yes.

Q.—Now, what do you say is your explanation for not having them correct with the engineroom the first time? A.—Because of all the excitement around there and the darkness in the wheelhouse—I just made a little, 40 maybe just half a notation of all those things, you know.

Q.—Look at the reverse side of that first sheet. There is an entry, 9.16-1 2, in which the figure "6-1/2" appears to be written over the figure

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“8”, isn’t that correct? A.—(Referring to exhibit) Yes, it looks like that.

Q.—Now, the next two entries look as though they have been squeezed in between the 9. 6-½ and the 9.19, is that right? A.—Yes.

Q.—How did that come about? A.—Well, you see, we don’t—because I haven’t got to watch—I don’t watch the seconds, you know, and what might be 17-½ I might have called it 17 or 18, a full minute.

Q.—Well, did you make the two jingle entries at the time or later?

A.—Oh, I made those at the time it happened. See I want to point this out if I may—these things are correct, the bells. The times may be a little bit—

Q.—Weren’t those two entries, the second and third jingles full speed astern, weren’t they written in afterwards? A.—I don’t think so.

Q.—You don’t think so. Well now, opposite the entry of 9.15 there is an X, which I understand means stop? A.—Stop.

Q.—Then on two lines opposite the word X are written the words “Let go St. anchor”—starboard anchor—see what I am referring to? A.—Yes.

Q.—When were those words written in? A.—Afterwards, after I made that notation.

MR. GRIFFIN: What notation?

THE WITNESS: Of 9.15 stop. See, we haven’t got no time to be writ- 20  
down an essay there, everything comes in seconds sometimes.

Q.—Just answer my question. When were those words written in?  
A.—After the—maybe half an hour later.

Q.—How did you come to write them in opposite the— A.—Because I have to put in the logbook—

Q.—(Continuing) wait a minute—how did you come to write them in opposite the signal stop? A.—Because I remembered that was the time we dropped the anchor.

Q.—You were in the wheelhouse all the time, weren’t you? A.—Yes, I was. 30

Q.—Did you see the anchor dropped? A.—I heard it dropped, I heard the pilot say “Let go the anchor.”

Q.—Now, after you made the corrections as you say on those slips, what was the next book or record that you wrote the times into? A.—In the bellbook.

Q.—Is this it (handing witness book)? A.—That looks like it.

Q.—Is that it the page marked Exhibit 10 (indicating)? A.—Yes, that’s it.

Q.—After you had written them in the bellbook, did you write up any other document? A.—The logbook. 40

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Q.—Is this it in front of you, Exhibit 8 for identification? A.—Yes.

Q.—And on that Exhibit 8 how much of the left hand page which is marked Exhibit 8 for identification was written by you? A.—All of this was (indicating).

Q.—All the lower half? A.—All the lower half.

Q.—Do you know who wrote the upper half? A.—I believe the captain did.

Q.—I show you the book marked Alcoa Rambler Exhibit 9 for identification. Is that the smooth log? A.—That is the smooth log, that is a copy of the other.

Q.—Look at the lefthand page again. Who wrote that? A.—I wrote that.

Q.—I call your attention on Exhibit 6 for identification to the reverse of the first of those slips of paper. You have an entry "9.15 stop"—see that?

A.—Yes.

Q.—Now, in your bellbook what is the time you have there for that stop signal? A.—(Referring to bellbook) 9.15 let go starboard anchor, 30 fathoms of shackle in the water.

MR. ERSKINE: I move to strike it out.

Q.—What is the time of the stop? A.—9.16.

Q.—Can you explain why there should be a difference between your corrected slip and the bellbook? A.—It is just a mistake, that's all, that is the only explanation I can offer.

MR. ERSKINE: I offer in evidence Alcoa Rambler Exhibits 6, 7, 8, 9 and 10, perviously marked for identification.

They are so marked.

Q.—Ordinarily, you make your notes on slips of paper like Exhibit 6?

A.—Yes.

Q.—And then enter them into the bellbook, and do you keep those slips of paper ordinarily? A.—Ordinarily, yes. I have a desk in my room and I throw them in the drawers, you know.

Q.—Is there any particular reason why you kept these four slips? A.—No.

Q.—Did you hear any danger signal or K signal from the other vessel, the Norefjord, before the collision? A.—No, I did not.

Q.—Or did you hear any backing signal from her, three blasts? A.—No, not from the Norefjord.

Q.—Do you know what flags your vessel was flying? A.—Yes.

Q.—What flags? A.—We had a B, Baker, that is a red flag, and we had an H, pilot is aboard.

Q.—Were they old flags? A.—No, it was a brand new set come aboard before we left New York.

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CROSS EXAMINATION BY MR. GRIFFIN:

Q.—Did you feel any vibration from the engines when you were in the wheelhouse before the collision? A.—No, I did not, only I did when we had full astern because she throbs quite a bit when she is going full astern.

Q.—Was that at about the time you dropped the anchor? A.—That was right after we dropped the anchor.

Q.—Right after you dropped the anchor? A.—Well, practically the same—instantaneously, you might say.

Q.—About the same time. You were in the wheelhouse right through?

A.—Yes sir, all the time. 10

Q.—How big is the slit through which you say you saw the Norefjord?

A.—About that high (indicating), say four inches high.

Q.—And how long horizontally? A.—Say two feet or eighteen inches to two feet.

Q.—Could you see the whole length of the Norefjord through that?

A.—When she was ahead of us, yes.

Q.—The first time you saw her? A.—The first time I saw her astern I saw her flag, that is why I know I saw a Norwegian flag.

Q.—Did you see the whole length of her or just her stern? A.—The whole length of her. 20

Q.—What were your duties in the engineroom? A.—I take care of the steering telegraph, I watch the quartermaster when the pilot gives right or left, I see he carries it out.

Q.—Were there any orders given the quartermaster before this collision? A.—I will say yes, but I wouldn't say what they were. We don't keep a record.

Q.—But you think there were orders given to the quartermaster? A.—I think there were.

Q.—How long were they before the collision? A.—Two or three minutes

Q.—But you don't remember what they were? A.—No. 30

Q.—Whether they were starboard or port? A.—No.

Q.—What type of steering gear has the Alcoa Rambler? A.—Telemotor.

Q.—Operating what kind of engine? A.—Steam engine back aft.

Q.—As I understood you, before you started from your anchorage you checked the clocks? A.—Yes sir.

Q.—The deck and the engineroom clock? A.—The deck and the engineroom clock.

Q.—How did you do that, did you telephone. A.—Telephone—I tell him what time I have and he fixes his watch.

Q.—You understand he fixes his watch in the engineroom to correspond with yours in the pilothouse? A.—Yes. 40

Q.—And then did you set your own watch too? A.—Yes.

Q.—So they were all three the same? Q.—Yes.

Q.—When you were taking down the orders on this slip of paper, the first one of these slips on Exhibit 6, did you look at the clock each time or

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at your watch? A.—Yes, I looked at either one of the two, either my watch or the bridge clock.

Q.—Where is the bridge clock? A.—It is the after end of the wheel-house.

Q.—After side, wall? A.—Yes—like here is the windows and right behind me is the clock (indicating).

Q.—Is it amidships? A.—It is more to the starboard than amidships?

Q.—Which side were you stading? A.—Starboard side.

Q.—So you were right in front of the clock? A.—Right, the telegraph right in front of me and all I got to do is look up. 10

Q.—So as I understand it, the telegraph and you and the clock were all in line with each other? A.—I must turn around to read the clock.

Q.—Of course, the clock is behind you? A.—Yes, but they are in line.

Q.—I notice on this slip, Exhibit 6, in some cases you hav made erasures and changed the time and in some cases you have not made erasures. In the cases where you have not made erasures was your original entry correct with the engineroom? A.—Yes.

Q.—It was only where there was a difference you made the erasures and changes? A.—The half minutes, yes.

Q.—But in each case when you made the original entry you looked either 20 at the clock in the pilothouse or else at your own watch? A.—Yes.

Q.—And they were both keeping the same time? A.—Yes.

Q.—And you wrote down the time as you read it on this slip, didn't you? A.—As I saw it.

Q.—Don't you think that you wrote down those times correctly in the first place? A.—Well, sometimes the bells came so fast that there was a few seconds difference so what might have been 9.17 might have been 9.17-1/2. I wouldn't have time to look at the half minutes.

Q.—But how do you explain the fact that what you wrote down originally as 9.18 you now change to 9.16-1/2? You couldn't have made as 30 big a mistake as that in reading? A.—It is possible as I turn around to look at it and then look back at my paper.

Q.—Did you take down the time of the collision? A.—I believe I did.

Q.—Do you know what it was? A.—9 something—I don't remember exactly. It may be on that piece of paper.

Q.—I didn't see it on the piece of paper. A.—What is that on the second Page there?

Q.—Well you show me—does it tell us? A.—It says "Collsion" up there, doesn't it—"Norefjord"—is there any time there? It must have been after the last bell. 40

Q.—But you do not remember at all events, what the time was? A.—Not out of my memory, no.

Q.—Now, you say these two entries, 9.17 and 9.17-1/2, which look squeezed in—you say those were made at the time when the orders were

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given? A.—9.16-1/2 and 9.17—no, I compared that with the engineroom.

Q.—But I understood you to say on your direct examination that the orders at 9.17 and 9.17-1/2 were written in in their regular order as the orders came and were not put in afterwards? A.—The time has been changed but the signal is the same.

Q.—And the signal was written in at the time the order was given? A.—Yes.

Q.—What did you mean by saying there was so much excitement around? What excitement did you refer to? A.—Well, the old man came in twice to pull the telegraph back—that is what we call the jingle full astern. 10

Q.—He came in and pulled that? A.—Yes, he came in and pulled that.

Q.—And did he stay after that to pull the second? A.—No, he went out, and it wasn't thirty seconds he came in again.

Q.—So he came in twice? A.—Yes.

Q.—Had he come into the wheelhouse before that? A.—No, he was out on the bridge with the pilot.

Q.—You don't think he came in the wheelhouse before that? A.—No, I am pretty sure he didn't.

Q.—Is the excitement that you spoke of because you thought collision was going to happen? A.—After all, my definition of excitement might 20 be different than yours.

Q.—I mean yours. A.—All excitement—I mean people pulling bells and blowing whistles, that is what I mean by excitement.

Q.—The first entry which was changed is 8.43. Was there some excitement then? A.—No, that is the pilot aboard or something, isn't it?

Q.—No, 8.43 with the symbol that mans stop? A.—Stop.

Q.—That was something like half an hour before the collision? A.—Yes.

Q.—There was no excitement then was there? A.—No.

Q.—The next one is changed, 8.45, and another change 9.03, another 30 9.12 half speed ahead—there wasn't any excitement at those times, was there? A.—No.

Q.—Do you know what speed your ship was making under the half speed order? A.—Just half speed is all I can say.

Q.—I know, but how fast is that? A.—Three knots—might be three and a half.

Q.—Doesn't she go more than three and a half or four knots at half speed? A.—I don't think so.

Q.—What does she do at slow? A.—Just about barely moving.

Q.—What is her full speed? A.—About eleven knots. 40

Q.—How long have you been to sea? A.—About since 1917.

Q.—How long have you been an officer? A.—Since December.

Q.—Do you mean to tell me a ship of that class is barely moving under slow speed order? A.—Yes.

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Q.—Do you mean to tell me at half speed she makes only three knots?

A.—Yes.

Q.—Don't you know that every ship at half speed makes more than half her full speed? A.—No.

Q.—Don't you know that every ship at slow speed makes more than barely moving? A.—See, the engine is just starting up.

A.—No.

Q.—What do you mean by barely moving.

Q.—No, I mean by the slow speed order. A.—Just getting under way. 10

Q.—Do you mean one knot? A.—More than one knot.

Q.—Two knots? A.—I would say two.

Q.—Two knots? A.—Something like that.

Q.—Did your ship still have headway when the collision happened?

A.—Yes.

Q.—And before that you think she had been going only two knots under her slow order? A.—No, a little more because she had headway, she wasn't starting from dead standstill, you know, she had headway.

Q.—Well, you got a stop order at 9.15, didn't you? A.—Yes, but that doesn't mean she brakes herself like that, you now—she has headway. 20

Q.—You got a stop order at 9.15. Did she slowdown then? A.—Yes, she did.

Q.—And according to your slip here she was slow from 9.14 to 9.15 and stopped from 9.15 to 9.16-1/2. How fast do you think she was going at 9.16-1/2, the moment when the full speed astern order was given? A.—About two and a half, maybe three knots.

Q.—Two and a half or three, and yet you say her slow speed is only three and a half or four? A.—Don't misunderstand me. We had headway there—when we start from the very beginning we have no headway—so there is a little speed there even before you give her the bell. 30

Q.—But if you have your ship on slow speed and stop her, keep her stopped a minute and a half, won't she lose speed? A.—She will lose some headway but not all.

Q.—But you were not able to stop her by reversing the engines before the collision? A.—What do you mean I? You mean the ship?

Q.—The ship, yes. A.—I just put down what the orders were given to me by the captain or the pilot.

Q.—But she still had headway, you say? A.—Yes, she had some headway.

Q.—When you saw the Norefjord out this slit or whatever you call it, 40 did you keep watching her or did you go back to your duties in the wheel-house? A.—Where I was standing, the telegraph was close to the window so there was no trouble to look.

Q.—Did you keep watching her? A.—I kept watching her, yes.

Q.—All the time to the collision? A.—Yes, all the time.

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Q.—You did not watch the quartermaster steering during that period?  
A.—But there was no orders to him that I could remember.

Q.—So you were looking out the window all that time? A.—Yes.

Q.—What was it you saw that leads you to say the Norefjord was alter-  
ing course to the left? A.—The fact that she was bearing over across our  
bow.

Q.—Well, a ship could do that without changing her course, couldn't  
she? A.—No.

Q.—When you first saw her I think you said she was two or three points  
on your bow? A.—That's right.

Q.—And then she drew more and more ahead of you? A.—Yes.

Q.—Until at collision she was right across your bow? A.—Yes.

Q.—Now, in that interval of time I want you to describe to me what it  
was you saw that makes you say she was turning to the left? A.—Well,  
I said she was two or three points off the bow—I can do it better by maybe  
using my fingers—(indicating with models) this was the Alcoa Rambler  
and I saw the Norefjord somewhat like this. Now, I don't recall the quar-  
termaster getting any helm orders.

Q.—You indicate that she was on a course nearly parallel to yours but  
heading a little more to port than you were? A.—Yes, and she began to  
bear over this way (indicating).

Q.—Indicating to port? A.—Yes.

Q.—How far away was the Norefjord in your estimation at the time you  
first saw her? A.—Well, say roughly three ship lengths, something like  
that.

Q.—At that time, if I understood you rightly, the order full speed astern  
had already been given? A.—Yes, I believe that is true.

Q.—How many masts did the Norefjord have? A.—How many masts?

Q.—Yes. She had more than one, didn't she? A.—Yes. I would  
say she had two.

Q.—Did you see those masts coming more as though they were coming into  
line? A.—I saw the foremast, I believe, more prominently than any other.

Q.—And as you watched her did the masts seem to change their position  
in relation to each other as though they were coming into line? A.—I can't  
answer it, I don't know.

Q.—Mr. Erskine asked you about the order of stop in the bellbook,  
Exhibit 10, which is written as 9.16, whereas your corrected slip, Exhibit 6,  
give it as 9.15. Do you remember that? A.—Yes, I think I remember  
that.

Q.—Will you look at that entry of 9.16 in the bellbook. That has been  
erased, hasn't it, obviously? A.—(Referring to bellbook) It appears  
to be.

Q.—What was it before it was erased, do you know? A.—I don't know.

Q.—Do you remember why you erased it? A.—No. I don't. It might  
have been just a slip of the hand.

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Q.—On this slip, Exhibit 6, are those two entries of 9.17 and 9.17-½ in your handwriting? A.—Yes.

Q.—Did the captain say anything when he came in and rang those jingles? A.—Not—as I said before, he was grumbling or growling.

Q.—Well, did he growl in words? A.—No—(illustrating a mumble) you don't know him like I do. He grumbles there like an old bear sometimes. He is never personal with his growling.

Q.—Did you hear the pilot say anything before the collision except the orders that he gave? A.—Well, in the early part of the, maybe the first half hour I heard these words "Where is she going?" 10

Q.—You heard in the first half hour— A.—Yes, when we first got away from the anchorage.

Q.—Do you know to what he was referring? A.—At that time, no.

—Do you think he was referring to the Norefjord? A.—Well, I think now, yes.

Q.—How long before the collision do you think that was? A.—Oh, that was fifteen, twenty minutes.

Q.—Did you hear him say anything else? A.—I heard "On the range."

Q.—Who said that? A.—He repeated what he heard from whomever he was speaking to over there. 20

Q.—Somebody on the bridge? A.—I believe it was the captain that said to him what he said.

Q.—How long before the collision did you hear that "On the range"? Is that the same time you heard the question "Where is she going?" A.—Yes.

Q.—Who said "Where is she going?" A.—The pilot.

Q.—And then you heard somebody say "On the range" in answer to that question? A.—Yes.

Q.—Do you know who said "On the range"? A.—No.

Q.—Was there anybody on the bridge there except the captain and the pilot? A.—No. 30

Q.—When you heard the words "On the range" was it the pilot who spoke them? A.—It was the pilot that spoke over to the ship that I didn't see—it was the pilot that used these words.

Q.—So both things you heard were said by the pilot? A.—By the pilot.

Q.—The first was "Where is she going?" and the second was "On the range"? A.—On the range.

Q.—And you think that was about fifteen minutes before the collision? A.—Well, that is a fair guess. You know, it has been months since we heard that.

Clarence J.  
Johnson,  
Re-Direct  
Exam-  
ination.

REDIRECT EXAMINATION BY MR. ERSKINE:

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Q.—This answer that you heard "On the range", did that seem to come from your bridge or from some other vessel? A.—From some other vessel.

Q.—What do you mean about your pilot repeating it? A.—I didn't get that.

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Q.—Did you hear the pilot say “On the range” or did that come from some other vessel? A.—The words “On the range” I heard the captain, I believe it was, that asked the pilot what he has said—he said “Well, he is going on the range”.

Q.—I understood you to say you heard the pilot sing out “Where is she going”? A.—“Where is she going”

Q.—You heard someone say “On the range”? A.—“On the range.”

Q.—Did that someone who said it sound to you to be on your bridge or calling from some other vessel? A.—From some other vessel.

Q.—Did you see the other vessel yourself at that time? A.—No. 10

Q.—That is the vessel from which somebody was calling? A.—No, I did not.

Q.—Now, did you make any note of the time of that conversation? A.—No.

Q.—Have you any exact recollection now as to how long before the collision that conversation was? Q.—Roughly fifteen minutes.

Q.—I say have you any exact recollection? A.—No, I have no exact recollection.

Q.—Mr. Griffin asked you about the clock in the wheelhouse and you said it was on the bulkhead aft, on the after side? A.—Yes, that's right. 20

Q.—About how big is the face of that clock? A.—Eight inches.

Q.—Diameter, you mean? A.—Diameter, yes.

Q.—Did it have a second hand? A.—I believe it has, yes.

Q.—How did you judge the time? What did you look at? A.—We take the minute.

Q.—You mean the minute markings? A.—The minute markings, yes.

Q.—You say the wheelhouse was dark? A.—Yes, it was dark.

Q.—Coming back to this Exhibit 6, most of the questions have been asked with respect to the times on the first slip down through the collision. I ask you to look at the other three slips and tell me whether there were entries in those three slips which were erased and rewritten? A.—(Referring to Exhibit 6 Well, there is no erasure on the second and none on the third—none on the others. 30

Q.—Now, just look here (indicating). A.—That I can see here.

Q.—The entry 9.24—hasn't that been written over some erasure?

A.—That is no erasure, it may be a—

Q.—Has it been written over some erasure? A.—It has been written over yes.

Q.—The entry 9.35, has that been written over something else? A.— No. 40

Q.—Wasn't that “35” been written over a “6”? A.—Oh, the “35”, yes, that has been written over.

Q.—Doesn't it appear there was a “6” originally under the “5”? A.— No.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Defendant's  
Evidence.

No. 13.  
Not taken  
in presence  
of Trial

Judge.  
Clarence J.  
Johnson,  
Re-Direct  
Exam-  
amination.

Defendant's  
Evidence.

No. 13.  
Not taken in  
presence of  
Trial

Judge.  
Clarence J.  
Johnson,  
Re-Cross  
Exam-  
amination.

Q.—When you checked up with the engineroom log did you check all the entries right down to the end? A.—I believe I did.

Q.—If any of your original entries on these slips were not in accordance did you erase them and change them to fit the engineroom log? A.—Some I did.

Q.—And you did that all the way down to the end of the four slips, is that right? A.—Yes.

Q.—Looking at the reverse side of your third slip, I call your attention to the entries 9.53, 9.59, 10.03, 10.17—haven't those been written over some other things? A.—(Referring to Exhibit 6) Yes, this 10.13 has been 10  
overwritten—it was 14, I believe, yes, that has been written over.

RE-CROSS EXAMINATION BY MR. GRIFFIN:

Q.—Mr. Johnson, you said that the clock was about eight inches in diameter? A.—Yes.

Q.—How far away from you, behind you, was it? A.—About from where I am standing now to where that clock is now (indicating).

Q.—Well, that is what, three and a half feet? A.—About that, yes.

Q.—And you said it was dark in the wheelhouse? A.—Yes.

Q.—You mean you had no electric lights there? A.—We don't dare 20  
put no lights on while they are steering.

Q.—But you had light coming in from those slits? A.—I had a flash-  
light.

Q.—And how many of those slits are there in the pilothouse—six, aren't there? A.—I think it is five—three dead ahead and one on each window that is a pretty good guess.

Q.—Just one more question about this conversation. You told Mr. 30  
Erskine you thought that those words "On the range" came from some other vessel? A.—Yes sir.

Q.—Did you hear the sound of a voice from some other vessel? A.—Yes, I did.

Q.—Could you distinguish those words? A.—Yes, "On the range".

Q.—You heard somebody apparently on another vessel say "On the range"? A.—"On the range".

Q.—Then did you hear the pilot repeat that? A.—Yes, I heard the pilot repeat that.

Q.—So the pilot, you thought, was repeating some information that had 40  
been given to him from another vessel? A.—Yes sir.

Q.—Do you know what other vessel that could have been? A.—No, I didn't see it.

Q.—But the voice was loud enough for you to hear it in the wheelhouse? A.—Yes, it was clear enough.



RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Defendant's  
Evidence.

No. 13.  
Not taken  
in presence  
of Trial  
Judge.  
Clarence J.  
Johnson,  
Re-Cross Ex-  
amination.

REDIRECT EXAMINATION BY MR. ERSKINE:

Q.—This morning the captain testified that there were four slots forward and one on each side as shown in Exhibit 11. Does that refresh your recollection? A.—I am trying to get a picture of them in my mind—it could be four, yes dead ahead and one on each side, one on each wing. Yes, it could be that.

Q.—How many are there now, do you say? A.—Well, I am going to say it is five.

Q.—You disagree with the captain's sketch. The captain shows four forward and one on each side. Do you say it is wrong? A.—I don't like to. 10

Q.—Is the wheelhouse the same today as it was at that time? A.—Yes, it is the same.

RECROSS EXAMINATION BY MR. GRIFFIN:

Q.—Was it a sunny day, sun out? A.—It was cloudy.

Q.—But broad daylight, of course? A.—Broad daylight. It was after 8 o'clock, between 8 and 9 o'clock.

Defendant's  
Evidence.

No. 14.

Not in  
presence of  
Trial  
Judge.  
Roy  
Barnes,  
Direct Ex-  
amination.

ROY BARNES, being duly sworn and examined as a witness for the Alcoa Rambler, testified as follows:

BY MR ERSKINE:

Q.—Are you third engineer of the Alcoa Rambler? A.—That's right. 20

Q.—And were you third engineer on August 20th at the time of the collision with the Norefjord? A.—I was.

Q.—How long have you been on the Alcoa Rambler? A.—Since May 20th last year, 1941.

Q.—How many years have you been going to sea altogether? A.—Fourteen.

Q.—What ticket do you hold now? A.—Third assistant.

Q.—How long have you held it? A.—Nine years.

Q.—What kind of engine is the Alcoa Rambler equipped? A.—She has a Westinghouse compound turbine. 30

Q.—Do you know the diameter of her propeller? A.—Fifteen feet.

Q.—Do you know how many revolutions the propeller makes at full speed ahead normally? A.—Well, like she was loaded she can make between 80 and 85.

Q.—What are the revolutions for her normal half speed ahead? A.—About 60.

Q.—And for slow speed? A.—About between 40 and 45.

Q.—Now, did you say that fifteen feet was the diameter of the propeller. A.—The pitch of the wheel. 40

Q.—Do you know what the diameter of the propeller is? A.—No sir, just the pitch is all I know.

Q.—When did you go on watch on the morning of August 20th? A.—8 o'clock.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Defendant's  
Evidence.

No. 14.  
Not in  
presence  
of Trial  
Judge.  
Roy  
Barnes,  
Direct Ex-  
amination.

Q.—And were you on watch then until your vessel anchored after the collision? A.—I was on watch until 12 o'clock noon.

Q.—Do you remember your vessel getting under way that morning?

A.—Yes sir, I was standing by the throttle all the time.

Q.—What were you personally doing? A.—Handling the throttle.

Q.—After your vessel got under way? A.—I was standing by the throttle at all times.

Q.—You were operating the throttle? A.—Yes sir.

Q.—Who else was in the engineroom with you? A.—Oiler taking bells and handling the telegraph. 10

Q.—Now, what method were you using in the engineroom as to the keeping of the bells? What sort of record did you keep? A.—Well, we make a right angle for slow ahead, like a half of a 4—

Q.—You are talking about the symbols? A.—Yes sir.

Q.—I mean what were the symbols written into at the time—a bellbook? A.—Yes sir.

Q.—Do you recognize this book I am showing you (handing witness book)? A.—Yes sir.

Q.—Is that the engineroom bellbook? A.—Yes sir, it looks like it.

Q.—And looking at this left hand page under the date 8-20-42, whose handwriting are the entries in that first column on the left hand side? A. That resembles the first assistant's handwriting up there. 20

Q.—You are referring now to the lines at the top of the page, is that right? A.—Yes, that looks like his.

Q.—Coming down to the symbols on the left hand column commencing with 8.42 who wrote from there on? A.—Well, I can't say whose hand writing it is, but it is supposed to be the oiler. I don't know the handwriting

Q.—As far as you know the oiler wrote it? A.—Yes sir, as far as I know.

Q.—You did not write any of those entries? A.—No sir.

Q.—The oiler was the man who was there and who was writing the entries? A.—Absolutely. 30

MR. ERSKINE:

I ask that this page be marked for identification. The page of the bell book is marked Alcoa Rambler Exhibit 14 for identification.

Q.—There is an entry in this Exhibit 14 for identification, standby, 8.41 do you see it? A.—Yes sir.

Q.—Do you know if anything had been done with the engines before 8.41 in connection with preparation for use of the engine? A.—No sir, nothing only she was turning over slow ahead practically all the time and never stopping. 40

MR GRIFFIN:

Beginning when?

Q.—All of what time? A.—Well it was turning over when I went on watch.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Defendant's  
Evidence.

No. 14.

Not in  
presence  
of Trial  
Judge.  
Roy  
Barnes,  
Direct Ex-  
amination.

Q.—When you went on watch it was turning over? A.—Yes.

Q.—Is that warming up of the engine? A.—Yes sir, warming up, keep it warmed up, never stop it.

Q.—Looking at Exhibit 7, do you recognize that book as the engine room logbook (handing witness exhibit)? A.—Yes sir, it looks like it.

Q.—Do you know who wrote those entries? A.—This looks like the chief engineer's handwriting.

Q.—I call your attention to this entry at the beginning of the middle paragraph "Cut steam in at 6 o'clock?" A.—Yes sir.

Q.—What does that entry mean? A.—That means cut the steam, theit 10  
boilers all in and cut steam in on the main engine and warmed it up, keep going for slow ahead.

Q.—Is that what is referred to as warming up the engine? A.—Yes sir.

Q.—In what operating condition was the engine on this morning when you took over and from that time until the collision—what was the condition of the engine. A.—Good condition.

Q.—Did you feel the jar of the collision? A.—Well, I did feel it but it was very light. I really thought it was the anchor dropping.

Q.—But did you feel any jar or bump? A.—Just very little, like she 20  
slacked.

Q.—Did you figure something had happened? A.—Well, I didn't know whether it was the anchor or maybe a light collision. It felt more like the anchor.

Q.—At that time what was your engine doing? A.—The engine she was turning over astern, full astern.

Q.—Can you give me any recollection independently of your records as to how long it had been turning full astern before you felt anything happen? A.—Well, I can't tell you how long, but some little bit. I couldn't tell you exactly how long.

Q.—In connection with that full astern had you received an ordinary sig- 30  
nal or a special signal? A.—I first got full astern. Then we got what we call a jingle, then another jingle.

Q.—Well, jingles, as you term them, are a repetition, is that right? A.—We always call them jingles but it is just a signal we have to give them all you got.

Q.—What is the meaning of those signals to the engineroom? A.—  
To open her up, give her full speed.

Q.—Did you do it? A.—I sure did, first thing.

Q.—How long do you think it was after the second jingle, that is the third signal, that you felt anything happen? A.—Well, I can't really tell 40  
how long it was.

Q.—Can you give me some idea of the interval? A.—Well, it could have been probably a minute.

Q.—Did you yourself carry out all the signals received over the telegraph that morning? A.—No sir, the oiler puts in the telegraph and bells.

RECORD  
PART I

*In the  
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Nova Scotia  
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Defendant's  
Evidence.

No. 14.  
Not in  
presence  
of Trial  
Judge.  
Roy  
Barnes,  
Direct Ex-  
amination.

Q.—I said did you yourself carry them out? A.—I did, yes sir.

Q.—Did you yourself handle the telegraph on every signal? A.—Yes sir.

Q.—Did you waste any time in carrying them out? A.—No sir.

Q.—So far as you saw, the oiler was making a record of the signals as they came down? A.—He was. I also cautioned him to log the jingles what we call jingles.

Q.—How do you set the speed of the engine? A.—By pressure, steam.

Q.—Now, how long would it take if your engine was working in an ahead motion to bring it to a stop? A.—A dead stop would be about twenty seconds. 10

Q.—Then if it were stopped and you got a signal for full speed astern about how long would it take to get it working full speed astern? A.—Between twenty-five and thirty seconds, I guess, to get it full speed astern.

Q.—What is it that you have to do to put the engine full speed astern? A.—Well, just reverse the throttle.

Q.—Is there anything you have to do with respect to the turning over of the shaft? A.—Well, I have to brake the engine down if it is running full speed ahead, I have to stop the engine before I can go in reverse.

Q.—Do you remember what you did when you got the first full speed astern signal that morning? Tell us the manoeuvres you went through. A.—Well, I was braking my engine down, stopping it. 20

Q.—How did you do that? A.—By reversing it, giving it a small amount of steam for astern, using steam as a brake.

Q.—Then what happens next? A.—Then when she gets broke down, stop—in other words, reverse it with as much steam pressure as your telegraph signal requires.

Q.—What poundage did you give her, do you recall, on the first full astern? A.—120 pounds.

Q.—And what poundage, if any, did you give her after the jingle? A.—I opened her wide and stuck her over about 150. 30

#### CROSS EXAMINATION BY MR. GRIFFIN:

Defendant's  
Evidence.

No. 14.  
Roy  
Barnes,  
Cross Ex-  
amination.

Q.—In recording your engine bells do you put down fractions of minutes, or just the nearest minute? A.—Well, some do and some don't—myself I do when I am logging them myself, as near as I can, but I don't know what the oiler done. I haven't looked at the bellbook.

Q.—When you are running, say, at slow ahead what do you have to do to stop the engine? A.—Nothing but reverse it with a small amount of steam.

Q.—And what manoeuvres do you have to go through to do that? A.—Your throttle is a wheel and when she is on center she is—all you have to do is turn the wheel. 40

RECORD  
PART I

*In the  
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Defendant's  
Evidence.

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of Trial  
Judge.  
Roy  
Barnes,  
Cross Ex-  
amination.

Q.—And that lets some steam in in the reverse motion? A.—Yes sir.

Q.—Which acts as a brake? A.—As a brake.

Q.—And stops the propeller? A.—Yes sir.

Q.—You say that takes about how long? Suppose you are running at slow how long would it be until your propeller is stopped? A.—You can brake it down and stop her at slow speed astern in twenty seconds.

Q.—You would have your propeller motionless in twenty seconds?

A.—Yes sir.

Q.—Have you ever timed that? A.—No sir.

Q.—Do you use the same pressure for backing as for going ahead? 10

A.—Yes sir.

Q.—What proportion of your full power do you have going astern?

A.—1700 horsepower.

Q.—And how much ahead? A.—3000.

Q.—So that you have little more than half the power astern that you have ahead? A.—Yes sir.

Q.—Now, when you have your engine stopped you do what to put it astern? A.—Open the steam.

Q.—Let in more steam? A.—Yes sir, open the steam valve.

Q.—Is that done by turning the throttle? A.—Yes sir. 20

Q.—How do you distinguish in handling the throttle between a movement ahead and a movement astern? You have to do something to make it turn the other way, don't you? A.—Just reverse the throttle.

Q.—Is that on a gear system? A.—The throttle?

Q.—The difference between ahead and astern—the turbine turns the same way all the time, doesn't it? A.—No sir.

Q.—The turbine actually reverses? A.—Actually reverses.

Q.—So that you turn the throttle and let in steam in the reverse direction?

A.—Yes sir.

Q.—And how long does it take you to pick up your full revolutions? 30

A.—Full revolutions, you pick them up faster ahead than astern.

Q.—How long does it take to pick them up ahead from the time you start? Suppose your engine is still, how long does it take you to get full ahead? A.—Pull them wide open—about twenty to thirty seconds.

Q.—And how long astern? A.—About the same.

Q.—I think you said it was slower astern than ahead? A.—Well, it hasn't got the horsepower but I mean the time is that.

Q.—And your propeller, I suppose, is not as efficient in reverse as it is ahead because the blades both go ahead, isn't that so? A.—The propeller is as efficient one way, the same as the other. 40

Q.—You said you made about 60 revolutions ago half speed? A.—Ahead

Q.—Ahead, yes—what slip would you allow? A.—Ten percent.

Q.—And when you are in slow how much slip would you allow? A.—If it was me I would allow about the same.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Defendant's  
Evidence.

No. 14.  
Not in  
presence  
of Trial  
Judge.  
Roy  
Barnes,  
Cross Ex-  
amination.

Q.—You said the pitch was fifteen feet? A.—Yes sir.

Q.—Is this a Westinghouse turbine? A. Yes sir.

Q.—Can you operate a turbine as quickly as you can a reciprocating engine?  
A.—No sir.

Q.—Well, suppose you had the ordinary reciprocating engine at a stop how long would it take you to reverse? A.—Well, I don't very well know, I have never handled a reciprocating.

Q.—Have you ever timed any of these things? A.—No sir.

Q.—They are all estimates? A.—Just estimates.

Q.—When you got the first reverse signal you say you gave her about 10 120 pounds? A.—I did.

Q.—And then you gave her 150 when you got the next jingle? A.—gave her all I had, about 150,

Q.—And when you got the second jingle you did not give her any more?  
A.—Didn't give her any more.

Q.—150 is the limit? A.—I had it running wild.

Q.—Is that your usual running pressure? A.—Yes sir.

Q.—Do you know what revolutions she makes at full speed astern with 150 pounds? A.—I wouldn't say exactly but she will make about 60.

Q.—And what would you estimate for 120 pounds? A.—Between 55 20 and 60.

Q.—How much interval was there between the order astern and the first jingle? A.—I couldn't say.

Q.—Your bellbook seems to indicate about half a minute? A.—I haven't looked at the bellbok.

Q.—Well, if it does indicate that would that be your recollection? A.—I won't say but the bellbook is about right.

Q.—If you had gotten the full speed astern order and the jingle right together one on top of the other, would you have given her 150 pounds the first time? A.—Yes sir. 30

Q.—And that would stop the ship more quickly, I suppose? A.—It sure does.

Q.—Have you ever made any tests at different speeds to find out how long it takes to stop the ship dead in the water when you reverse? A.—No sir.

Defendants  
Evidence.

No. 15.  
Mohammed  
Abdul  
Mahmoud,  
Not in  
presence  
of Trial  
Judge.  
Direct Ex-  
amination.

MR. GRIFFIN: I will offer in evidence one of the photographs that has been produced by Mr. Erskine showing the stem of the Alcoa Rambler. The photograph is marked Norefjord Exhibit 11.

Adjourned to October 27, 1942 at 11 a.m.

Met pursuant to adjournment, October 27, 1942, at 11 a.m. Present 40 as before.

MOHAMMED ABDUL MAHMOUD, being duly sworn and examined as a witness for the Alcoa Rambler, testified as follows:

RECORD  
PART I BY MR. ERSKINE:

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Defendant's  
Evidence.

No. 15.  
Mohammed  
Abdul  
Mahmoud,  
Not in  
presence of  
Trial  
Judge.  
Direct Ex-  
amination.

Q.—Are you a seaman on the Alcoa Rambler? A.—Yes sir.

Q.—What is your rating? A B.

Q.—Are you an Egyptian? A.—Yes sir.

Q.—How many years have you been going to sea? A.—Seven years.

Q.—And how many years have you served as a helmsman or wheelsman on different ships? A.—Five years.

Q.—Were you on the Alcoa Rambler on August 20th at the time of the collision with the Norwegian ship? A.—Yes sir.

Q.—What was your duty—what watch were you standing? A.— 10  
8 to 12.

Q.—And at the time of this collision and before the collision what trick were you serving? What were you doing before the collision? A.— I was steering.

Q.—Do you remember your ship starting away from the anchorage that morning? A.—Yes sir.

Q.—After she started away from the anchorage were you steering all the time? A.—Yes sir.

Q.—Were you in the wheelhouse? A.—Yes sir.

Q.—Who else was in the wheelhouse, if anybody? A.—The third mate 20  
and the captain and the pilot.

Q.—Now, as you started away from the anchorage who was giving the orders? A.—The pilot, sir.

Q.—At the time you started from the anchorage, did you get any orders for the wheel? A.—Yes sir.

Q.—What were they, do you remember? A.—Left or right or steady.

Q.—Different orders? A.—Yes sir.

Q.—How was the ship steering? A.—It was all right.

Q.—Had you stood a regular watch from New York up to Halifax? A.  
—Yes sir. 30

Q.—And on each watch did you stand a trick at the wheel? A.—Yes  
sir.

Q.—During that trip from New York to Halifax was there any trouble steering? A.—No sir.

Q.—After you started away do you remember hearing your ship blow any signals? A.—Yes sir.

Q.—Did you notice what the signals were? A.—No sir.

Q.—You heard her blow some signals? A.—Yes sir, but I don't know.

Q.—At the time you heard those signals, how was your wheel? A.—  
It was steady. 40

Q.—Before the collision happened did you yourself see this other ship?  
A.—Yes sir.

Q.—Now, do you remember whether that was before or after the signals  
do you remember? A.—What? when I see him?

- RECORD  
PART I
- In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*
- Defendant's  
Evidence.
- No. 15.  
Mohammed  
Abdul  
Mahmoud,  
Not in  
presence of  
Trial  
Judge.  
Direct Ex-  
amination.
- Defendant's  
Evidence.
- No. 15.  
Mohammed  
Abdul  
Mahmoud,  
Not in the  
presence of  
Trial  
Judge.  
Cross Ex-  
amination.
- Q.—When you saw the ship the first time was it before or after the signals?  
A.—Before.
- Q.—Where was she when you saw her? A.—On my starboard bow.
- Q.—How was she heading? A.—Across our bow.
- Q.—Did you see the other ship at the time your ship was in collision with her? A.—Yes sir.
- Q.—How was the other ship heading at that time? A.—Right across our bow.
- Q.—Did you hear any order given with respect to your anchor? A.—  
Yes sir. 10
- Q.—What was the order, do you remember what did you hear? A.—  
Drop the anchor.
- Q.—Now, do you remember at the time the anchor was dropped what your engine was doing? A.—Yes, full astern.
- Q.—You said that when those whistles were blown on your ship your wheel was steady? A.—Yes sir.
- Q.—Did you hear any whistle blown from the other ship at any time?  
A.—No sir.
- Q.—After your ship blew your whistles before the collision did you get any order from the pilot about the wheel? A.—Before the collision. 20
- Q.—Before the collision. A.—Yes sir.
- Q.—What was the order? A.—Hard left.
- Q.—Did you make any note how long that was before the collision exactly? A.—No sir.
- Q.—Did you see the captain come into the wheelhouse before the collision? A.—Yes sir.
- Q.—What did he do when he came in there, do you remember? A.—  
He comes two times to the telegram jingle.
- Q.—To what? A.—To ring the telegram to the engineroom.
- Q.—Rung the telegraph to the engineroom? A.—Yes sir. 30
- CROSS EXAMINATION BY MR. GRIFFIN:
- Q.—You were in the wheelhouse? A.—Yes sir.
- Q.—And where was the pilot? A.—Up on the—
- Q.—On the bridge? A.—Yes sir.
- Q.—The captain was sometimes in the wheelhouse and sometimes on the bridge, was he? A.—Yes sir.
- Q.—How much was he in the wheelhouse? You said that he came in the wheelhouse twice? A.—Yes sir.
- Q.—To ring signals on the telegraph. Had he been in there before that?  
A.—Yes sir, once. 40
- Q.—For what purpose, do you know? A.—To see if everything clear and is all right.
- Q.—How long was that before he came back to ring the telegraph? A.—  
—I couldn't remember exactly.



RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Defendant's  
Evidence.

No. 15.  
Mohammed  
Abdul  
Mahmound,  
Not in  
presence of  
Trial  
Judge.  
Cross Ex-  
amination.

Q.—Was it just shortly before? A.—I don't remember exactly.  
Q.—Now, you got an order hard left, you said, to the rudder? A.—  
Yes sir.  
Q.—Who gave that, the pilot or the captain? A.—The pilot.  
Q.—Was that after you had seen the other ship? A.—Yes sir.  
Q.—Did you put the wheel hard over then to the left? A.—Yes sir.  
Q.—How much did the ship swing to the left? A.—About seven degrees

I don't remember exactly now.  
Q.—Do you know what her heading was on the compass at any time?

A.—No sir. 10

Q.—Who gave this order to drop the anchor? A.—The captain,  
Q.—The pilot did not give that one? A.—No sir.  
See, maybe the pilot give the order to the Captain but I heard the  
captain call.

Q.—Did you hear any conversation on the bridge? Did anybody say  
anything before the collision? A.—Oh, inside of the house I don't hear.

Q.—How did you know the engines were going astern? Just because the  
telegraph rang? A.—No, we get in the wheelhouse, we got like a small  
machine—I don't know what you call it now—like the ball goes up and  
down like that (indicating)—for that I know that the engine going. 20

Q.—Well does that show how the engine is moving or was it just shaking?  
A.—Just shaking up and down.

Q.—And you noticed that at the time when the anchor went down? A.—  
Yes sir.

Q.—You told me, I think, that at the time you heard these signals from  
your ship your wheel was steady? A.—Yes sir.

Q.—And after that you got an order of hard left? A.—Yes sir.

Q.—And you think the ship swung about seven degrees? A.—Yes sir.

Q.—And after that you got an order of hard left? A.—Yes sir.

Q.—And you think the ship swung about seven degrees? A.—Yes sir. 30

Defendant's  
Witness. JOHN WILLIAM STOROZINSKI, being duly sworn and examined as  
a witness for the Alcoa Rambler, testified as follow:

No. 16.  
Not in the  
presence of  
Trial  
Judge.  
John  
William  
Storozinski,  
Direct Ex-  
amination.

BY MR. ERSKINE:

Q.—What is your position on the Alcoa Rambler? A.—I am an oiler.

Q.—And how long have you been an oiler on that vessel? A.—This is  
my second trip—first trip on that ship.

Q.—Do you hold any sort of a certifice? A.—Yes sir, I hold a rating,  
so-called rating, oiler, fireman and water-tender.

Q.—How many years have you been going to sea? A.—Five years  
about. 40

Q.—On August 20, 1942 what was your watch? A.—My watch was  
the 8 to 12 in the morning and 8 to 12 in the evening.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Defendant's  
Witness.

No. 16.  
Not in the  
presence of  
Trial  
Judge.  
John  
William  
Storozinski,  
Direct Ex-  
amination.

Q.—Do you remember the matter of a collision with the Norwegian vessel in Halifax Harbor on that day? A.—I do remember.

Q.—What were you doing in the engineroom at the time that your vessel was under way before that collision? What was your job in the engineroom?

A.—Oh, I was oiler on the ship.

Q.—Yes, but I say what were you doing? A.—What was I doing at the time we was under way? I was standing near the telegraph there.

Q.—I show you this book and direct your attention to the page that has been marked Exhibit 14 for identification (handing witness exhibit). Do

you recognize that page of that book? A.—Yes sir, I recognize it as my 10  
own handwriting, the bell part.

Q.—What do you call the book? A.—This is the bellbook.

Q.—Now, do you say the entries on that left page are in your handwriting?

A.—Yes sir.

Q.—How about the entries up at the top? A.—The entries up at the top are not mine.

Q.—What is the first one you made? A.—The first one I made was standby, 8.41.

Q.—Then the other entries in the two columns were made by whom?

A.—Were made by myself. 20

Q.—I call your attention to this bracket around three of the signals in the first column—did you make that bracket? A.—No, I didn't make that bracket.

Q.—Do you know who made it? A.—Well, I have an idea.

Q.—No, I mean do you know? Did you see it done? A.—No sir.

Q.—Where did you get the times that you put in there? A.—Well, there is a clock about five feet over my head to the lefthand side from the throttle on the bulkhead.

Q.—Each time the telegraph rang you took the time from the clock? 30

A.—Yes sir.

Q.—And put the reading down in the book? A.—In the bellbook immediately.

Q.—Do you remember who was on the watch, what engineer? A.—The third assistant was on watch with myself.

Q.—As far as you observed did he carry out the orders that came down on the telegraph? A.—Yes.

Q.—As each order came down did you do anything yourself in the way of an acknowledgement? A.—I called out to him.

Q.—To whom? A.—I called out to the third assistant engineer.

Q.—Did you tell him what the order was? A.—As I got them, at the 40  
same time he could have seen them too—two feet away or a foot and a half, on the throttle.

Q.—Did you give any acknowledge of those signals to the bridge? A.  
I answered immediately each signal that was sent down to me, promptly,  
and relayed it to the third assistant engineer.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

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Not in the  
presence of  
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Judge,  
John  
William  
Storozinski,  
Direct Ex-  
amination.

Q.—What was your practice with respect to getting the time of each signal, with respect to minute or part of a minute? What was the way you usually did it, or what was the way you were doing it that morning?

A.—Well, the way the bells were coming at the beginning, standby, they were coming spaced a few minutes apart or several minutes apart. I took them to the nearest minute. Now, when the bells began to jingle a little faster I began to take them down to the half minute as near as I could.

This is to make it doubly accurate. It is accurate anyhow, as far as I am able to do it, but you generally do it when the bells are coming faster, you try to get it to closer timing.

Q.—Is that the way you were doing it that morning of August 20th?

A.—That is the way I was doing it.

MR. ERSKINE: I ask that this Alcoa Rambler Exhibit 14 now be marked in evidence.

It is so marked.

Defendant's  
Witness.

No. 16.  
Not in the  
presence of  
Trial

Judge,  
John  
William  
Storozinski,  
Cross Ex-  
amination.

CROSS EXAMINATION BY MR. GRIFFIN:

Q.—You have been going to sea five years, you say? A.—Yes sir.

Q.—Have you been in the engineroom all that time? A.—No sir.

Q.—How long in the engineroom? A.—Four years.

Q.—And during those four years have you been keeping bellbooks and handling the telegraph as you did on this occasion? A.—Well, not when I was firing.

Q.—How long have you been an oiler? A.—Oh, I should say about two years.

Q.—And during that time have you been doing this same thing? A.—Yes sir.

Q.—As I understand it, when an order came down on the telegraph you would answer it back on the telegraph to the bridge? A.—Yes, answer it immediately.

Q.—And then you called out to the engineer what the order was? A.—Yes, out loud.

Q.—You made all these entries beginning with 8.41 down to the time of the collision, did you? A.—Yes sir.

Q.—And the clock, you say, was right close to— A.—Five or six feet away at an angle from the desk way up against the bulkhead.

Q.—You had to look at an angle then, so you had to judge the time? A.—Well, I had to judge the time but I generally used step over fast, step over, get the time and mark it down.

Q.—Now, I notice that the first entry in which there is a fraction of a minute, a half minute, is 9.16- $\frac{1}{2}$ . Up to that time you had not written any fractions? A.—Yes sir, you are right.

Q.—And you did not try to write any fraction less than a half minute, did you? A.—Not previous to that.

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PART I

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Storozinski,  
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amination.

Q.—Well, at any time you did not write quarter minutes anywhere?

A.—No sir.

Q.—Now, you say that you started writing fractions when the bells come fast. When you got a bell at 9.16- $\frac{1}{2}$  did you write at one 9.16- $\frac{1}{2}$ ?

A.—I stepped over to the clock or as near as I could get it—I didn't step all the way—faced the clock approximately. The half minute I got.

Q.—What puzzles me is this: How did you know the bells were going to come in a hurry then? A.—I didn't know the bells were going to come—they were coming already then.

Q.—You hadn't had any fractions before—you had orders at 9.12, 9.14 10 and 9.15. Were those all right on the minute? A.—Yes sir.

Q.—Then 9.16 you wrote down  $\frac{1}{2}$  for the first time. You did not know there was going to be another bell immediately, did you? A.—No sir.

Q.—Then why did you write the fraction? A.—Why did I write the fraction.

Q.—Yes. You did not know the bells were going to be in a hurry? A.—Well, because they come in a hurry, they come immediately afterwards pretty near.

Q.—Did you write down the 16- $\frac{1}{2}$  after you got the 17, or before? A.—Repeat that question? 20

Q.—Did you write down the 16- $\frac{1}{2}$  after you had gotten the next bell at 9.17 or before you had gotten the 9.17 bell? A.—I wrote down as the bells come and I put the half minute.

Q.—So you think you wrote 9.16- $\frac{1}{2}$  before the 9.17 order came? A.—No.

Q.—I don't know whether you understand me? A.—I don't think so.

Q.—You got a bell at 9.16- $\frac{1}{2}$ ? A.—Yes.

Q.—Did you write that down immediately? A.—I did.

Q.—And after that did the bell come at 9.17? A.—Well, whatever it says there—I can't recollect. 30

Q.—Yes, 9.17 is the next one. A.—As near as I could judge I put the time down.

Q.—And you put 9.16- $\frac{1}{2}$  down before the bell rang at 9.17? A.—Naturally I put it before.

Q.—But you could not tell at 9.16- $\frac{1}{2}$  whether you were going to get another bell pretty soon or in a half hour, could you? A.—No.

Q.—But still you wrote the fraction. It is not quite clear to me why you wrote the fraction at that time when you did not know there was going to be another bell in a hurry? A.—In comparison to the other bells that were spaced two minutes apart—when you get a bell say a half minute on top of another bell, I would say, I would judge it, take a quick look and see and I would put down as near as I could judge what the time was in that minute. 40

Q.—If the bell had been 9.16- $\frac{3}{4}$  you would have written 9.16- $\frac{1}{2}$  wouldn't you? That is, you do not write quarter minutes? A.—I would have put it as 9.17.

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Q.—The nearest half minute? A.—Yes sir.

Q.—You don't think you wrote that  $\frac{1}{2}$  in the 9.16 at a later time?

A.—No sir.

Q.—Were you using the same pencil all the time? A.—Well, there was a couple of stubby pencils there.

Q.—Do you know whether you used the same one for all the orders?

A.—I don't remember that part. There are several pencils on the desk,

laying on the log desk there, and some is broken, rolled off the desk, and if you are in a hurry, an engineer or cadet happens to be looking at the desk for, say, a fuse or something that they carry in the desk, he is liable to brush the pencil off the desk and break the point, and I would use the same pencil. 10

Q.—I notice that the 9.16- $\frac{1}{2}$  order and the 9.17- $\frac{1}{2}$  order are both in pretty black pencil, and the 9.17 in between them is a lighter pencil.

Do you know how that happened? A.—Well, might have put on a little more stress at the time because the bells were coming a little faster.

MR. ERSKINE:

I call counsel's attention to the fact that there seems to be a difference in weight in various entries of that page.

Q.—You could see the engineer execute the orders, I suppose, from where you stood? A.—Yes sir. 20

Q.—When you are running at slow and get an order stop, how long does it take to bring the engine to standstill? A.—Approximately?

Q.—If you are running slow ahead—yes. You have never timed it, I suppose? A.—No.

Q.—But how long would you say it took if you are running slow ahead and get an order stop, how long would it take to get the engine stopped?

A.—It shouldn't take more than three-quarters to a minute to stop it.

Q.—And suppose your engine is stopped and you get an order full speed astern, how long would it take to get the engine moving full speed astern? 30

A.—A minute at the most anyhow.

Q.—And how long does it take to pick up the full revolutions astern? A.—Well, another minute, I guess.

Q.—About a minute to get her astern and another minute to pick up the revolutions? A.—To get up the revolutions, providing the steam she is carrying.

Defendants  
Witness.

Q.—Supposing she had fullsteam? A.—Yes sir.

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Trial  
Judge,  
William R.  
Cross,  
Direct Ex-  
amination.

BY MR ERSKINE:

Q.—Have you ever timed those things Mr Griffin was asking you? A.—No sir, I never timed it.

WILLIAM R. CROSS being duly sworn and examined as a witness for 40 the Alcoa Rambler, testified as follows:

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Cross,  
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amination.

BY MR. ERSKINE:

Q.—What is your position on the Alcoa Rambler? A.—I am a deck cadet.

Q.—Is this the first ship on which you have sailed? A.—Yes sir.

Q.—When did you join her? A.—On July 6th.

Q.—Do you remember the occasion of the collision with the Norefjord up in Halifax Harbour on August 20th? A.—I do.

Q.—Do you remember getting under way from the Alcoa Rambler's anchorage that morning before the collision? A.—Yes sir.

Q.—As you started away from the anchorage where were you and what were you doing on the ship? A.—Well, after we brought up the anchor I went back aft and helped the second mate secure some gear back there.

Q.—What were you preparing for? A.—We were going out for gunnery practice, as I understand it.

Q.—While you were doing that work aft were you paying any particular attention to your ship's navigation? A.—No, sir I was not.

Q.—Was there something that attracted your attention? If so, what was it? A.—Why, I noticed all of a sudden that our engines weren't moving and just out of pure curiosity I looked up.

Q.—Where were you standing when you looked up? A.—Well now, as I recall it I was back on the poop deck itself on the starboard side next to the rail.

Q.—And what did you see? A.—I saw a ship bearing in at us, oh, at about an angle around fifty degrees from where I stood on our ship, coming in about right angles to us.

Q.—On what side was she? A.—Starboard side.

Q.—Did you notice anything about the speed of your ship at that time? A.—Well, she seemed to be slowing down and naturally because her screw was stopped—or wheel, as they call it.

Q.—What did you observe next with respect to your ship? A.—No- thing in particular, sir? I don't quite see what you mean.

Q.—Well, was there anything about your ship or her navigation that you noticed next after you saw the other ship? A.—Nothing in particular.

Q.—Did you notice what your engines did next? A.—Oh yes. Well, after that, why, I felt the vibration and saw the water churning up and I realized we had the engines astern then.

Q.—Did you yourself notice any signals by either vessel? Have you any recollection of hearing any signals? A.—Well, I recall that they blew some signals but what they were I don't remember, didn't really pay any atten- tion.

Q.—Where did you go on your ship after seeing the other vessel? A.— Oh, as soon as we realized what was possibly going to come about we started forward then.

Q.—When the collision occurred where were you yourself? A.—I was going forward—amidships, just about, when the collision occurred.

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*In the  
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amination.

Q.—Did you see the Norefjord at the time of the collision from where you were on your ship? A.—Well, I couldn't see her very well, no sir, except that I did know that she was across our bow then.

Q.—Did you go all the way up forward after the collision? A.—Oh, yes sir.

Q.—And when you got up there did you see the Norefjord then? A.—Yes sir, I did.

Q.—Where did she bear from your ship then? A.—She was on our port side, sir, about parallel to us and heading apparently in the other direction from which we were going. 10

Q.—Did you feel the bump of collision from where you were on your hip? A.—Oh yes.

Q.—Can you give me any estimate as to how long it was from the time you noticed that your engine was stopped and you stepped over to see the other ship until the collision occurred? A.—No sir, I really couldn't.

Q.—Did you notice any times in connection with any of these events events yourself? A.—Well, sir, really no because in things like that, why a second seems like a minute. I really couldn't say.

Q.—When you started away from the anchorage do you remember what flags, if any, were being shown by your ship? A.—I did know we had 20 our Baker flag up, the B flag, and since we had a pilot aboard, naturally the Hypo flag was up too.

Q.—As you started away from the anchorage did you notice any other vessel in the vicinity moving in connection with your vessel? A.—I really don't recall any.

Q.—Did you see any escort vessel at all before the collision? A.—Oh yes.

Q.—Where was she when you noticed her? A.—I saw her just before we started out and she come alongside and I believe she brought a British gunnery officer and some sailors aboard to assist. 30

Q.—After you started away from the anchorage did you notice where she was before the collision? A.—Yes, she went up ahead of us.

Q.—You say that after you saw the other ship you felt your engines working and saw the churning of the water from the propeller in the reverse motion? A.—Yes sir.

Q.—Did you notice that before you started forward? A.—Oh, yes sir.

Q.—At that time what do you say as to the motion or speed of your ship forward? A.—Well, frankly she seemed to be stopped at that point. If she was moving she was very close to being stopped.

Q.—Did you notice anything about the speed of the Norefjord when you 40 saw her? A.—She seemed to be coming along at a pretty good clip when I first saw her.

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Judge.  
William R  
Cross,  
Cross, Ex-  
amination.

## CROSS EXAMINATION BY MR. GRIFFIN:

Q.—Mr. Cross, you joined the ship on July 6th, I think you said? A.—  
Yes sir.

Q.—Where was that, here in New York? A.—Yes sir, over in Hoboken.

Q.—And what voyage did you make on her up to the time of this accident?

A.—Well, just from here up to Halifax.

Q.—Now, at the time when you saw the other ship, as I understood you,  
she was about fifty degrees on your bow? A.—Well, no sir, I mean in  
relation to the ship, from where I was standing back here she was about  
fifty degrees out this way from me to my estimate (indicating). 10

Q.—That would be a trifle over four points? A.—Yes sir, about that,  
I think.

Q.—And you say she was coming at right angles to your course? A.—  
That's right.

Q.—And about how far away do you think she was then? A.—Well,  
as I recall it now, sir, she seemed pretty close, perhaps about 800 feet or so,  
because there were ships lying all around us there and it seemed to me that  
she was pretty close.

Q.—You had not noticed her before that? A.—No sir, I had not.

Q.—Then you say your engines appeared to be stopped at that time. 20  
long do you think they were stopped before they started to go astern? A.—  
How I really couldn't say, sir, I don't know.

Q.—Did you see any change in your ship's course before the collision?  
I wasn't aware of any, no sir.

Q.—Or in the course of the other ship? A.—None in his either.

Q.—The other ship held her course, as far as you could see, then? A.—  
As far as I could see, yes sir.

Q.—Now, what was it that caused you to start forward? Did you start  
at the time your own engines were reversed? A.—I started after they had  
been reversed and it looked as though there was going to be a collision. 30

Q.—Well, did you start immediately that you noticed they were reversed?  
A.—No sir, I did not.

Q.—You say you had gotten about amidships when the collision happen-  
ed? A.—That's right.

Q.—That would be what—about 150 feet from where you started?  
A.—Well, approximately 150, 175.

Q.—Did you go on the run? A.—Yes sir, I did.

Q.—Went as quickly as you could? A.—Yes sir.

Q.—So it would not take you very long? A.—Yes sir.

Q.—Did you have to go up and down any ladders? A.—Yes sir, we 40  
had to get off the poop deck and down on the welldeck and then up to the  
amidship section.

Q.—But you took the ladders pretty fast, I guess? A.—Yes, about  
three steps at a time.

Q.—Did you hear the anchor drop? A.—No sir, I didn't.



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Defendant's  
Witness.

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Not in  
presence of  
Trial  
Judge,  
William R.  
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Cross, Ex-  
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Defendant's  
Witness.

No. 17.  
Not in  
presence of  
Trial  
Judge,  
William R.  
Cross,  
Re-Direct  
Exam-  
ination.

Q.—You don't remember what signals were blown? A.—No sir, I don't.

Q.—You said, if I remember rightly, that you could not estimate the time that the engines were stopped before they were reversed? A.—Yes sir, that's right.

Q.—Well, could you give any idea? Was it a matter of two, three minutes or two or three seconds, or what? A.—It seemed pretty quick.

Q.—A minute? A.—Oh, I really don't know because at times in an exciting moment a second will seem like an eternity and other times it is no time at all.

Q.—At the time the engine stopped you did not think there was going to be a collision? A.—I didn't think we were going to hit her. 10

Q.—And there was some interval before they were reversed? A.—Yes sir.

Q.—But you cannot estimate how long it was? A.—I couldn't.

#### REDIRECT EXAMINATION BY MR. ERSKINE:

Q.—Did you have some training at some academy before starting sea work? A.—Yes sir.

Q.—Where? A.—I was at the Great Neck United States Merchant Marine Academy for two and a half months.

EVIDENCE TAKEN BY CONSENT AT THE OFFICE OF 20  
MACDONALD, MCINNES, MACQUARRIE AND PATTILLO, 35  
BEDFORD ROW, Halifax, Nova Scotia, on Thursday the 15th day of  
April, 1943.

#### Appearances:

Messrs. Burchell, Smith, Parker & Fogo,

(Mr. F.D. Smith) for the S. S. "Norefjord";

Messrs. Kirlin, Campbell, Hickox, Keating & McGrann, (Mr. Erskine and Mr. Donald McInnes) for S. S. "Alcoa Rambler";

Mr. Alfred T. Cluff in attendance on behalf of the U. S. War Shipping Administration. 30

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No. 18.  
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presence of  
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Judge,  
Frederick  
I. Dyke,  
Direct Ex-  
amination.

FREDERICK I. DYKE, being duly sworn and examined as a witness for the Alcoa Rambler, testified as follows:

MR. R. ERSKINE:

Q.—Are you a Lieutenant in the Royal Canadian Naval Volunteer Reserves? A.—Yes.

MR. SMITH:

Q.—Special Branch? A.—Yes.

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*In the  
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presence of  
Trial  
Judge.  
Frederick I.  
Dyke,  
Direct Ex-  
amination.

MR. ERSKINE:

Q.—When did you join? A.—In May 1941.

Q.—Previously to joining had you been studying for some civil life profession? A.—Yes, Electrical Engineering.

Q.—In what School? A.—Queens University.

Q.—Do you hold a Degree from that School? A.—B. Sc.

Q.—How old are you? A.—28.

Q.—When did you graduate with respect to joining the Navy? A.—  
I graduated right before I joined.

Q.—Since your entry in the Royal Canadian Naval Volunteer Reserve 10  
in what line of work have you been serving. A.—In the Degaussing  
Department.

Q.—Have you had any experience at all in connection with navigation?  
A.—No, no navigation at all.

Q.—In August 1942 where were you stationed, in connection with what  
station were your services then employed? A.—Degaussing Range in  
Halifax.

Q.—In the Bedford Basin? A.—In the Bedford Basin.

Q.—On what part of the shore of the Basin were your Headquarters?  
A.—On the East shore, I guess. 20

Q.—Can you locate it with respect to Turtle Head? A.—It is north  
of Turtle Head.

Q.—In a general way what were your duties in connection with the  
Degaussing Range in Bedford Basin? A.—We board the ships as they  
come across the range and stay on the ship all the time it is going across  
the range. The pilot takes the ship across the range—

OBJECTED TO BY MR. SMITH, as being evidence of a general nature.

MR. ERSKINE:

Q.—Do you remember an occasion in August last year of a collision be-  
tween the Norwegian vessel Norefjord and the steamer Alcoa Rambler? 30  
A.—Yes, I remember it.

Q.—At the time of that collision approximately how long had you been  
doing the particular work you described in the Bedford Basin? A.—I  
had been at it for six months.

Q.—By what means would you get aboard any vessel you were interested  
in in connection with the Range? A.—In a Naval harbour craft.

OBJECTED TO BY MR. SMITH AS OF A GENERAL NATURE  
NOT RELATING PARTICULARLY TO THE NOREFJORD.

MR. ERSKINE:

Q.—On the day of the collision of these ships that I have referred to, did 40  
you receive any orders or information regarding either of these ships in con-  
nection with the Degaussing Range? A.—Yes, the Norefjord was to go  
over the Range at nine o'clock.

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Direct Ex-  
amination.

Q.—Did you have any information as to the time in connection with the range? A.—It was to go on the range at nine o'clock.

Q.—Nine A. M. A.—Yes.

ALSO OBJECTED TO BY MR. SMITH:

MR. ERSKINE:

Q.—Previously to that time had you yourself obtained any information as to where the Norefjord was? A.—Yes, I had its anchorage. I telephoned CXO and they gave me the anchorage.

Q.—On the morning of the collision what did you do with respect to joining the Norefjord? A.—I waited in the Degaussing Range until I saw a ship moving. 10

Q.—Where did you see that ship moving? A.—In the Basin on the southwestern end of the Basin.

Q.—What relation if any did the position of that moving vessel have to the information you had as to the whereabouts of the Norefjord? A.—That was where the Norefjord was.

Q.—You say you waited until you saw the ship move, and then what did you do? A.—I got in the Harbour craft and went out to meet it.

Q.—Do you remember the name of the craft? A.—The Harbour craft.

Q.—Yes. A.—The Tuna. 20

Q.—Were you navigating that craft yourself? A.—No, a coxswain was in charge of the Harbour craft.

Q.—Describe it a little for us, what kind is it? A.—It is quite small.

Q.—Power boat? A.—Motor boat. Gas boat.

Q.—Where did you go when you started in the Tuna, how did you head? A.—We headed generally across the Basin, in the direction of the Norefjord

Q.—In making the test on the Degaussing Range is there a designated spot where the test must be made? A.—Yes, the range is definitely marked.

Q.—And in moving over the Range in connection with the Degaussing test approximately what is the line of the ships course? A.—North or south magnetic. 30

Q.—Can you tell us where the Range lies with respect to the waters of Bedford Basin or the shores of the Basin? A.—Just off the eastern shore and about three quarters of a mile north of Turtle Head.

Q.—Do you know from the experience you had before this collision whether or not the ships manoeuvre themselves or whether they have local Pilots? A.—They always have a Pilot.

Q.—Tell us if there is any customary method of shaping the course of the the vessels for the range? 40

OBJECTED TO BY MR. SMITH AS WITNESS NOT AN EXPERT.  
ALSO THAT THE EVIDENCE IS NOT ADMISSABLE ON THE  
GROUND IT IS NOT RELEVANT.

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Exchequer  
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Trial  
Judge.  
Frederick I.  
Dyke,  
Direct Ex-  
amination.

MR. ERSKINE:

Q.—Tell us how the vessels navigate to get on to the Degaussing Range. How do them come to it? A.—They approach it from either the south or the north end, depending on which side of the Basin they are on.

OBJECTED TO BY MR. SMITH FOR THE SAME REASON

A.—They have to get either a north or south line, north or south heading while crossing the Range and they have to steady themselves, they have to be steady going across the Range.

Q.—Take this page, this sheet of paper, and I will mark this South, which would be the Narrows end of the Basin; take the model I am giving you and put it on that page to indicate the way the Norwegian vessel was heading when you first noticed her moving. A.—When I first noticed her? 10

Q.—Yes, when you first noticed her. A.—She was somewhat like that witness indicates with model and Mr. Erskine marked with letter "N" sketch on Dyke Exhibit I.

Q.—Indicate roughly where you were when you started out in the Tuna with respect to the Norefjord. A.—I would be approximately up here. (Witness indicates with arrow.)

Q.—Were you further to the northward than the Norefjord? A.—Yes, I was right at the Range. 20

Q.—I will mark here start of Tuna. As you started how were you heading could you draw a short line from that spot showing how you started? A.—It would be generally this direction. (Witness draws line with arrow-head indicating start of Tuna)

Q.—At the time you started out had you seen anything of the Alcoa Rambler yourself? A.—No.

Q.—Did you see the Alcoa Rambler before the collision?....Wh en did you see her? A.—Yes, I saw her before the collision.

Q.—When you first saw her how did she bear from your vessel as you remember it, which bow? A.—She was on the starboard bow. 30

Q.—Can you give me any estimate as to how far away she was from you when you first noticed the Alcoa Rambler? A.—No, I do not remember how far away it was when I first saw her.

Q.—How did your vessel the Tuna then proceed with respect to the Alcoa Rambler? A.—She went around the stern of the Alcoa Rambler.

Q.—Did you notice any particular signal being blown by the Alcoa Rambler? A.—She had a red flag. A Munitions flag or explosives flag.

Q.—In order to get it on the page—I realize the scaling will not be accurate but in a general way, show the position and heading of the Alcoa Rambler when you first noticed her on your starboard bow. A.—About here, 40 roughly. (Witness indicated with model and it is marked AR).

Q.—As you have drawn it and not being to scale it would appear to be ahead of you but as I understand it she was on your starboard bow, is that right? A.—Yes.

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Q.—Was there any change of heading or course by your boat the Tuna to go around the stern of the Alcoa Rambler? A.—I do not remember that there was any change of heading, we went around the stern.

Q.—Do you know approximately the speed of the Tuna—what she makes? A.—She makes six to eight knots.

Q.—When you got around the stern of the Alcoa Rambler was the Noreword still in sight then? A.—Yes.

Q.—Take the original model for the Norefjord and move that model as you observed the Norefjord moved from the first position you marked, how did she move thereafter? A.—She swung around the southern end of the Basin, she seemed to be swinging around. 9 (Witness moves model over to position marked N2).

Q.—Can you bring he model of the Alcoa Rambler along and show us how the collision occurred; put the two models together the way they hit? A.—The Alcoa Rambler came on down and we were around here, (witness indicates with arrowhead on which is written the word Tuna) witness moves model AR. to position AR2.

Q.—How far would you estimate you were off the starboard side of the Rambler when in position marked "Tuna". A.—About four or five hundred yards.

Q.—How far would you estimate from the portside of the Norefjord? A.—About the same distance.

Q.—As I understand it when you were in this position marked "Tuna", you had gotten there by going under the stern of the Alcoa Rambler? A.—Yes.

Q.—Take the two models once more and move them from position two until they are actually in contact, the way you saw them in contact? A.—They both seemed to be pretty well keeping their course until just before the collision. When they touched the Alcoa Rambler was swinging like this, (witness indicates).

Q.—Put them together as they first touched? A.—(Witness indicated and positions marked AR3 and N3).

Q.—At the moment of that contact you have indicated did you observe anything with respect to any motion of the bow of the Alcoa Rambler? A.—The Alcoa Rambler was swinging to starboard.

Q.—And what would you say as to whether the Alcoa Rambler had any forward motion? A.—No, she was practically stopped.

Q.—How about the Norefjord, did she have a forward motion or not? A.—Yes, she seemed to have some forward motion.

Q.—Before the vessels got into the position of contact, the third position had you noticed anything with respect to an anchor? A.—Yes, I saw the Alcoa Rambler drop her anchor.

Q.—Give us your best estimate as to how far the bow of the Alcoa Rambler was from the Norefjord when that anchor was dropped? A.—It

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was quite close. It would be about one hundred to two hundred feet.

Q.—Have you any recollection of any whistles sounded by either steamer?

A.—I do not remember hearing any whistles.

Q.—Where did you go yourself after the collision, you and the Tuna?

A.—I went aboard the Norefjord.

Q.—And what did you do when you got aboard? A.—I found there was a bit of confusion, the officers seemed to be pretty excited. I came aboard to find out if she was too badly damaged to go over the Range and she was so I left.

Q.—From the time you first saw the Alcoa Rambler how would you describe any headway she was making, was she moving fast or slow? A.—She was steaming slowly. 10

MR. ERSKINE OFFERS DIAGRAM DYKE EXHIBIT 1 IN EVIDENCE.

CROSS EXAMINATION BY MR. F. D. SMITH:

Q.—I think you said Lieutenant that you have no special knowledge of navigation? A.—No, I have no navigation, only except what I picked up while ranging the ships.

Q.—You have never navigated a ship yourself? A.—No.

Q.—How many men on the Tuna? A.—At the time there would be 20 three—two or three.

Q.—Including yourself? A.—Two or three crew. Including myself.

Q.—How big a boat is the Tuna? A.—About 20, 25 feet.

Q.—Gas engine? A.—Gas engine.

Q.—Are they Naval Ratings—the crew? A.—All Naval Ratings.

Q.—The crew consisted of Naval Ratings? A.—Yes.

Q.—Where did you proceed from in the Tuna to get to the Range?

A.—I came up from the Dockyard.

Q.—When did you arrive at the Range? A.—I arrived shortly before nine o'clock. 30

Q.—What did you do when you arrived? A.—I waited for the ship.

Q.—Was the Tuna's engine stopped? A.—Yes, we have jetty there. We have a building.

Q.—Where did you go? A.—I went into the building.

Q.—When you first observed the Norefjord where were you? A.—I was in the building, in the Range hut.

Q.—Where was the Norefjord? A.—The Norefjord was over in the south-eastern section of the Basin, south-western rather-somewhere down here. (Witness draws circles on American Chart No. 5268, and puts the letter "N" there.) Chart marked Dyke Exhibit 2. 40

Q.—Was the Norefjord then in motion? A.—Yes, she was under way

Q.—I think you said she was turning to the left? A.—To port, yes. She was steaming generally down in this direction, southeast.

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Q.—She was turning to port? A.—I couldn't tell from that distance. I was at the Range. I just saw she was more or less broadside to me, I could see her moving in behind some other ships in this direction, so I started out.

Q.—Had you seen her when she was at anchor? A.—No, I had never seen her before.

Q.—How did you know she was the Norefjord? A.—I knew where she was anchored and knew she was to come on at nine o'clock and when I saw her moving I assumed that she was my ship. When I saw her I came to the Harbour craft and started to meet her. 10

Q.—Before you got on board the Tuna did you notice the ship you had seen was turning to port? A.—No.

Q.—When did you first observe she was turning to port? A.—Well, when I got down in the starboard side of the Alcoa Rambler after I had gone around the stern.

Q.—Had you observed, had you seen the Alcoa Rambler before you left the jetty? A.—No.

Q.—When did you first see the Alcoa Rambler? A.—Well, about the time that we cut around her stern. I was not in charge of the harbour craft so far as navigation is concerned. The cosxwain was in charge. 20

Q.—Where were you standing in the Tuna? A.—I was standing out on the stern.

Q.—Has she a house? A.—Yes, she has a wheel-house.

Q.—The wheel-house would be forward? A.—About midways.

Q.—You were in the stern? A.—Yes, it is open.

Q.—Didn't you observe the Alcoa Rambler until you went around her stern? A.—I don't remember noticing her particularly until we went around her stern.

Q.—How far was the Alcoa Rambler away from you when you first observed her? A.—She would be about three or four hundred yards. 30

Q.—And where was the Tuna then? A.—I don't know exactly where it was, she was about three or four hundred yards from the Alcoa Rambler.

Q.—Three or four hundred yards from the Alcoa Rambler? A.—Yes.

Q.—What would be your course at that time? A.—Our course would be more or less east—may be east between east and north-west, rather between north and north-west.

Q.—Was the Alcoa Rambler on your starboard or port bow? A.—Well, she was ahead of us, she would be ahead of us, slightly ahead of us.

Q.—Was she directly ahead of you or on either your port or your starboard bow? A.—I would say she was ahead, directly ahead. 40

Q.—And you say she was what distance, three or four hundred yards away? A.—Approximately.

Q.—All your distances are approximate? A.—Yes.

Q.—Have you ever discussed this with anybody, this collision? A.—No. I talked about it after it occurred with the people around the office.

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Q.—I suppose you discussed it with Mr. Erskine and Mr. McInnes? A.  
—Yes.

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Q.—When you sighted the Alcoa Rambler where was the Norefjord?  
A.—She was down here somewhere—

Q.—Do you know, did you see her? A.—I saw her, I cannot say that  
at any time I could see her, every now and then she would go behind an-  
chored ships.

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Q.—At the time you sighted the Alcoa Rambler did you see the Norefjord?  
A.—No.

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Q.—When did you see the Norefjord after you sighted the Alcoa Rambler? 10  
A.—You mean when did I see them both together?

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Q.—As I understand it you saw the Alcoa Rambler when you were about  
three or four hundred yards away and she was directly ahead of you? A.—  
Yes.

Q.—At that time could you see the Norefjord? A.—I don't think so

Q.—Do you recollect? A.—I do not remember whether I could see her  
or not.

Q.—When next did you see the Norefjord? A.—When we came around  
the starboard side of the Alcoa Rambler.

Q.—Did you pass close to the stern of the Alcoa Rambler? A.—No. 20

Q.—How close were you from the Alcoa Rambler when you rounded her?  
A.—I do not remember what distance we were from her, I do not remember  
how far.

Q.—As soon as you got around the stern of the Alcoa Rambler did you  
see the Norefjord? A.—No, I don't remember noticing her.

Q.—What were you doing? A.—Well, I was just waiting, just keeping  
an eye on the Norefjord making sure we were going generally in the right  
direction.

Q.—How did you know if you couldn't see her? A.—Because I knew  
where she was. 30

Q.—You knew where she was sometimes before? A.—Well, actually  
it does not take us very long to get across the Basin. The Harbour craft  
is quite fast for a Harbour craft.

Q.—Can you tell me when you saw the Norefjord—How long after you  
rounded the stern of the Alcoa Rambler did you first see the Norefjord?  
A.—How long? You mean in time?

Q.—Yes, in time? A.—A matter of about minute.

Q.—Where were you then in relation to the Alcoa Rambler? A.—We  
would be on the starboard side.

Q.—On the starboard side of the Rambler? A.—Yes. 40

Q.—How far away from her? A.—We would be about three or four  
hundred yards I guess, not more than five or six hundred yards.

Q.—Five or six hundred yards from the Alcoa Rambler? A.—I think  
so.



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Q.—Before you saw the Norefjord? A.—Yes.

Q.—And what would your bearing be from the Alcoa Rambler then?  
A.—When I remember seeing them both?

Q.—From the Rambler, yes? A.—Well, I was on her starboard. I  
was on her starboard side when I remember seeing the Norefjord.

Q.—How far do you say the Norefjord was away then? A.—She was  
about the same distance.

Q.—That is five or six hundred yards? A.—Yes.

Q.—How was the Norefjord heading then? A.—She was heading north-  
east, between north-east and east. 10

Q.—She was heading over towards the Range? A.—Yes.

Q.—And she was five or six hundred yards away then from where you  
were? A.—Yes.

Q.—And you assumed, of course, that she was going to the Range?  
A.—Yes, I knew she was going there.

Q.—And she was heading in the proper direction to get to the Range?  
A.—Yes.

Q.—Five or six hundred yards away? A.—Yes.

Q.—How far would the two ships be distant then? A.—They would be  
six or seven hundred yards apart. 20

Q.—Could you see both ships clearly then? A.—Yes, I could see them  
both.

Q.—From the time you saw the two ships what did you do in your boat?  
A.—Well, we stopped, after I got around the starboard side of the Rambler  
I was about the same distance from both ships, we decided something—

Q.—Just tell us what you saw. A.—We stopped. We didn't want  
to approach the Norefjord until we saw what the Alcoa Rambler was going  
to do or vice versa.

Q.—When you did stop how far were you away from both ships? A.—  
About five hundred yards away. 30

Q.—Five hundred yards from the Rambler? A.—Yes.

Q.—And five hundred yards from the Norefjord too? A.—Yes.

Q.—In the meantime did the ships appear to have headway on them,  
both ships? A.—Yes.

Q.—The Norefjord was proceeding on a course towards the Range? A.—  
Yes.

Q.—And the Rambler was proceeding in what direction? A.—Down  
towards the Narrows.

Q.—I think you said you did not recollect what if any signals were given  
on their whistles? A.—I do not remember any whistles at all. 40

Q.—How far away were you from the ships when the collision occurred?  
A.—When we stopped we would be about four hundred yards I guess.

Q.—Did you remain stopped from the time you saw the both ships?  
A.—Yes, we saw something was going to happen. I do not know whether  
we actually stopped, we slowed down and we stayed in that area until after  
the collision.

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Q.—From the time you first saw the Norefjord from the jetty until the time you saw her as you have stated the course of the Norefjord had been changed? A.—Would you repeat that.

Q.—From the time you first saw the Norefjord until you next saw her when you were about five hundred yards away, had there been any alteration in the course of the Norefjord? A.—Yes, she had swung to port, she was swinging to the port.

Q.—How far had you proceeded in the Tuna during that interval? A.—I don't know how far, I cannot estimate how far we had gone.

Q.—You were in this position where you saw the two ships about five hundred yards away and what happened from there, what did you observe? 10

A.—Just before they struck, the Alcoa Rambler seemed to be swinging to starboard and she didn't seem to have much headway, she seemed to be practically stopped, she dropped her anchor just before the collision.

Q.—Fifty to a hundred feet you said? A.—No, one hundred to two hundred feet.

Q.—That is, of course, approximate? A.—Yes, approximate.

Q.—Did you notice from the wash whether the propellers were going astern? A.—I didn't notice. I was watching their bows more than their sterns. I didn't notice. 20

Q.—Did you notice any alteration in the course of either ship apart from what you have mentioned from the time you saw the Norefjord on the second occasion until the collision? A.—Did I notice any change in the course?

Q.—Yes. A.—No, not until just before they struck.

Q.—What did you notice then? A.—The Norefjord swung to starboard, and the Alcoa Rambler swung to starboard.

Q.—Both ships swung to starboard? A.—Yes.

Q.—How far were the ships apart when you noticed that change in course? Those changes in courses? A.—About fifty to one hundred feet. 30 They were close together. It was just before the impact I would say.

Q.—What parts of the ships came in contact? A.—The bow of the Alcoa Rambler struck amidships on the Norefjord.

(Mr. Smith examines Dyke Exhibit 1.)

Q.—These positions which you have marked on Dyke Exhibit 1, are they merely approximate? A.—Yes.

Q.—I assume that from the distance the Norefjord was from you when you marked the first position of the Norefjord, that is the one marked with the letter "N", it would be quite difficult for you to state with exactitude where she was heading? A.—Well, she was heading, she was moving 40 broadside to me more or less, she was not bows on, or I would not know she was moving at all, that is the only way I knew she was moving.

Q.—Did she seem to turn then? A.—I couldn't tell, I could tell she was moving.

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Q.—Had she moved in your opinion at that time from her anchorage?  
A.—When I first saw her?

Q.—Yes. A.—She was under way when I first saw her.

Q.—Close to where you thought her anchorage was? A.—Yes.

Q.—Do you remember the wind? A.—Not much wind.

Q.—Do you remember which way the vessels at anchor were heading?  
A.—No, I don't know.

Q.—Was there a tug in the vicinity of the ship when you saw her? A.—  
No, I didn't see a tug.

Q.—Did you see the tug at all that day? A.—I saw the tug when she 10  
went over to assist the Norefjord after the collision.

Q.—You had not seen the tug previous to the collision? A.—No.

Q.—In Dyke Exhibit I, you show the second position of the Norefjord  
marked N2 and then the third position of the Norefjord at the time of the  
collision N3? A.—Yes.

Q.—These two positions would indicate that the Norefjord was swinging  
starboard, did it swing to starboard? A.—Yes, slightly.

Q.—Is that your recollection or is that an error? A.—As far as I re-  
member she swung to starboard a little and the Alcoa Rambler swung a  
little bit too. 20

Q.—I notice in the diagram AR2 and AR3 the courses are approximately  
the same, you didn't indicate any swing to starboard on the part of the  
Alcoa Rambler, is that a mistake or not? A.—She should have swung a  
little bit.

Q.—You were about five hundred yards away from the ship any the time  
of the collision? A.—Yes, approximately.

Q.—Did you notice whether the Alcoa Rambler's speed was reduced  
before the collision? A.—Well, at the time of the collision she didn't seem  
to have much way on her, she was practically stopped.

Q.—What do you say as to the speed. of the Norefjord? A.—She was 30  
moving slowly. She drew away from the Alcoa Rambler slightly because  
the Alcoa Rambler was practically stopped at the time of the collision.

Q.—At the time you first saw, or on the second occasion on which you saw  
the Norefjord was she moving slowly or what do you say as to her speed?  
A.—She was steaming slowly.

Q.—I suppose you did not keep any record of times? A.—As to what?

Q.—As to times when you saw anything. Did you make any memo-  
randa of what you saw that day? A.—Except that I knew the ship was  
late on the Range and I left the Range quarter after nine and it would take  
me five to ten minutes to get to the ship. 40

Q.—So any evidence you are giving today is purely from recollection,  
from memory? A.—Yes.

Q.—You didn't make any notes to refresh your memory? A.—No.

Q.—You say you didn't see the tug until after the collision? A.—I  
didn't notice the tug.

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Q.—Can you mark on this Chart—when you first saw the Norefjord.

MR. ERSKINE:

I offer the Chart with the position which the witness marked to indicate the position of the Norefjord when he first saw her to be Dyke Exhibit 2.

MR. SMITH:

Q.—How far witness would it be away where you first saw the Norefjord from the jetty? A.—Over a mile, about a mile and a quarter, perhaps.

Q.—You say you didn't pass close to the Alcoa Rambler? A.—No, I don't think so.

Q.—Do you remember? A.—I don't remember passing close to it. 10

Q.—What distance would you say you were? She crossed your bow did she? A.—Yes.

Q.—How far was she away then? A.—When she crossed our bow?

Q.—Yes. A.—It would take her a long time to cross our bow.

Q.—But she did cross your bow? A.—Yes, I do not remember the exact time that I saw her. I know we went around the stern of her and that she was steaming down.

Q.—Do you recall how far she was away? A.—No.

Q.—In any event you went a distance of about five hundred yards away from her and then stopped your engine? A.—Yes. 20

Q.—And at that time the Norefjord was about an equal distance away from you? A.—Yes.

Q.—And the ships were about the same distance apart? A.—The same distance apart as I was from the ships.

Q.—Five hundred yards approximately? A.—Approximately.

Q.—And the Tuna's engine remained stopped until the time of the collision? A.—The engines weren't stopped we were moving still. We slowed down, I don't remember whether we stopped or not.

Q.—In the meantime both ship were going ahead slowly? A?—Yes.

Q.—Do you know where the collision occurred? A.—Where? 30

Q.—Yes, where? Have you any recollections of that? A.—It was off the Narrows. (Witness indicated on Dyke Exhibit 2 and writes the word "collision" inside of the circle.)

Q.—That is just your recollection, I suppose you didn't mark it in any way? A.—It is approximate.

Q.—Merely approximate? A.—Yes.

Q.—You said something about the officers being excited? A.—Yes, when I came aboard the ship, when I came on board the Norefjord—

Q.—Did you immediately after the collision proceed to the Norefjord? A.—Yes, as soon as the ships separated. 40

Q.—When you got to the Norefjord where was the Alcoa Rambler? A.—She was on the port side of the Norefjord.

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Q.—The port side of the Norefjord? A.—Yes.

Q.—Had the ships come apart? A.—Yes, I didn't go aboard her until they had separated.

Q.—Was the Norefjord lying across the bow of the Alcoa Rambler then?

A.—No, the Alcoa Rambler swung to starboard and the Norefjord went ahead a little bit and swung to starboard too.

Q.—How long after the collision would you say that you got on board the Norefjord? A.—About a minute, one to two minutes.

Q.—You proceeded full speed on the Tuna? A.—Yes.

Q.—Where did you go when you went board the Norefjord? A.—I 10  
went to inspect the damage. I looked down the Engine Room and I spoke to the Captain.

Q.—Who was the man who was so excited? A.—There appeared to be a lot of men running back and forth and a lot of talking.

Q.—You said something about the officers. Did you see the officers excited? A.—I saw the Captain and several of the other officers. I don't remember which ones.

Q.—Did you speak to them? A.—I spoke to the Captain.

Q.—What did you say? A.—I asked him if he could proceed over the Range and he said "No". 20

Q.—Was he excited? A.—No, not particularly excited.

Q.—Did you see the pilot. A.—I didn't see the pilot, no.

Q.—Did you go on the Bridge? A.—No, all the officers were down on deck.

Q.—Who were these officers who were so excited? A.—There just seemed to be a general atmosphere of people running back and forth and talk.

Q.—Would you not think it natural to run back and forth after a collision? A.—Yes.

Q.—Anything unusual in the actions of these men? A.—No, they were trying to find out how much damage had been done. The ship was evident- 30  
ly leaking because I looked in the Engine Room and saw water coming in, I saw water down below.

Q.—Was the Engineer in the Engine Room? A.—Yes.

Q.—Was he excited? A.—I didn't go down.

Q.—I do not appreciate what you mean by the officers being excited? A.—Well, I would expect them to be a bit excited because I do not think the collision was deliberate.

Q.—You didn't see anything unusual in your mind in the demeanor of the men on board the ship? A.—Well, they were not going on as they would under ordinary conditions. 40

Q.—Wasn't that natural under the circumstances? A.—Yes, it was natural for them to run back and forth.

Q.—They were looking at the damage? A.—Yes.

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amination.

Q.—Were they attempting to do anything about the damage? A.—They were working down below but I didn't go down to see. They told me they were working down below.

Q.—Had the tug come alongside before you left the ship? A.—No, I don't think so. I think it came alongside afterwards.

Q.—Did you proceed back to the Dockyard? A.—No, I went to the Range.

Q.—You went back to the Range? A.—Yes.

Q.—These positions which you have shown on Dyke Exhibit 1 are not intended to indicate the respective positions of the two ships at any time? 10

OBJECTED TO BY MR. ERSKINE.

MR. SMITH.

Q.—Are they? A.—They are not intended to give the exact position of the ships at any time.

Q.—For instance we will take the position marked AR, what is that intended to indicate? A.—AR is the approximate position of the Rambler when I first saw it.

Q.—Does it indicate the approximate course of the Rambler at that time? A.—Yes.

Q.—And position AR2 indicates what? Your diagram AR2 is that cor- 20  
rect? A.—The position of the Rambler when I first saw both the ships together. When I first saw both of them.

Q.—That diagram would indicate that between the position shown as AR and the position shown as AR2 there had been a slight alteration in course to port on the part of the Alcoa Rambler, is that intended? A.—I would not say whether she altered her course or not, she steamed generally in the same direction.

Q.—From the time you saw her until the actual collision? A.—Yes.

Q.—The diagram N2 what does that indicate Mr. Dyke? A.—That goes with AR2. 30

Q.—That indicates the course of the Norefjord when you saw her on the second occasion? A.—Yes.

Q.—But AR2 and N2 show merely the courses, they do not show the positions of the ships, is that correct? A.—They show their approximate positions.

Q.—Do you mean to say that when these ships were five hundred yards away from each other that the Norefjord's bow was approximately dead ahead of the Alcoa Rambler's bow, that is what I mean? A.—It is hard for me—

Q.—I will put it this way. Diagram N2 and AR2 are what you say were 40  
the courses or the approximate courses of the two ships when you saw them both at the same time? A.—Yes.

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Defendant's  
Witness.

No. 18.  
Not in  
presence of  
Trial  
Judge.  
Frederick I.  
Dyke.  
Cross Ex-  
amination.

Q.—But they do not indicate the positions of one ship towards the other at that time? A.—Well, I would say their amidships point indicates the ships, roughly. They were about the same distance from me. The amidships point indicates approximately the positions of the ships.

Q.—So that at the time of the collision the Alcoa Rambler had come from this position a considerably greater distance than the Norefjord? A.—Will you repeat that?

Q.—You have marked a dot amidships on N2 which indicates, you say, the position of the Norefjord, and a similar dot amidships on AR2, which two dots indicate the respective positions of the two ships when you saw them together? A.—What I meant by the two dots was the bows of the ships. 10

Q.—Would you mind using these models and drawing two diagrams where you say the two ships were when you say you saw them both at the same time? A.—You want to know where the bows were?

Q.—I want to know where the ships were—Perhaps you cannot answer that, I do not want to be unfair with you. A.—It is rather difficult.

Q.—It is fair to say you cannot tell approximately the bearing of one ship to the other at that time? A.—No, I could tell the bearings of the ships, approximately. 20

Q.—Remember you were five hundred yards away on the starboard side of the Alcoa Rambler and about an equal distance on the port side of the Norefjord. A.—Yes, I could tell they were not heading towards me.

Q.—But you couldn't tell us, or could you tell the respective courses and the respective positions of the two ships when you saw them both with any degree of accuracy? A.—Yes, I could tell the approximate course as shown on the diagram.

Q.—Now what about the approximate positions? A.—When I first saw them they were approximately the same distance from me, about the same distance.

Q.—You say they were the same distance, the ships were the same distance away? A.—I said a little bit further apart. 30

Q.—Which would be about six hundred yards? A.—Six or seven hundred yards.

Q.—Had you a clear, unobstructed vision of both these ships? A.—Yes, at that time, yes.

Q.—And the ships had a clear unobstructed vision of each other at that time? A.—Yes.

Q.—And it was apparent, I think you said, at that time the Norefjord was proceeding towards the Range? A.—Yes. When I was at the position marked "Tuna" I knew the Norefjord was proceeding towards the Range. 40

Q.—And the only alternations in course that you noticed in both ships previous to the collision were shortly before the collision you noticed both ships swinging slightly to starboard? A.—Yes.

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PART 1

*In the  
Exchequer  
Court  
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Defendant's  
Witness.

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Not in  
presence of  
Trial  
Judge.  
Frederick I.  
Dyke,  
Cross Ex-  
amination.

Defendant's  
Witness.

No. 18.  
Not in  
presence of  
Trial  
Judge.  
Frederick I.  
Dyke,  
Re-Ex-  
amination.

Defendant's  
Witness.

No. 18.  
Not in  
presence of  
Trial  
Judge.  
Frederick I.  
Dyke,  
Re-Cross  
Exami-  
nation.

Q.—I suppose you didn't see what happened to the Norefjord after the collision? Where she went? A.—Yes, I know she went over and they ran her aground off Irving oil.

Q.—Irving Oil Wharf? A.—Yes. Irving Oil Wharf.

Q.—I suppose the reason this evidence is being taken is that you may be leaving? A.—There is a prospect I may be leaving.

Q.—What is the distance of the Degaussing Range from Turtle Head?

A.—About three quarters of a mile.

RE-EXAMINED BY MR. ERSKINE

Q.—Take your pencil on this Chart Dyke Exhibit 2 and mark approximately where the Degaussing Range is. (Witness indicates with two dots) 10

Q.—You have drawn two dots which I shall mark x and x and a line between them which I will mark "A" and "B", is the heading approximately north and south as indicating a steamer going over the Range? A.—Yes.

Q.—You told me, as I remember it, that when you first noticed the Alcoa Rambler you thought she bore on your starboard bow and then you told Mr. Smith you thought she was ahead, which is our best recollection now?

A.—That she was ahead.

Q.—You think she was about ahead of you when you first saw her?

A.—Yes.

Q.—Now Mr. Smith asked you several questions, more particularly 20 with respect to the time when you taught the position marked "Tuna" on Dyke 1, that the Norefjord appeared to be heading for the Range?

A.—Yes.

Q.—And as I understand it your observation was that until just before the collision the Norefjord was continuing and heading for the range?

A.—Yes.

MR. SMITH—RE CROSS-EXAMINATION

Q.—I think you said Lieutenant that you did notice both ships were swinging to starboard before the collision? A.—Yes.

THE WITNESS THEN WITHDREW.

30

MR. MCINNES:

Yes, I think I made the motion before.

MR. SMITH:

Captain Hayes is unable to be here because of urgent business. I don't know if my learned friend wishes to have all my evidence in before he goes ahead.



RECORD PART I RALPH L. CLARKE, being called and duly sworn, testified as follows:

*In the  
Exchequer  
Court  
of Canada,  
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District.*

EXAMINED BY MR. MCINNES:

Q.—You are Robert L. Clarke? A.—Ralph.

Q.—Ralph. You are one of the licensed pilots of the Port of Halifax?

A.—Yes.

Q.—How long have you been a pilot? A.—Two years the 11th of November past.

Defendant's  
Evidence.

Q.—During that period of time, I suppose you have navigated many ship in and out of Halifax Harbour? A.—Yes, quite a few.

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In presence  
of Trial

Q.—And Bedford Basin? A.—Yes.

Judge,  
Ralph L.  
Clarke,  
Direct-Ex-  
amination.

Q.—Perhaps too many to remember, is that correct? A.—Too many to remember.

Q.—What certificate? A.—Master's Board of Trade.

Q.—When was that issued? A.—28th day of October, 1918.

Q.—What is your sea-faring experience? A.—I have been twenty-eight years at sea.

Q.—And during that time, have you served as an apprentice? A.—No I didn't serve any apprenticeship. We don't serve apprenticeships on Canadian ships as a rule, that is, not on the ships I have served.

Q.—Have you served on steamer? A.—Yes.

Q.—In what capacity? A.—Served mate to master.

Q.—And what size of ships have you been master on? A.—I have been master of ships up to six thousand tons net registered for two years and on another ship, this last ship before coming in to the pilots, of one thousand tons net registered for eight years.

Q.—You were assigned, were you not, a ship on the 20th. of August, 1942? A.—Yes.

Q.—What ship was that? A.—“Alcoa Rambler”.

Q.—And for what purpose did you go on board her? A.—The order was to take the ship from the Basin gun trials and return to the Basin.

Q.—Where was the ship lying? A.—In the upper end of the Basin. I think 2-D was the berth.

Q.—2-D. Is that 2-D shown on Exhibit “Alcoa Rambler”4? A.—Yes, that is the berth the ship had.

Q.—You might mark with a pencil and you can just initial it? A.—Do you want me to initial this?

Q.—Yes, just mark the square? A.—With my initials?

Q.—That is all right. You can put your initials there.

(Witness marks Exhibit A. ER. 4)

Q.—What time did you board the ship? A.—It was around nine o'clock in the morning. I didn't take special note of the time. I think the order was for nine o'clock in the morning. I boarded her around that time.

Q.—Was steam up when you arrived? A.—Yes, the ship was moving when I went on board.

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20

30

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Q.—And in what position was she heading? A.—She was heading northeast or north; yes, in about a northeast direction.

Q.—What do you say about the state of the weather? A.—It was fine clearweather.

Q.—It was fine clear weather. Was there any wind? A.—Practically none.

Q.—On this day, were there other ships in the Basin? A.—Yes, the Basin was fairly congested that particular day.

Q.—Could you give any estimate of the number? A.—I have no way of finding that out excepting information from the superintendent. 10

MR. SMITH:  
I object to that.

BY MR. MCINNES:

Q.—From what you saw? A.—In the vicinity of 130 or 140 ships altogether.

Q.—That is in the Bedford Basin show on on the several charts? A.—Yes.

Q.—Who was on the bridge of the “Alcoa Rambler”? A.—The Master was and the third officer and I presume a quartermaster—of course, he would be there. 20

Q.—Was the “Alcoa Rambler” flying any flags? A.—Yes, the “Alcoa Rambler” was flying the explosive flag B and the pilot flag after I arrived on board.

Q.—What colour is the explosive flag? A.—Red.

Q.—The pilot flag? A.—White and red vertical.

Q.—Where were these flags being flown? A.—I can't tell you off-hand. If the ship had a signal yard, they would be on the signal yard, but I don't recall and without a signal yard they would be flown in the truck or they might be flown from a signal span.

Q.—In any event, this vessel was flying these flags? A.—They were 30 displayed.

Q.—Above the bridge? A.—Yes.

Q.—What did you do about proceeding to sea? You were proceeding to sea, were you not? A.—On gun trials.

Q.—In what manner did you come away from the anchorage? A.—I turned the ship around to port in the direction towards the Narrows and proceeded down at various speeds; slow, half, if necessary, while manoeuvring through the different ships.

Q.—Do you recall the times of the speeds in coming away from anchorage? A.—No. 40

Q.—I refer you to AR Exhibit 4. There is a prohibited anchorage. Is that used as a fairway for ships?

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amination.

MR. SMITH:  
If he wouldn't lead, perhaps.

BY MR. MCINNES:

Q.—Is there any fairway for ships in Bedford Basin? A.—This Channel here is supposed to be left open. It never is.

Q.—The channel her on A. R. Exhibit 4? A.—Yes. The idea of the channel is so that you could see, but it is never open. The ships are anchored all over the place.

Q.—Did you have a fair channel from the Narrows to the anchorage this day? 10

THE COURT:

I would like to be satisfied about that: the channel is supposed to be open but never is.

BY MR. MCINNES:

Q.—What do you say? A.—I might retract that and say: but seldom is. It all depends on the number of ships.

Q.—Have the pilots instructions about anchoring in this channel way? A.—No, I think I might say it is verbal instructions.

MR. SMITH:

I object to that. 20

THE COURT:

I understand, when ships come into the Bedford Basin, they are given a definite anchorage?

BY MR. MCINNES:

Q.—What do you say to that? A.—It all depends. As an explosives ship, we are supposed to anchor on the east side of the Basin, no particular berth.

Q.—Does the pilot chose? A.—The pilot chooses his own berth there in that area. If she is a net, she goes into berths A,C,B, in the Basin.

BY THE COURT: 30

Q.—The pilots take an anchorage themselves? A.—Yes, they choose their own berths.

Q.—There are no berths in the channel? A.—None in the fairway on the ranges?

Q.—Yes? A.—There are berths all over the Basin.

BY MR. MCINNES:

Q.—What do you refer as to net? A.—The net system. This is a new device for catching torpedoes. It is slung away from the side of the ship at sea.

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Ralph L.  
Clarke,  
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amination.

Q.—That is, ships carrying torpedo nets are assigned to a certain position?

A.—Yes.

Q.—If I understand you correctly, pilots make a choice as to anchorage?

A.—Yes.

Q.—Other than explosive ships? A.—Or net ships.

Q.—Or net ships? A.—Yes.

Q.—And if I also understand you correctly, insofar as the fairway is concerned, it is understood among pilots—

MR. SMITH:

Surely this is too leading, Mr Lord? I think he should just ask what is the practice. 10

BY MR. MCINNES:

Q.—Tell us what the practice is about the fairway in Bedford Basin?

A.—I have already repeated that.

Q.—Just repeat it again? A.—In going to the Basin, they anchor outside the ranges when possible. Otherwise, they anchor wherever there is a clear berth.

Q.—Now, you got away from your anchorage with a turn to port, I understand? A.—Yes.

Q.—And where did you head? A.—Toward the Narrows. 20

Q.—At what speeds? A.—Various speeds: slow and half.

Q.—What was your highest speed on this morning going out? A.—On the engines or on the ship?

Q.—On the engines? A.—We were up to half speed and not very long, just about.

Q.—That is, you went half first and slow? A.—Half and slow in manoeuvring down through the ships.

Q.—You proceeded down the passage towards the Narrows? A.—Yes.

Q.—Will you tell us, in your own words, the voyage, what took place?

A.—After turning the "Alcoa Rambler" around heading toward the Narrows 30 we proceeded down at various speeds, porting and starboarding, if necessary, to clear the ships—altering course, I should say, to clear all the ships at anchor. After arriving down a certain—I noticed a certain position about two-thirds down the Basin—

Q.—You can identify that position on the small section chart Exhibit A.R. 4. (Witness marks on Exhibit A.R. 4.) A.—This position I am giving you there is approximate.

Q.—Approximately? A.—All the positions at the time I gave you are approximate.

Q.—Are approximate positions? A.—Yes.

Q.—What position is it? A.—It must have been up around her. It must have been well over the beam of the Degaussing House there. I must have been around that position.

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Q.—At Y here on Exhibit “Alcoa Rambler” 4. A.—The position Y marked in 7 X.

Q.—And what took place there? A.—In that position I noticed the mast of another ship. Another ship was moving—under way.

Q.—What was your own speed at the time you noticed this other ship? A.—We were proceeding slow.

Q.—Where did you see this other ship? A.—To the west of another ship's hull. We seen the mast only—not the hull of this particular ship, just the masts.

Q.—In what direction was the other ship proceeding? A.—In approxi- 10  
mately the same position as the “Alcoa Rambler”.

Q.—Was that towards the Narrows? A.—Towards the Narrows.

MR. SMITH:  
It is leading.

BY MR. MCINNES:

Q.—What was your heading at that time? A.—The “Alcoa Rambler”?

Q.—Yes? A.—Heading around the south southeast magnetic.

Q.—What was the other ship's heading? A.—I can't answer that question. Approximately, I would say, towards the Narrows.

Q.—In relation to your ship, in what way was she heading? A.—In 20  
apparently a parallel course.

Q.—You could see the masts of the other vessel? A.—Yes.

Q.—Could you see her funnel? A.—I remember seeing the mast quite distinctly. As to the funnel, I must have seen the funnel.

Q.—There was an anchored ship lying between you, you say? A.—  
Yes.

Q.—How was the anchored ship lying? In what direction? A.—The anchored ship was lying in a northwest direction—laying up and down in a northwesterly direction, heading in direction toward Bedford Bay.

Q.—That was the upper end of the Basin? A.—Yes. 30

Q.—What was your distance from this other ship? A.—The ship at anchor?

Q.—The ship at anchor? A.—I should say off-hand about 500 feet approximately.

BY THE COURT:

Q.—That was the intervening ship?

BY MR. MCINNES:

Q.—That was the intervening ship? A.—The intervening ship.

Q.—Can you tell us your estimate of the distance between the ship you saw under way and the anchored ship? A.—I can't answer that question 40  
I could only see the masts. I couldn't judge the distance.

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PART I

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Ralph L.  
Clarke,  
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Q.—What did you do about this? A.—The moment I seen the mast of the other ship moving on the other side of the intervening ship, I stopped the engines.

Q.—Were you the first person to see the other ship? A.—No, the Captain drew my attention to it first.

Q.—And you gave the order to stop the engines? A.—To stop the engines, yes.

Q.—Was that order carried out? A.—Yes.

Q.—Do you know the time that the order to stop then engines was given?

A.—No.

Q.—What next took place? A.—The Captain asked me a question, what I thought the other ship might—

10

MR. SMITH:

I object to any conversation between the Captain.

THE COURT:

I am not so sure.

MR. SMITH:

I am objecting.

BY MR. MCINNES:

Q.—You give it as you were going to give it? A.—You asked me a question and I am trying to answer.

Q.—There are certain rules of evidence we are having a discussion about.

THE COURT:

You are objecting?

MR. SMITH:

Yes, My Lord.

THE WITNESS:

Are you objecting to it?

MR. SMITH:

You take the orders from the Judge.

30

BY THE COURT:

Q.—You carry on. A.—The Captain asked me what I thought the "Norefjord" was doing. I answered him, that we should soon find out. In a few moments later I heard the "Norefjord" blow one blast on her whistle.

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PART I

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Ralph L.  
Clarke,  
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amination.

Q.—What does the signal one blast indicate? A.—Indicating the “Norefjord” was altering her course to starboard.

Q.—Yes. At that time, at the time of the one blast, could you see anything more of the Norefjord? A.—No, excepting the masts and funnel and superstructure of the ship. I couldn't see the hull.

Q.—What did you understand from the signal? A.—The ship was altering her course to starboard, and I took it for granted she would probably be going—

MR. SMITH:

I don't know if his mental reactions are evidence in this case. I think 10 he can give evidence as to what he did.

BY MR. MCINNES:

Q.—I am asking you what you understood from that signal? A.—The ship was altering her course to starboard.

Q.—What did you do on your ship? A.—Stopped the engines.

Q.—They were stopped then? A.—Yes they were stopped then.

Q.—Did you keep it stopped? A.—Stopped until such time as I seen the Norefjord make around the stern of the ship at anchor. The hull came into vision around the stern of the anchored ship.

Q.—When you saw Norefjord coming into view, on what course was she heading? A.—She was heading then—I should think she was heading 20 in a southeast direction.

Q.—And what distance was the Norefjord away from you? A.—In the vicinity, I should say, of 1800 to 2000 feet.

Q.—In what position in regard to the shores of the Basin was she heading at that time? A.—She was heading between the Degaussing Range and Turtle Head.

Q.—What did you do on seeing her come clear? A.—I seen the ship come clear. She was porting all this time. I should say the ship was altering her course all the time. 30

Q.—The “Norefjord”? A.—I am referring to the “Norefjord.” She was on the port helm under the housing of the port helm when she came into view clear of the intervening ship.

Q.—What did you do on your ship? A.—I came full speed astern on the engines.

Q.—Were any signals given from your ship? A.—I blew three short blasts.

Q.—What does three short blasts indicate? A.—The engines were going full astern.

Q.—Did you receive any answer from the other ship? A.—No. 40

Q.—Did you receive any signal from the other ship other than one blast. which you have referred, at any time? A.—No.

RECORD  
PART I

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Clarke,  
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amination.

Q.—Did you take any other action on the ship? A.—I blew the Letter K, which is a danger signal.

Q.—What does the signal for the Letter K indicate? A.—Indicating to the other ship to stop.

Q.—Letter K is what? A.—Long, short and long.

Q.—How closely did the signal Letter K follow upon your astern signal? A.—I should think it would be only a minute or it might have been twenty seconds or half a minute or something like that.

Q.—And were your orders in this regard carried out, that is, your astern order? A.—Yes. 10

THE COURT:

What do you mean by the astern order?

MR. MCINNES:

That three blast, My Lord.

BY MR. MCINNES:

Q.—That is correct is it not? A.—That is correct.

Q.—As you saw the "Norefjord"—did you make any change in your own helm? A.—No, the ship had so little way on her that making a change from the helm—

MR. SMITH:

Perhaps he could answer what he did without explaining. I am objecting. 20

THE COURT:

What is the question?

MR. SMITH:

He was asked there what he did.

THE COURT:

No, he was asked if he made any change of course.

MR. MCINNES:

That is what I asked.

THE WITNESS:

No, the ship maintained her course. 30

BY MR. MCINNES:

Q.—What was your speed at the time you saw the other ship break clear of the anchored vessel? A.—The ship was practically stopped then. The engines had been stopped a while and she was moving through the water probably about a knot or something like that.



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THE COURT:

At what time was she moving a knot through the water?

MR. MCINNES:

I am going to ask him that.

BY MR. MCINNES:

Q.—At what time was she moving a knot through the water? A.—  
Probably about three or four minutes before the collision.

THE COURT:

I mean, with reference to the signal you gave.

BY MR. MCINNES:

Q.—You gave a signal of three blasts indicating an astern movement, I understand? A.—Yes, I gave a signal of three blasts indicating an astern movement, and the ship was moving through the water a knot or a knot and a half at the time of the astern signal and continued probably a minute later and the ship was practically stopped and she was on the astern movement about a minute or a minute and a half.

Q.—Have you any record of the time or are you speaking from recollection A.—From recollection. I have no record of the time.

Q.—What did you observe the “Norefjord” do following your signal of three whistles astern and your Letter K? A.—She did nothing except 20  
continue under influence of the port head and moving ahead. She was porting all the time.

Q.—And up to the time of impact, did her head change at all as you saw it? A.—From the time I first sighted the ship until the impact?

Q.—Yes? A.—Yes, she was moving in a circle.

Q.—In what direction? A.—About north direction from the time of the impact or northeast or around northeast.

Q.—And was she still under the helm when you saw it? A.—I would assume, because she was swinging to port all the time.

Q.—She was swinging to port all the time you had her under observation. 30  
A.—She was swinging to port all the time I had her under observation

Q.—Can you give us any idea of the speed of the “Norefjord”? A.—  
Yes, she was moving fast under those conditions.

MR. SMITH:

I object to that evidence. Surely fast under those conditions—

THE COURT:

That is a question for the court.

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MR. SMITH:

I submit that is not for the witness to say.

BY MR. MCINNES:

Q.—Could you estimate in knots what the speed of the “Norefjord” was from the time you first sighted the vessel until the impact? A.—Probably five knots.

Q.—Was that speed slackened in any way? A.—Not that I could notice until the ship was at right angles to “the Alcoa Rambler.” I could see wash coming up from the “Norefjord’s” stern—the stern movement on the engine of the propellers. 10

Q.—Was any other action taken on behalf of the “Alcoa Rambler” prior to the collision? A.—Yes, we dropped the anchor.

Q.—On whose order was that done? A.—It was done on my order.

Q.—Did the Captain take part in the dropping of the anchor. A.—Yes, the Captain suggested the dropping of the anchor.

Q.—And at what distance from the “Norefjord” was the order for the anchor to be dropped given? A.—In the vicinity of 100 feet.

Q.—And at what distance was the anchor actually let go? A.—When the anchor was dropped—when the anchor left the bow of the “Alcoa Rambler” in the vicinity of 100 feet. 20

Q.—That is on the port side of the “Norefjord” A.—Yes, that is right.

Q.—Did you see the anchors of the “Norefjord”? A.—I could see the port anchor at that angle.

Q.—Was anything done with respect to the “Norefjord’s” anchors? A.—I don’t think so.

Q.—You didn’t see anything? A.—I didn’t see anything, but I should have heard in case they dropped an anchor.

Q.—Now, your ship carried a red flag, you tell us? A.—Yes.

Q.—And what does that indicate? A.—The ship was carrying explosives. 30

Q.—Are there any precautionary measures taken in respect of ships carrying explosives? A.—Excepting that they are supplied with an escort from the navy.

Q.—Yes. And were you, on this day, supplied with an escort vessel? A.—Yes.

Q.—Did you see that escort vessel? A.—Yes.

Q.—What was the size of the escort vessel? A.—The ordinary motor boat, probably 40 or 50 feet long.

Q.—Did she carry flags? A.—Yes.

Q.—What flags did this escort vessel carry? A.—I.C. International. 40

Q.—What do the the I.C. flags indicate? A.—It indicates that this harbour craft is escorting an explosive ship.

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Q.—I have in Brown's Signalling, the International Code of Signals, I.C.: "You should keep clear of me. I am loaded with dangerous cargo." Is that the correct statement? A.—That is a correct statement, but it is only flown at the Port of Halifax in case a ship is carrying explosives.

Q.—You might read it, please? A.—I.C.: "You should keep clear of me. I am loaded with dangerous cargo."

Q.—Where were these flags flown on the escort vessel? A.—From a small signal mast ahead in the fore part of the boat.

Q.—I am handing you Exhibit A.R. 1, the Port of Halifax, N. S. Public Traffic Regulations? A.—Yes. 10

Q.—Are you familiar with those traffic regulations? A.—Yes, I am.

Q.—And is it under those Traffic Regulations—

MR. SMITH:

I say that is a question of interpretation, My Lord, of those regulations which I think is a question for the Court.

BY MR. MCINNES:

Q.—that pilots navigate. What do you say about that? A.—I say we do—we conform with those regulations.

Q.—Are you familiar with Section 33—a, Ammunition or Oil Supply ships? A.—Yes. 20

Q.—What does it say about ships flying the International Flag? A.—I will start at the beginning: Ships entering harbour— (Read s33-A)

MR. SMITH:

Objects to the witness reading it.

MR. MCINNES:

All right.

THE COURT:

Whether he complied with those regulations, it is entirely for me.

MR. MCINNES:

I realize that. 30

MR. SMITH:

And as to the relevancy of those regulations.

BY MR. MCINNES:

Q.—Are those regulations issued to pilots? A.—Yes.

Q.—And have you any instructions about them from the Master of Pilots at Halifax? A.—No, we are issued with other instructions but more or less tied up with those instructions.

Q.—These are given to all pilots? A.—To all pilots.

Q.—In carrying out those duties—

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MR. SMITH:  
Objects.

THE COURT:  
You are showing what was done that day.

MR. MCINNES:  
Very good.

BY MR. MCINNES:

Q.—This escort vessel, to which you have referred, did it take up a position in relation to the “Alcoa Rambler”? A.—Yes, a position ahead.

Q.—How far ahead? A.—I would say about 150 to 200 yards. Some 10 of the times she might be 150, other times 200 yards.

Q.—And did she maintain the position down the Basin? A.—Practically.

Q.—After you saw the “Norefjord” in that fashion, or when you first had her under observation, did you see the escort vessel take any steps or doing anything? A.—Yes, the escort vessel speeded presumably to warn the “Norefjord”.

MR. SMITH:  
That is surely objectionable.

THE COURT:  
That is objectionable. Just tell us what you saw. 20

BY MR. MCINNES:

Q.—Not what you presumed, what you actually saw? A.—Yes, I did see the escort vessel move towards the “Norefjord”.

Q.—Yes, and did it approach the “Norefjord”?

MR. SMITH:

Objects. Surely we can find out what she did. As a matter of approaching the “Norefjord”, he can say what this boat did, but I don't think he should put leading questions.

BY MR. MCINNES:

Q.—Tell us where you saw her go and what she did? A.—She approached in the direction of the “Norefjord”. 30

Q.—Yes. What else did she do? A.—I can't say that I paid any particular attention to the escort vessel after she had left in the direction of the “Norefjord.”

Q.—Yes? A.—Excepting after the collision she came alongside and assisted us in clearing the Degaussing Captain from the “Alcoa Rambler.”

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Q.—At the time you saw the escort vessel leave to approach the “Norefjord”—

THE COURT:  
Leave where.

BY MR. MCINNES:

Q.—We will put it this way: When did the escort vessel leave—she took some position other than ahead of you, as I understand? A.—The escort vessel remained in the position ahead practically all the time.

Q.—And did she continue in that position ahead? A.—Yes.

Q.—You spoke about her approaching the “Norefjord”? A.—She ob- 10  
served the “Norefjord”.

MR. SMITH:

How can he say what she observed.

BY MR. MCINNES:

Q.—I am asking you something took place and I want to know in relation to your own ship and the escort vessel when the escort vessel took some action? A.—Do you mean the position in regard to the “Alcoa Rambler”?

Q.—Yes? A.—Yes, the same position 150 to 200 yards.

Q.—Did you see the “Norefjord” at the time you saw the vessel do something? A.—Yes, I seen the masts of the “Norefjord”. 20

Q.—But you didn't see the hull? A.—No, not at that time.

Q.—There was a collision, was there? A.—Yes.

Q.—In what manner did the ships collide? A.—They collided at right angles to each other.

Q.—That is, which ship struck which? A.—I would take it that the “Alcoa Rambler” struck the “Norefjord” amidships on the port side.

Q.—At the time of impact, where was your anchor? A.—The anchor had been dropped then.

Q.—And what was your speed at the time of the impact? A.—The ship was practically stopped. 30

Q.—Yes. What was the speed of the “Norefjord” at the time of impact? A.—I should think at the time of impact she was moving ahead at probably about  $1\frac{1}{2}$  knots or 2 knots.

Q.—Had she changed her heading that you observed, prior to the impact? A.—No.

Q.—And had you changed your heading of the “Alcoa Rambler”? A.—No.

Q.—In what manner did they strike, that is what was the nature of the blow? A.—I don't think it could be termed as a blow; it was more of a scrub or a scrape. That is the direction of the “Alcoa Rambler” and the “Norefjord” came up like this, the bow of the “Alcoa Rambler” scraping along the side of the “Norefjord”. 40

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Q.—What was the angle of impact? A.—Practically at right angles.

Q.—Was there one bump or more than one bump? A.—I wouldn't  
it a bump; it was more a scrape than anything else.

Q.—The manner of impact, would that give you any indication of your  
own speed at the time? A.—No, I wouldn't say that. I would say my  
ship was practically stopped at the time.

Q.—Did you see what damage was done to the "Norefjord"? A.—I  
could see there was a dent in the port side of the ship.

Q.—I am handing you the A. R. Exhibit 2 and I ask you what you say  
about that in respect to the collision? A.—This doesn't prove anything 10  
to me at all; it is all covered up.

BY THE COURT:

Q.—It doesn't indicate anything? A.—No.

BY MR. MCINNES:

Q.—It is all covered up? A.—Yes.

Q.—Where did the "Norefjord" proceed after the collision, did you see?  
A.—It proceeded back to Fairview.

Q.—Where did you proceed? A.—Back to the original anchorage, 2D

Q.—Did you hoist your anchor? A.—Yes.

Q.—Can you identify on the chart—we will use one of the larger charts, 20  
perhaps. I am showing you Exhibit 2, a chart of the Basin. Can you  
identify the place of impact? A.—Around this vicinity.

Q.—You had better put a circle where you say the collision took place  
(Witness does this). And put your initials there so that we will have it.  
(Witness does this.)

MR. SMITH:

Perhaps you had better draw a line.

MR. MCINNES:

I draw a line to your initials.

BY MR. MCINNES:

30

Q.—Now, there is a spar shown opposite the 100 ft. contour on the eastern  
side of the Basin—a spar shown in the water. Did you see that spar on  
that day? A.—Yes.

Q.—And in forming your estimate of the place of collision, are you assist-  
ed by that spar? A.—Yes, I am. This is the bearing where I am taking  
my position from—from the spar buoy—the direction of the approximate  
distance.

Q.—Just after seeing the "Norefjord," did you know, in fact, where she  
was proceeding to? A.—No, I didn't. I wasn't certain where she was  
proceeding to.

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Q.—Yes. And did that vessel comply with her signal of one blast? A.—  
No.

MR. SMITH:

That is question of law. I think that is a question for Your Lordship, not a question for this witness. He can say what she did, but he can't say whether she complied with anything.

BY MR. MCINNES:

Q.—Did the "Norefjord" go to the right as a consequence of that blast— as you saw it? A.—I couldn't say. At the time the "Norefjord" blew the one blast she was partially obscured by the other ship, which pulled the "Norefjord." 10

Q.—What did you expect the "Norefjord" would do?

MR. SMITH:

Surely what he expect the "Norefjord" would do is not evidence.

THE COURT:

She gave the signal. He can say what followed the signal.

BY MR. MCINNES:

Q.—What did you expect the "Norefjord" would do as a result of the one blast? A.—Alter her course to starboard.

MR. SMITH:

He has already said that on one occasion. 20

BY MR. MCINNES:

Q.—Was there a time, in your opinion, after you had the "Norefjord" in observation, for her to take any steps to avoid collision? A.—In my opinion, there was.

Q.—What steps should she have taken? A.—She could have gone hard starboard.

BY THE COURT:

Q.—What? A.—From the time I see the "Norefjord" break clear of the ship at anchor, she could have gone hard starboard, that is, pull away from the "Alcoa Rambler." 30

BY MR. MCINNES:

Q.—Were there any steps that could have been taken on your part, in your opinion?

MR. SMITH:

After all, is it Your Lordship that is trying this case or the pilot?

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MR. MCINNES:  
Will Your Lordship allow the question?

THE COURT:  
I don't think.

BY MR. MCINNES:

Q.—What period of time elapsed from the time you first saw the "Norefjord" and the impact—in your estimation? A.—I should think about two to three minutes.

CROSS EXAMINED BY MR. SMITH:

Q.—Did you have a tug to assist you in turning around at the anchorage? 10

A.—No.

Q.—You turned around under your own steam? A.—Yes.

Q.—And do you recall what time you proceeded from your anchorage?

A.—No, I didn't, because it isn't the pilot's practice to keep the time.

Q.—I am just asking you. Confine your answer. A.—My order was nine o'clock. I arrived there a few minutes before.

Q.—Your order was nine o'clock? A.—Yes.

Q.—And your ship was at anchor? A.—Yes.

Q.—And your ship was heading approximately northerly? A.—In 20  
that direction, yes.

Q.—And then you proceeded giving the orders yourself? A.—Yes.

Q.—And there was a man at the wheel? A. Yes.

Q.—And the captain and the third officer were on the bridge? A.—A man I took to be the third officer.

Q.—Who was using the telegraph? A.—The third officer, I presume. The telegraph was in the wheel house and the third officer was located there. That was part of his duties.

BY THE COURT:

Q.—When you board the ship before she started at all, in what direction was she pointing? A.—She was heading in the direction of the Basin, up 30  
and down the Basin.

Q.—Was her stem north? A.—West—northwest, around that direction.

BY MR. SMITH:

Q.—I think you told Mr. McInnes northeast? A.—I said in the direction of Bedford Bay.

Q.—That would be northwest? A.—Northwest.

Q.—And you say that the third officer was in the wheel house? A.—  
In the wheelhouse.

Q.—And which side of the bridge were you standing on? A.—I was  
all over the bridge—no particular place at any one time 40



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Q.—And where was the Captain? A.—The Captain was with me.

Q.—And did he follow you around wherever you went? A.—More or less.

Q.—Now, after you got the ship's head turned around, and what speed did you proceed? A.—Various speeds—half and slow.

Q.—Did you ever go at full speed? A.—No.

Q.—Do you know full speed would be the full speed in her loaded condition? A.—I should think in the vicinity of ten knots.

Q.—Yes. And what would have been her speed at half speed? A.—  
In the vicinity of seven knots. 10

Q.—In the vicinity of seven knots? A.—Yes.

Q.—At slow speed? A.—At slow speed, about three.

Q.—I suppose you wouldn't be as familiar with the speeds of the ship as the Master himself? A.—No, I shouldn't think so.

Q.—As Captain Henke? A.—No.

Q.—No. If the Captain said that the speed of the "Alcoa Rambler" with the normal loaded full was eleven knots? A.—Well, possibly.

Q.—At half, about seven knots, which agrees with yourself? A.—Yes.

Q.—And at slow four knots? A.—Yes.

Q.—You wouldn't dispute the question? A.—No. You asked me 20  
what I thought the speeds would be.

Q.—He would probably know the speeds better than you would. Was this the first time you were on the ship? A.—On the "Alcoa Rambler," yes.

Q.—And you didn't have a log out for the purpose of taking your speed  
A.—Indicating?

Q.—Indicating? A.—No, I never do.

Q.—So any estimates of speed you made are based on your—? A.—  
Approximate.

Q.—Approximate? A.—Yes. 30

Q.—And when you observed this ship, what was your engine speed at that time—when you observed the "Norefjord" for the first time? A.—  
The "Alcoa Rambler"?

Q.—Yes? A.—She was on slow.

Q.—I see. Did you see her first or the Captain? A.—The Captain  
seen the "Norefjord" first.

Q.—The Captain? A.—Drew my attention to it.

Q.—And how far do you think she was away then? A.—I would say  
probably anywhere from 1800 to 2000 feet. This is approximate. I am  
judging my distance from the ship at anchor and the approximate distance 40

Q.—1800 to 2000 feet? A.—Yes, approximately.

Q.—And you say your engine was there at slow? A.—On slow.

Q.—I notice your logs show that your speed at 9.12 was half speed. At  
9.12 your speed was put ahead at half, is that right? A.—Yes.

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Q.—And at 9.14 slow? A.—Slow. This is the movement I referred to.

Q.—Previous to that? A.—Previous to that I say the speeds were various. I won't vouch for the time. Slow, stop, full astern.

Q.—I haven't asked that by the witness. A.—I won't vouch for the times at all.

Q.—The log also shows that your engine was stopped at 9.15? A.—I won't vouch for times at all. I remember the movements of the engines

were slow at the time first noticing the movement, they were put on stop and when the "Norefjord" broke clear of the ship at anchor, they were put 10 full speed astern.

Q.—The Captain saw it before you did? A.—He saw the "Norefjord"

Q.—He saw the "Norefjord" before you? A.—The moment he seen it, he drew my attention to it.

Q.—Now, in Exhibit A. R. 8, which is a copy of your deck log, it says "About 9.13 a.m. noticed on our starboard another vessel under way and apparently heading for the Narrows too. Shortly afterwards observed that the other was turning towards us and attempting to cross our bow. Stopped and reversed our engines to full astern". Now, apparently, from your records, the "Alca Rambler" was observed at 9.13? A.—The "Alca 20 Rambler" or the "Norefjord"?

Q.—The "Norefjord" was observed at 9.13? A.—According to the log book.

Q.—According to this? A.—Yes.

Q.—And at that time your speed was half speed? A.—At the time of first observing the masts of the "Norefjord" the speed was slow. The record says half, but I say slow.

Q.—You say the records are wrong? A.—I won't say that the records are wrong.

THE COURT:

It may be that the Captain saw her some time before he did. 30

BY MR. SMITH:

Q.—Perhaps we will get this straight. The records of your log show these times and I want to get your reaction to them as follows: 9.12 engine half ahead; 9.13 noticed on our starboard another vessel under way.

MR. MCINNES:

I would like to bring my learned friend's attention to 9.13 is about in the log there.

MR SMITH:

That is true. 40

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BY MR. SMITH:

Q.—9.12 noticed on our starboard another vessel under way. 9.13 your engines were put on slow? A.—One minutes after noticing the ship our engines were put on slow?

Q.—Yes? A.—That is wrong.

Q.—That is to say, when you saw the other vessel, you put her engines on slow? A.—At the time of seeing the other vessel, the “Alcoa Rambler” engines were on slow ahead. At the time of seeing the “Norefjord’s” masts, superstructure, the engines were stopped. When the hull of the “Norefjord” broke clear of the ship at anchor and we could see she was altering her course to port and not complying with her one blast signal, as we though the engines were put full speed astern. 10

Q.—This is not responsive to my question but it is sort of a dissertation on the subject.

THE COURT:

It is in effect not agreeing with you.

BY MR. SMITH:

Q.—I read to you what the records are in your logs and you don’t agree with that? A.—I don’t agree.

Q.—You don’t agree when the “Norefjord” was first observed you were at half speed? A.—I say I was on slow speed. 20

Q.—And you don’t agree that after the vessel was observed the engines were put on slow? You say as soon as you saw the “Norefjord” you stopped your engines? A.—That is right.

Q.—And you don’t know anything about times? A.—No, I won’t vouch for times. No, at times like that distance are much observed than times.

Q.—What do you say as to the speed of your ship? When the “Norefjord” was first observed, what is your estimate of your ship’s speed?

A.—We were making about three knots through the water. 30

Q.—You were making about three knots through the water? A.—In the vicinity of three knots.

Q.—What speed had you developed when you were in half speed? A.—If, as the Captain claims, the speed of the ship was seven knots, we probably developed  $5\frac{1}{2}$  to 6 knots.

Q.— $5\frac{1}{2}$  to 6 knots? A.—I should think so.

Q.—All right. You were a heavily loaded ship? A.—Yes.

Q.—And you say you were going  $5\frac{1}{2}$  or 6 knots when you first observed the other ship? A.—No, that was some time before we observed the other.

Q.—When you were in half speed? A.—Yes. 40

Q.—And you put your ship to slow? A.—Yes.

Q.—And the Captain before that gives a speed of four miles? A.—Yes

Q.—And wouldn’t it take some time for the ship to run off that speed? It

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wouldn't take effect immediately—the reduction? A.—At half speed the ship was never on half speed long enough to pick up six.

Q.—You say she was around  $5\frac{1}{2}$  to 6 knots? A.—Yes.

Q.—And as soon as you put her on slow she went down to three knots I understand you to say? A.—Gradually to three knots.

Q.—I mean, she was at slow before the engine stopped? A.—At the time of stopping the engines, she was probably moving in the vicinity of  $2\frac{1}{2}$  to 3 knots. She hadn't been on slow very long.

Q.—She had been on slow, according to your records, three minutes? A  
Yes. 10

Q.—Which would give her speed, if she had time to pick up speed, of seven knots according to your own evidence? A.—Yes.

Q.—And she was a minute, according to your evidence on slow speed? A.—Yes.

Q.—And do you mean to say that in that minute that her speed, which was  $5\frac{1}{2}$  to 6 knots, had been reduced to  $2\frac{1}{2}$  knots? A.—I would say in the vicinity of three knots.

Q.—You would say in the vicinity of three knots? A.—Yes.

Q.—Although the Captain says at slow you would be making a speed of four knots? A.—I don't know what the Captain says at all. 20

Q.—On what are you basing your evidence? A.—Of speed?

Q.—Yes? A.—As I answered you in the beginning, I said at half speed the ship was around six knots, but she was never going along enough on that speed to pick up  $5\frac{1}{2}$  to 6 knots. That was her speed on half, after she had momentum enough to make half, but I say she was never on that speed long enough to pick up that.

Q.—You estimate her speed was  $5\frac{1}{2}$  to 6 knots when on half speed? A.—When at half speed, that is when the ship has been on that speed long enough to pick up momentum at six knots.

Q.—How far had your ship proceeded on that day when her engines were put at half speed? Can you tell from the engine room log? A.—No, I can't tell you off-hand. 30

A.—How far did you proceed from your anchorage to the place of collision? A.—In the vicinity of a mile, I should think, or mile and a half.

Q.—Just mark it on the chart? Just scale it for me and tell me how far it is? I don't know whether you could locate your anchorage here? A.—Approximately  $1\frac{1}{2}$ .

Q.—And how far do you estimate you were from the collision at the time you first observed the other ship? A.—2000 feet—1800 to 2000 feet.

Q.—1800 to 2000 feet from the place of collision? A.—Yes, in that 40 vicinity.

Q.—So that you had proceeded at that time over a mile? A.—From the anchorage?

Q.—From the anchorage? A.—Oh yes.

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Q.—And you had proceeded at various speeds of slow and half? A.—  
Slow and half, yes.

Q.—And during that time you would have pick up some speed, wouldn't  
you? A.—On slow and half?

Q.—On slow and half, yes? A.—Moving down the Basin?

Q.—Yes? A.—Yes, of course, if we moved down the Basin, there must  
have been speed.

Q.—Having that in view, what do you say now as to the speed of your  
ship when you observed the "Norefjord" for the first time? A.—In the  
vicinity of three knots. 10

Q.—Three knots? A.—Three knots.

Q.—What was your speed before the engine was put at slow? A.—It  
probably picked up to around  $4\frac{1}{2}$  or 5 miles an hour and gradually came  
down to three knots.

Q.—You say it might be five miles when you were at half? A.—Yes, it  
might have been.

Q.—Yes. I gather it is only an estimate? A.—I would say probably  
five knots. If the ship's speed is seven at half, she might have been on half  
long enough to pick up  $4\frac{1}{2}$  or 5 knots.

Q.—You say the fact that she was for a minute, according to your records, 20  
on slow speed would reduce it down to three knots? A.—I would think so.

Q.—In a minute? A.—I would think so.

Q.—Taking into consideration this heavily loaded ship, surely it would  
have worked that fast? A.—I would say a minute, in that vicinity.

Q.—That is your view, anyway? A.—Yes.

Q.—And you say that the engine was not put at slow after you observed  
the other ship? A.—No.

Q.—But you say it was stopped? A.—It was stopped when I first ob-  
served the other ship.

Q.—How long were the engines stopped before they were put astern? 30  
A.—I just couldn't say off-hand. It would take a little time. Probably  
it might have been half a minute or a minute until such time as the "Nor-  
refjord" broke clear of the ship at anchorage, and you could see she was port-  
ing instead of starboarding.

Q.—How far were you away in your estimation? A.—She would prob-  
ably be about the same distance away—in the vicinity of 1800 or 2000 feet.  
She cleared the ship at anchorage very quickly.

Q.—She cleared the ship at anchorage very quickly? A.—Because the  
ship had considerable head way on as I could see.

Q.—You say you had clear view of her from 1800 to 2000 feet? A.— 40  
From 1800 to 2000 feet.

Q.—And when did you hear the whistle from the other ship? A.—  
It was during the time the hull of the "Norefjord" was obscured. When  
we first noticed the ship moving—the masts—shortly after we heard one  
blast and in the interval the Captain asked me what direction I  
thought the ship would be going.

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Clarke,  
Cross Ex-  
amination.

Q.—Now, had you stopped your engines before the other ship blew?  
A.—Yes, before the other ship blew.

Q.—Before the other ship blew? A.—Yes, before the other ship blew.

Q.—And as soon as you blew the one short blast, you answered with the three short blasts, did you? A.—No, I didn't answer with the three short blasts until I seen the ship was acting contrary to her signal after the hull—

Q.—When did you sound three short blasts? A.—When the hull of the "Norefjord" came in view clear of the ship at anchor.

Q.—That was? A.—I would say 1800.

Q.—Around 1800 feet away, 600 yards? A.—Yes, around 600 yards. 10

Q.—And then you sounded three short blasts? A.—Three short blasts.

Q.—Who used the telegraph on that occasion? A.—If I remember clearly, it was the third officer handled the telegraph.

Q.—Do you know what kind of engine this "Alcoa Rambler" had? A.—Yes, she has a turbine.

Q.—Turbine? A.—Yes.

Q.—How long did it take before you could feel the vibration and know the engine was going astern after you sounded your three short blasts?

A.—The way we find that out is on a tonnage—

Q.—Can you tell me this: I don't want it as a rule; I want to know in 20  
this particular case? A.—In the case of a turbine?

Q.—I am asking in the case of the "Alcoa Rambler"? A.—In the case of the "Alcoa Rambler", which is a turbine ship.

Q.—I know that. I am not asking about any other ship; I am just asking about the "Alcoa Rambler" on this day in question. My question was: After you sounded the three short blasts, how long was it before the engines were going full astern? A.—I am not sure. The engineer could answer that question.

Q.—You don't have to be an engineer. If you felt vibrations, would you know the ship was going astern? A.—No, not necessarily astern. 30

Q.—Your answer is that the vibrations might signify that the ship was going ahead of going astern? A.—It often happened.

Q.—In this particular case, you got the telegraph to the engineer to go full speed astern? A.—Yes.

Q.—And if some time afterwards you felt a vibration, you would naturally assume that the ship was going astern? A.—Yes.

Q.—Now, in this particular case, did you feel a vibration after you blew your three short blasts? A.—I can't say that I did right off-hand, but the engines I remember distinctly the telegraph was rang full astern and a few moments later I looked over the stern to satisfy myself the engines 40  
were actually going astern and I seen the wash from the propeller.

Q.—A few moments. What do you mean by that? A.—I would say ten seconds—ten or fifteen seconds, as the case may be.

Q.—Do you think that a ship with a turbine engine can from stop have her engines put full astern so as to take effect in ten or fifteen seconds?  
A.—No.

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THE COURT:

Do you mean by taking effect, stopping or responding?

BY MR. SMITH:

Q.—To start moving on reverse, how long does that take? A.—On the reverse don't take very little time, but it does take a turbine some time to bring her up full astern.

Q.—That is, by bringing up, to pick up revolutions? A.—Yes.

Q.—Do you know, as a matter of fact, that this ship, like other turbine ships, hasn't got as much power astern as she has when she is going forward?

A.—Yes.

Q.—What is the proportion relatively? Is it about sixty feet? A.—Different ships different proportions.

Q.—The third engineer in this case said that the horse power going ahead was 3% and going astern 17? A.—At about half speed astern.

Q.—Do you agree, it would take some time before the engines going astern would pick up in full revolutions? A.—Yes, some little time.

Q.—Some little time? A.—I don't know just how long.

Q.—And when you mentioned ten or fifteen seconds, it would take longer than that, wouldn't it? A.—When I answered that question ten or fifteen seconds, I was saying it was from the time the signal was given until I looked over the side to see the wash.

Q.—Is that right? A.—Yes.

Q.—So, in the meantime, the man in the engine room would have executed the order by reversing the engine? A.—Within that limit of time.

Q.—Within that limit of time. And would the propeller have picked up its revolutions to full? A.—In ten or fifteen seconds?

Q.—Yes? A.—I don't think so.

Q.—How long would it take to do that? A.—I would rather the engineer would answer that.

Q.—But it would take some time? A.—It would take some time. 30

Q.—In a general statement, isn't it true that a ship with a turbine engine is not nearly as effective or not nearly as quick going astern as a reciprocating engine? A.—It is true.

Q.—And the reason is that it is a gear mechanism? A.—Yes.

Q.—Blades have to travel around in the engine in many revolutions?

A.—That is right.

Q.—Now, did you notice the Tug "Bansurf" that day? A.—No, I can't say that I did. I have heard the name mentioned.

Q.—You have heard the name mentioned. Did you see a tug that day? A.—No, I can't say that I did, excepting after the collision, I remember seeing the tug then. 40

Q.—Before the collision, I am directing your attention to? A.—No, I can't say that.

Q.—You know the "Bansurf"? A.—Yes.

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Q.—She is one of the Maritime Tug & Salvage tugs? A.—I know her quite well.

Q.—Did you have any conversation with any man that wasn't on your ship while you were coming down? A.—No.

Q.—Did you ask anybody where the "Norefjord" was going? A.—No.

Q.—And did you ever hear anybody from another vessel call out to you: "To the range."? A.—No, I have no knowledge of that.

Q.—There is evidence given here by the third officer of your ship of such a conversation. Perhaps I will direct your attention to it. There is evidence here given by Johnson, who is the third officer on the ship, that he 10

heard the pilot—that is you—say before the collision (Page 92) "Did you hear the pilot say anything before the collision except the orders that he gave? A.—Well, in the early part of it, maybe the first half hour, I heard these words: 'Where is she going?'" Do you remember asking that? A.—No, I have no recollection of even seeing the tug.

Q.—I haven't mentioned the tug. Do you remember of ever asking that question? A.—No.

Q.—And did you ever hear someone say: "On the range."? A.—No.

Q.—And do you remember repeating that to the Captain of your ship? A.—No. 20

MR. MCINNES:

of course, my learned friend's question: "Do you remember repeating that?" I think it should be clear that the witness said he didn't say it at all. My learned friend has made it appear he said it although he doesn't remember it.

MR. SMITH:

I am just following the words here: He said he heard someone say that and then he said he heard the pilot repeat it to the Captain.

BY MR. SMITH:

Q.—This witness says: "You heard someone say on the range? A.— 30  
On the range. And did that someone who said it sound to you up on the bridge or calling from some other vessel? A.—From some other vessel." You don't recall having some conversation? A.—No, I have no recollection of that.

Q.—Is it that you have forgotten there was such a conversation or was there no conversation? A.—There was no conversation between me and the tug. Anybody outside the tug?

Q.—I have not mentioned the tug yet. A.—You mentioned the "Ban-surf". She is the tug.

Q.—This man hasn't been questioned here any, but he says: 'Someone 40  
was asked by you where she was going and you thought he was referring to the "Norefjord" and the man on the other vessel replied: "To the range'



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What I am asking you, witness, is if such a conversation existed in fact?  
A.—Not to my knowledge. I can't recall having any conversation between anyone but the Captain and it might be the third officer of the "Alcoa Rambler" until the time I left.

Q.—Is your memory good? A.—Yes.

Q.—Would you say the conversation never existed or you can't recall any such conversation? A.—I can't recall such conversation

Q.—You won't say such a conversation never took place? A.—If it will satisfy you, it never existed as far as I know.

THE COURT:

Don't try to satisfy him.

10

BY MR. SMITH:

Q.—You say you didn't see the "Bansurf"? A.—I seen the "Bansurf" after the collision.

Q.—Until after the collision? A.—Until after the collision.

Q.—And if you didn't see her, you didn't speak to her? A.—I never spoke to her at any time.

Q.—Did anyone on the bridge ever speak to her? A.—Not to my knowledge.

Q.—Was there any conversation between any person on your ship to any other ship? A.—Not before the collision? 20

Q.—We will confine ourselves to before the collision. You say there wasn't. A.—No.

Q.—More particularly, there was no conversation with the tug "Bansurf"? A.—No, I had no occasion to communicate with the "Bansurf".

Q.—Between you or any other man on the bridge? A.—I didn't hear any conversation.

Q.—You didn't take part in any conversation? A.—I didn't take part in any conversation with anyone outside of the "Alcoa Rambler" from the time I was there. 30

Q.—All right. Now, you say when you first saw the "Norefjord" the two ships were nearly on parallel courses? A.—As far as I could see. I could see the hull of the "Norefjord" I ascertained the ships were on practically parallel courses.

Q.—When you did see the "Norefjord" was her—? A.—She was port then.

Q.—What was your course when you first saw her? A.—The hull?

Q.—No, what was you head when you first say she was clear of the ship that you say was obstructing your vision? A.—I thought she was heading on a direction towards the Narrows. 40

Q.—You thought she was heading in a direction towards the Narrows towards Turple Head? A.—Towards Turple Head.

Q.—And where had she been heading previous to that? A.—I don't know. I didn't see the ship.

Q.—But you say she had a change in the direction—

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MR. MCINNES:

My learned friend confused his question there. He asked a double question. He first asked what her course was when he first saw her and in the same question it was when she broke clear as I understand.

MR. SMITH:

I am perfectly innocent, My Lord. I throw myself on the mercy of the Court.

THE COURT:

That is perfectly satisfactory. Don't ask the two questions.

BY MR. SMITH:

Q.—As you say, when you first observed the ship, she was on a parallel course? A.—Judging from her mast and superstructure. 10

Q.—Judging from her masts and superstructure, when you first observed the ship, you judged that she was on a parallel course? A.—On an absolutely parallel course.

Q.—And approximately 1800 or 2000 feet away? A.—Yes.

Q.—And when you next saw her, you say the same distance, 1800 to 2000 feet? A.—She was porting then.

Q.—You say she was porting then? A.—Then.

Q.—And she was heading then for Turtle Head? A.—No, she was heading then, as I thought, somewhere in the direction between Degussing house and Turtle Head. 20

Q.—Where would you say she was? Could you mark on the Exhibit?

MR. MCINNES:

Hadn't we better use the same chart he has been using?

THE WITNESS:

It makes a difference to me. I want to use the same one.

BY MR. SMITH:

Q.—On Dyke Exhibit 2, would you mark absolutely the position of the "Norefjord" when first observed by you? Would you mark, perhaps with your initials? (Witness marks.) 30

Q.—R. L. C. would be sufficient for the approximate position? A.—When we first sighted.

Q.—Of the "Norefjord" when you first sighted her? A.—Yes.

Q.—Was that when she was behind the other ship? A.—Yes.

Q.—And you think then that from her mast she was heading down the Narrows? A.—Yes.

Q.—And you say that when you next saw her, when she was clear, she was heading somewhere between Turtle Head and the Degaussing Range?

A.—Yes. 40

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Q.—And she was still canting to the left? A.—And she was still canting to the left.

Q.—And she continued to can't to the left until the time of the collision?

A.—Yes.

Q.—And I think you said she went around in a circle? A.—She was under the influence of the port helm.

Q.—And she continued under the influence of the port helm all the time?

A.—Yes.

Q.—For him many minutes? A.—I wouldn't say.

Q.—From the time that you saw her when she was 1800 to 2000 feet 10  
away, she was swinging to port? A.—From 1800 feet, when I saw the  
mast, she might be a little.

Q.—You told me she was 1800 or 2000 feet when she was clear? A.—It  
might be less.

Q.—You say from that time until the exact time of the collision she con-  
tinued to swing to port? A.—Yes.

Q.—For a minute or how many minutes? A.—I would say 1½ minutes  
or two minutes from the time she broke up of the collision.

Q.—Two minutes? A.—Yes.

Q.—Where was she heading at the time of the collision? A.—I would 20  
say approximately north and south direction.

Q.—A north and south direction? A.—Yes.

Q.—That would be magnetic? A.—Yes, she was heading more or less  
in line with the Degaussing Range.

Q.—That is to say, her bow was heading about north, magnetic? A.—  
North magnetic approximately within a point or so.

Q.—And what was the heading of your ship? A.—I think my ship must  
have been heading around southeast. Anywhere between east and south-  
east.

Q.—I thought you said it was a right-angle collision? A.—I also said 30  
the collision was more of a scrape than anything else.

Q.—But didn't you say the ships came together at right angles? A.—  
At about right angles.

Q.—Yes, at about right-angles. So that, if the "Norefjord" was heading  
north, if it was at right angles, your ship must have been heading east?

A.—That is right. I said about at right angles. In fact, I would rather  
say that the "Alcoa Rambler" was heading somewhere between east and  
southeast because we weren't at an exact right angle to the north at the time  
of the impact.

Q.—It was a little less than a right angle? A.—A little less than a right 40  
angle; I would say between east and southeast.

Q.—What would your angle of impact be in degrees, 75 degrees? A.—  
75 degrees, I would say.

Q.—And you say your ship was heading about? A.—Between east  
and southeast.

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Q.—East and southeast? A.—Yes.

Q.—And the other ship was heading? A.—She was heading north.

Q.—She was heading north? A.—She was heading north approximately

Q.—Now, all the time that your ship was under the reversed engine—  
your engine going full astern—did that have any effect on swinging her head  
one way or the other? A.—Normally yes, it does.

Q.—Normally it does? A.—Yes.

Q.—This ship had a right hand propeller? A.—Yes.

Q.—Isn't the effect of the right-hand propeller going astern that the ship's  
head would be swung to starboard? A.—That is right. 10

Q.—Did it have any such effect in this case? A.—It would have the  
effect north to lessen the angle. If the right hand propeller didn't have a  
tendency to swing the bow about to starboard, we would have collided at  
right angles.

Q.—Was there any change in the course of your ship from the time you  
sighted the "Norefjord" until the time of the collision? A.—Excepting  
on the stern movement of the engine, which was very small.

Q.—Very small? A.—Very small.

Q.—What was done with your helm? A.—If I remember correctly,  
there was no helm order given at all. 20

Q.—Do you know where the helm was when the engines were put astern?  
A.—No, I couldn't tell you off-hand. Probably she might have been some-  
where in an east direction. She might have been heading east, and at the  
time of impact—

Q.—Was the helm steady or? A.—No, I can't say that.

Q.—In any event, you didn't give any helm order? A.—No.

Q.—You didn't swing to starboard? A.—No, I didn't see it was any  
good.

Q.—Never mind. Did you swing to starboard? A.—No, my first  
point was to try to get the way off the ship—to stop the ship. 30

Q.—You didn't put your engines astern when you first saw the other  
ship, did you? A.—When I seen the other ship's hull, yes.

Q.—When you first saw the other ship's—? A.—Masts?

Q.—Mast's, no, you didn't? A.—No, the engine had been stopped.

Q.—How long had the engines been stopped until they were put astern?  
I am speaking now when the telegraph order was given? A.—It might  
have been in the first twenty seconds. It might have been from the times  
we seen the other ship's superstructure. It was'nt very long.

Q.—How far do you say your ship proceeded from the time your ship  
was put astern until the collision occurred? A.—It might have proceed 40  
about 600 feet.

Q.—600 feet? A.—Around 600 feet.

Q.—I thought you said the ships were about 1800 feet apart? A.—In  
in the meantime, the Norefjord was coming toward us.

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Q.—Did you file any report on this particular accident? A.—With the superintendent?

Q.—Of pilots? A.—Yes.

Q.—Do you remember what you said in your report? A.—I can't recall now. It is so long now. It was a whole year.

Q.—Do you think you would recall it if I read something to you? A.—probably.

Q.—Is it usual to make these reports soon after the accident happens? A.—As soon as possible.

Q.—In this report—what purports to be a copy of your report—you say:—10  
“On arrival in position Turtle Head bearing ship's approximate distance one-third of a mile? A.— That report was somewhat in error.

Q.—“Observed the S.S. “Norefjord””? A.—Yes.

Q.—“On starboard bow distance about one cable.” How far is a cable? A.—612 feet.

“And heading in practically same direction, said ship being partially obscured by another ship anchored between us. Stopped engine immediately to ascertain action of S. S. “Norefjord.” On noticing “Norefjord” too close after passing clear of ship an anchor mentioned above, put engines full astern and blew three blasts on ship's whistle to denote same. Also 20  
blew danger signal K. Noticed S. S. “Norefjord” continue to canter to port in direction at right angles across Alcoa Ramblers' bow, so close as to make collision unavoidable.” Now, you say that is wrong, did you? Is that what I understand you to say? A.—The distance would be wrong. Instead of 600 feet, it would be 1600 feet, when I first observed.

MR. MCINNES:

Inasmuch as my learned friend has referred to this report, perhaps the whole thing had better go in.

MR. SMITH:

You can bring it out in re-examination. 30

THE COURT:

You have the right to put it in.

BY MR. SMITH:

Q.—I beg your pardon? A.—I mentioned the distance given in that report was somewhat in error—in the report to the superintendent.

Q.—Somewhat in error in what respect? A.—An error in judgement, I should say, in the distance.

Q.—Which distance? A.—The distance the “Norefjord” was away when I first sighted her.

Q.—600 feet? A.—I say that distance was somewhat in error. 40

Q.—You say now it was about 2000 feet? A.—I say now it was 1800 feet.

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Q.—You said already 1800 to 2000 feet? A.—That is right.

Q.—And you said also that when you first observed her clearly it was 1800 to 2000 feet? A.—At that time, I thought she proceeded in practically the same direction.

Q.—What do you say as to the place when you observed her? You said you observed her when you were one-third of a mile off Turtle Head?

A.—Yes, we were further from Turtle head than that.

Q.—How far would you be away from Turtle Head? A.—I should think we would be about three-quarters of a mile.

Q.—This was made after the accident? A.—Just after the accident, 10  
yes, but I remember correctly now we were further ahead from Turtle Head than a third of a mile at the time.

Q.—You mentioned something about a spar buoy. I didn't quite get the connection? How does the spar buoy enable you to mark the place of collision? A.—I had to trace back from the spar buoy in order to get my approximate position. At the time of the collision and we had dropped an anchor and sighted the Degaussing Cape, we were quite close to the spar buoy.

Q.—In the meantime, you might have drifted? A.—We had drifted 20  
towards the spar buoy.

Q.—Then, the spar buoy doesn't help us much? A.—Yes, I had to check back to the approximate point of collision from the spar buoy.

Q.—At the time of the collision, you didn't know the approximate position? A.—I knew the approximate position.

Q.—Within a third of a mile? A.—I would say within 400 or 500 feet.

Q.—In any event, you say when you first saw the vessel, she was 612 feet away? A.—That is in my report.

Q.—And that you were a third of a mile from Turtle Head? A.—That was in my original report to the superintendent.

Q.—In your original report? A.—Yes. 30

Q.—And now you say, when you observed her, you must have been what, a mile away? A.—In the vicinity of three-quarters of a mile.

Q.—Let us get this again. You told me that the distance from where you proceeded to anchorage? A.—Yes.

Q.—To the place of collision was a mile and a half? A.—Yes.

Q.—And you mentioned, when you observed the other ship she was about 2000 feet away, roughly? A.—Yes, or 1800 feet.

Q.—And how far were you then—did you estimate you were then from the place of collision? A.—I should think about—the ship from the time I had sighted the other ship, we had moved ahead probably— 42

Q.—A mile? A.—No, we hadn't moved a mile. I should think around anywhere in the vicinity of 600 feet.

Q.—600 feet? A.—Yes.

Q.—So that, then, when you observed this ship, you were over a mile and a half from Turtle Head and not a third of a mile? A.—I said three-quarters of a mile. I corrected my statement there.

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Brannen,  
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Q.—Now, you would correct it and say you were a mile and a half when you first observed that ship? A.—A mile and a half from Turtle Head?

Q.—Yes? A.—I shouldn't think.

Q.—That is your anchorage? A.—What was a lot of this to do with the collision?

THE COURT:

I am the judge of that.

BY MR. SMITH:

Q.—What is your answer? A.—I will still say I was three-quarters of a mile away from the Turtle Head. 10

Q.—That is not the question I asked you. You say you were three-quarters of a mile when the collision occurred? A.—In that vicinity.

Q.—How far were you away from Turtle Head when you first saw the other ship? That is my question. Were you a mile and a half? A.—

No, I wouldn't be a mile and a half. I should think the ship had proceeded probably three or four ship-lengths from the time I noticed the other ship on the other side of the ship at anchor up to the collision say, anywhere between 1500 and 1600 feet.

Q.—So then you were at least on your own calculation, over a mile away.

A.—Yes, three-quarters of a mile. 20

THE COURT WAS ADJOURNED UNTIL 2:20 p.m.

FREDERICK BRANNEN, being called and duly sworn, testified as follows:

EXAMINED BY MR. MCINNES:

Q.—You are Fred Brannen? A.—Right.

Q.—You are a member of the Royal Canadian Navy? A.—Yes.

Q.—Volunteer reserves, is it? A.—Naval Reserve.

Q.—Naval Reserve? A.—Yes.

Q.—When did you join the navy? A.—July 4, 1940.

Q.—And you are stationed at Halifax? A.—In Halifax, yes. 30

Q.—Were you a seaman before joining the navy? A.—I was a fisherman.

Q.—Where is your home? A.—It is in Shelburne County, N. S.—  
in Wood's Harbour.

Q.—Have you ever sailed on steamers? A.—No, I haven't.

Q.—But you have had sea experience as a fisherman? A.—Yes.

Q.—For how many years? A.—For about seven years?

Q.—And since joining the navy, what particular work have you been doing? A.—I have been on harbour craft on this same work.

Q.—That is small harbour craft? A.—Small harbour craft, yes.

Q.—Are you coxswain of a naval launch? A.—Yes. 40

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- Q.—The H. C. 58? A.—I was, but I am not now.
- Q.—In August, 1942 you were? A.—Yes.
- Q.—What is the size of that launch? A.—She is approximately 40 feet.
- Q.—How is she powered? A.—She has a 45 Diesel engine.
- Q.—What crew did you carry? A.—There were four.
- Q.—What were their various duties? A.—I had two seaman—deck seaman and a motor mechanic.
- Q.—And the third at the wheel in command? A.—Myself at the wheel.
- Q.—With the H. C. 58 what was your particular work? A.—Liberty 10 man and escort jobs.
- Q.—What kind of ships did you escort? A.—All that came in that we were assigned. Those that come with ammunition, we were assigned to them.
- Q.—Were you sent to any particular ships? A.—No.
- Q.—Ships carrying any particular kind of cargo? A.—We didn't know know what they carried.
- Q.—But you would get instructions to escort ships? A.—Yes.
- Q.—Would that escort be incoming in the harbour and coming up to the basin? A.—Yes. 20
- Q.—And going out of the Basin and out of the Harbour? A.—Yes.
- Q.—Did you receive any instructions in regard to the "Alcoa Rambler"? A.—We had instructions to go up and escort the "Alcoa Rambler" out of the Basin.
- Q.—That was on the 20th of August, 1942? A.—Yes.
- Q.—Did you go to that ship? A.—Yes.
- Q.—Did you come alongside her? A.—Yes.
- Q.—And did you make your presence known to her? A.—Yes.
- Q.—Did you have any flags on your escort vessel that day? A.—Yes, I did. 30
- Q.—What flags? A.—The escort flags, I. C. & B.
- Q.—That is I. C. is a combination of flags? A.—Yes, two flags.
- Q.—What are the two flags? A.—I. C. for the escort.
- Q.—Do you know what colours they were? A.—I is yellow with a black ball; and C blue, white and red and white and blue horizontal.
- Q.—What about the B flag? A.—That is red.
- Q.—Do you know what the B flag signifies? A.—Danger flag.
- Q.—What does the I. C. flag signify? A.—The under escort flag.
- Q.—Where were these several flags flying? A.—From the halyards, I. C. on the port side and B on the starboard side of the halyard. 40
- Q.—How far above the deck were these? A.—Approximately her mast was five feet.
- Q.—And were these flying from the mast? A.—Cross trees half a foot down from the top of the mast.



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Q.—Where were these flags in reallion to the cross trees? A.—They were right up against it.

Q.—Did the "Alcoa Rambler" get under way? A.—Not right when we got there.

Q.—No. What time did you get there? A.—We left the dockyard around seven o'clock or a little after maybe.

Q.—What time did you arrive. A.—I imagine it takes half an hour or more to get up there—7:30 or quarter to 8 we arrived there.

Q.—Do you remember how the "Alcoa Rambler" was lying? A.—In a northwesterly direction. 10

Q.—And how did she come about? A.—When she weighed anchor?

Q.—Which way did she turn? A.—She turned to port when she got under way.

Q.—After she got under way, did you take up your position in relation to the "Alcoa Rambler"? A.—Yes, I did.

Q.—What position did you take? A.—I take up a position about 200 yards in front of her.

Q.—What is the top speed of your vessel? A.—Approximately eight knots.

Q.—Where were you heading and the ship heading? A.—We were heading towards the Narrows. 20

Q.—Were there many ships in the Basin that day at anchor? A.—There were quite a few.

Q.—And going down the Narrows, did you have to manoeuvre at all or were you able to take your ship straight? A.—Straight course as near as I remember.

Q.—At what speed did you proceed down the Basin? A.—About about five knots.

Q.—And did the "Alcoa Rambler" keep behind you? A.—Yes.

Q.—At about the same distance? A.—At about the same distance. 30

Q.—Did you see any other ship under way that day? A.—When we passed the most southerly ship of the Basin, I noticed the Norwegian ship.

Q.—When you speak of the most southerly ship was that an anchored ship? A.—That was an anchored ship yes.

Q.—How was the anchored ship lying? A.—She was lying in a westerly direction.

Q.—And then you saw some other ship, did you? A.—Yes.

Q.—Whereabouts was this other ship? A.—She was off on our starboard bow.

Q.—Could you see the whole of the other ship? She was the "Norefjord" 40 was she? You found out later? A.—Yes, we found out later she was the "Norefjord."

Q.—Did you see the whole of the "Norefjord at that time? A.—Yes.

Q.—Did you see her spars prior to seeing the whole of her? A.—No, I didn't.

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Q.—In which way was the "Norefjord" heading the first time you saw her? A.—She was heading in an easterly direction.

Q.—And while you had her under observation, did she change her course at all? A.—Not that I know of.

Q.—What did you do when you saw this vessel? A.—I made my way over towards her to tell her that we had a ship under escort.

Q.—In making your way over to her, did you change your own heading at all? A.—Oh yes.

Q.—In what direction? A.—About southwesterly direction.

Q.—Would that be to your starboard? A.—Yes.

Q.—What about your speed? Did it remain the same? A.—No, I

opened the engine up all she would go.

Q.—That is to eight knots? A.—To eight knots, yes.

Q.—Can you give us any idea how far the Norefjord was from you when you first saw her? A.—I would say about five ship lengths.

Q.—Yes. And how long would a ship-length be roughly? A.—Between 400 and 500 feet.

Q.—And at that time when you first saw the "Norefjord," was the "Alcoa Rambler" still about the same distance behind you? A.—Yes she was.

Q.—150 to 200 yards? A.—200 yards, yes.

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MR. SMITH:

He didn't mention 150 to 200 yards.

MR. MCINNES:

All right, 200.

BY MR MCINNES:

Q.—You approached the "Norefjord" I think you said? A.—Yes.

Q.—How close did you come to her? A.—Within about twenty yards.

Q.—And at what part of the "Norefjord" did you come to? A.—About amidships I think it was.

Q.—Did you see any people on board the "Norefjord"? A.—Yes, I did.

Q.—Whereabouts? A.—On the bridge.

Q.—Now, did you do anything in respect to the "Norefjord"? A.—Yes, the seaman that was with me I told him to go on the stand deck and tell them that we had a ship under escort and to tell them to stop or do something.

Q.—Yes. What seaman went forward? A.—Anderson.

Q.—Did you hear what he said? A.—Yes.

Q.—What did he say? A.—He said: "Keep off. Keep out of the way, because there is an ammunition ship coming out of the Basin."

Q.—How did he say that? A.—He made the form of his hands in a cup shape like that.

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Q.—He said it with his hands cup-shaped over his mouth? A.—Yes.

Q.—Was that the only warning you gave? A.—No, he hollered twice.

Q.—Did these shouts follow each other or was there any appreciable time between them? A.—Pretty close to each other.

Q.—And this took place when you were twenty yards from the ship, is that right? A.—Yes.

Q.—Did you see any response on the vessel, the "Norefjord"? A.—I saw someone wave their hand. If anybody had hollered, I wouldn't have heard it because the engine was making too much noise.

BY THE COURT:

Q.—Your engine? A.—Yes.

10

BY MR. MCINNES:

Q.—Your engine was making some noise, was it? A.—Yes, it was.

Q.—What did the other ship do? A.—At that time, she didn't do anything that I could see.

Q.—What about her speed? Can you tell us how fast she was going? A.—I would say she was going around five knots.

Q.—That is the time you first saw her? A.—Yes.

Q.—Or the time you bespoke her? A.—The time I first saw her and bespoke her, both.

20

Q.—You didn't notice any change in her speed? A.—No I did not.

Q.—Did you hear anything from either ship? A.—I heard some whistles from the "Rambler."

Q.—What whistles did you hear from the "Rambler"? A.—Two first and then three blows.

Q.—Were those whistles close together or? A.—Pretty close, yes.

Q.—Where were you the time the "Alcoa Rambler" gave these whistles in relation to the "Norefjord"? A.—I was pretty close to the "Norefjord."

Q.—Did you hear any signal of any kind from the "Norefjord"? A.—Not that I recall.

30

Q.—Now, did you see the "Norefjord" do anything with her—did you see her propellers? Are you able to say if she did anything with her propellers or not? A.—Not right then no,

Q.—At some time did you see anything with her propellers? A.—Yes, just before the collision she was going astern.

Q.—What about the "Alcoa Rambler"? Did you have her under observation during this time? A.—At times, yes.

Q.—What would you say about her speed? A.—Her speed was about five knots when she was behind us.

Q.—When she was behind you? A.—Yes.

40

Q.—Did that speed change at all? A.—It did after she blew the three blasts.

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- Q.—In what way was it changed? A.—She slowed down and I noticed that her engines were going astern—her blades were throwing up water.
- Q.—Could you see the blades throwing up water at the stern? A.—Yes.
- Q.—What about the heading of the “Alcoa Rambler”? Did she change her heading at all? A.—From where I was, I wouldn’t be able to tell.
- Q.—Did you see any tug around about either vessel at that time? A.—Not that I recall, no.
- Q.—What took place? What did you see take place? A.—Just after I had spoken him?
- Q.—Yes? A.—The “Rambler” blowed two blasts and then three quick 10 blasts and she dropped her anchor and she was going astern.
- Q.—Yes. How far was the “Norefjord” away at the time she dropped her anchor, would you say? A.—I would say about a ship-s length or a ship’s length and a half or something like that.
- Q.—Was there an impact? A.—Yes.
- Q.—Which ship stuck the other? A.—The “Rambler.”
- Q.—The “Rambler” struck the “Norefjord”? A.—Yes, amidships.
- Q.—Amidships? A.—Amidships, yes.
- Q.—How would you describe the impact? A.—In what way do you mean? 20
- Q.—In the nature of a blow or—
- MR. SMITH:  
Just let him describe it. Don’t suggest any answer.
- MR. MCINNES:  
All right.
- BY MR. MCINNES:  
Q.—Can you explain to us how they came together? A.—When the “Rambler” dropped her anchor, she slowed up a bit and the “Norefjord” kept going across the bow of the “Rambler” and when they came together I would say the “Rambler” was practically stopped. She may have had 30 some little headway.
- Q.—What about the “Norefjord”? Did she have headway? A.—Yes she had headway.
- Q.—At the time of the impact? A.—Yes.
- Q.—Where did the “Norefjord” go after the collision? A.—We spoke her and when she turned around she started towards the western side of the Basin. I don’t know just where she went.
- Q.—Were the two ships together any length of time? A.—No, not that I recall. They weren’t very long together.
- Q.—And what happened to the “Alcoa Rambler” after the collision, can 40 you tell me? A.—I stayed by and took her back to her anchorage. She caught a cable or something in her anchor and she was quite a while clearing it.

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Q.—Can you tell us what period of time you think elapsed from the two shouts to the “Norefjord” and the time of the impact? A.—I would say around three or four minutes—three minutes.

Q.—And after you got this warning, or heard this warning given, did you see any change in the course of the “Norefjord” at all? A.—She slightly turned to port.

Q.—Yes. Was there time for the “Norefjord” after your warning—

MR. SMITH:

Now, My Lord, this is a question that I think requires more nautical knowledge than this witness has—the time it would take for the “Norefjord” 10 to do something. He is being asked as an expert a question which requires nautical ability. He has certainly not been qualified as an expert.

THE COURT:

If he wants to answer it, it is all right.

BY MR. MCINNES:

Q.—As you saw the situation as you went over to the “Norefjord,” what did you expect the “Norefjord” to do?

MR. SMITH:

Surely that is not evidence.

THE COURT:

No.

20

BY MR. MCINNES:

Q.—What was your purpose in going over there? A.—We were escorting the ship, and to keep the ships clear of each other to see that they keep clear of each other when we are escorting them.

MR. SMITH:

Objects to this question.

BY THE COURT:

Q.—Why didn't you warn your own ship? A.—We were escorting this ship.

Q.—Why didn't you warn your own ship? A.—We were to warn the other ship, and not the ones we were escorting.

Q.—I am not so sure of that.

30

BY MR. MCINNES:

Q.—Anyway, what you did do, you went over to the “Norefjord”? A.—Yes.

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Q.—I suppose you don't keep a log on this patrol boat you escort by?  
A.—We keep a long of the time we leave the dockyard and what time we get back.

Q.—But you don't keep a log of your engine room movements or manoeuvres when you are out? A.—No.

Q.—Just a sort of a time sheet, I suppose? A.—Yes, just a sort of a time sheet.

Q.—And the speeds, which you have given, are more or less estimates, aren't they? They are all estimates? A.—That is right. 10

Q.—I suppose it took a certain length of time for the "Alcoa Rambler" to turn? She was heading up in a northwesterly direction, wasn't she?

A.—Yes.

Q.—And she had to turn almost 180 degrees? A.—Yes she did.

Q.—And that would take some time? A.—Yes, it took a little time.

Q.—And then she started to go down, and I suppose she was gathering up speed as she came down? A.—Yes.

Q.—That is to say, you started off slowly, I suppose? A.—Yes.

Q.—And as the "Rambler's" speed was increased, you would put on a little more speed in your ship? A.—That is right. 20

Q.—And what was the highest speed you had developed at the time you said that you went over to the "Norefjord"? A.—Until the time we went over?

Q.—Yes? A.—Approximately five knots.

Q.—Five knots? A.—Yes.

Q.—And how far was the "Rambler" then behind you? A.—About two hundred yards.

Q.—Two hundred yards. You hadn't always stayed this two hundred yards? I mean, sometimes you would be a certain distance ahead and sometimes less, I suppose? A.—As near as we could keep. 30

Q.—All right. You said at the time the anchor was dropped the "Alcoa Rambler" was about a ship's length and a half from the "Norefjord"?

A.—Yes.

Q.—What do you base your estimate on? I want to be fair with you, witness; that your own Captain has said it was dropped when the ships were about fifty feet apart? A.—About 400 feet.

Q.—I don't mean your own Captain, the Captain of the "Alcoa Rambler"

BY THE COURT:

Q.—Did you see the anchor dropped? A.—Yes, My Lord.

You saw it dropped? A.—Yes.

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BY MR. SMITH:

Q.—How far away do you think it was? A.—About a ship's length and a half.

Q.—A ship's length and a half. That would be approximately 600 or or 700 feet? A.—Yes.

Q.—Had you heard any whistles in the meantime before this? A.—Yes.

Q.—Who had heard two-blasts signal? A.—Yes.

Q.—When was that? A.—That was just before he blew the three.

Q.—He blew the two and then he blew three? A.—Yes.

Q.—And then he dropped his anchor? A.—Yes. 10

Q.—What distance was there between the time he dropped his anchor and the second whistle signal? A.—About the same time, I should say.

Q.—Half a minute? A.—Maybe.

Q.—How far do you say he was away from the "Norefjord" when he blew the first two whistle signal? A.—About two ship's length.

Q.—About two ship's lengths, I see. And in the meantime, where were you? A.—We were going over towards the "Norefjord."

Q.—You were going over towards the "Norefjord." How far were the ships apart when you arrived at the "Norefjord"? A.—I wouldn't just know. 20

Q.—From the time you started off, you say, toward the Norefjord," did you hear the two blast signal? A.—No, not until we was pretty well over her.

Q.—I see. So that there was no signal given by the "Alcoa Rambler" until you were right over by the "Norefjord"? A.—Pretty well over there.

Q.—How far had you gone to get there? A.—She was about five ship lengths from the last ship that was in the Basin.

Q.—There was a clear space of water between you and the "Norefjord" for five ship's lengths? A.—Yes.

Q.—And the "Alcoa Rambler" was also in a position to see the other ship clearly in the clear—the "Norefjord"? A.—I wouldn't say that, no. She was behind us and she hadn't broke out behind this ship yet. I couldn't say. 30

Q.—How far was she behind there? A.—It was 200 yards ahead of the "Rambler," five ship-lengths, when we left.

Q.—That is the "Norefjord" at the time was five ship lengths away from your boat? A.—Yes.

Q.—And she was in the clear? A.—Yes.

Q.—There was no ship between you at that time? A.—No.

Q.—Either near the "Norefjord" or near the "Alcoa Rambler", was the "Alcoa Rambler" near any boat? A.—Yes. 40

Q.—You talked about the most southern ship at anchor in the Basin? A.—She was on the starboard side. We had passed her when I saw the "Norefjord".

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Q.—How far had you gone by her? A.—We had just got by her when I saw the “Norefjord.”

Q.—But the “Norefjord” was absolutely clear? A.—Yes.

Q.—And you went over towards her, and up to that time no signal had been given from the “Alcoa Rambler”? A.—No.

Q.—And you got nearly over to the “Norefjord” before any signal was given? A.—Yes.

Q.—And then you heard two blasts? A.— Yes.

Q.—Were they two long blasts or two short? A.—Just two short blasts.

Q.—From the “Alcoa Rambler,” and you kept on going? A.—Yes. 10

Q.—And did you hear three short blasts? A.—Yes.

Q.—When you were still going over? A.—We were pretty well over.

Q.—When did you see the anchor dropped? A.—Just after I hollered or just after the seaman hollered.

Q.—You said the seaman. You wouldn't be looking that way? You would be looking towards the “Norefjord”, wouldn't you when this seaman was hollering? A.—We were right alongside or twenty yards from her when the seaman hollered. I could see the stern out of the cabin.

Q.—Where were you? A.—I was in the wheel house.

Q.—You say your boat has got a diesel engine? A.—Yes. 20

Q.—It makes quite a lot of noise? A.—Yes.

Q.—It is quite possible, if your man did shout, you wouldn't hear the voice over the noise of the diesel engine? A.—It might be possible, yes.

Q.—Or from the engine of the other ship? A.—Yes.

Q.—What did you do then? After you say that your man shouted, what did you do then? A.—After we hollered twice, you mean?

Q.—Yes, after you hollered twice? A.—We laid right there.

Q.—You laid right there, where? A.—We stopped where we were. I threw her out of gear.

Q.—You stopped the engine? A.—Yes. 30

Q.—And were you on the port side of the “Norefjord”? A.—The port side.

Q.—And the starboard side of the? A.—“Rambler”

Q.—“Rambler.” And how far were they apart when you finished hollering? A.—I wouldn't know just exactly how far, 200 yards may be.

Q.—200 yards apart? A.—Maybe about that then.

Q.—And both boats were going ahead slowly then? A.—I couldn't say that the “Norefjord” had slacked her speed any.

Q.—You say the highest speed you had developed until you went over to the “Norefjord” was five knots? A.—Yes. 40

Q.—What happened the “Alcoa Rambler” then? A.—She had slackened speed some.

Q.—Before her anchor was dropped? A.—I couldn't say that.

Q.—Do you know when her engines went astern? A.—No, not at the time they went astern.



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Q.—I assume when you saw her drop her anchor you felt he must have had headway? A.—That is right.

Q.—There wouldn't be much sense in dropping an anchor if she didn't have headway? A.—That is right.

Q.—Do you know if the anchor tok any effect in reducing her speed? You don't know? A.—No.

Q.—How far away were you from the ships when they collided? A.—150 yards approximately.

Q.—Were you clear of the "Norefjord's stern or were you abreast of the "Norefjord's" stern or had the "Norefjord" passed you? A.—She had 10 passed me.

Q.—She had passed you? A.—Yes.

Q.—And were you a little off on the port side of the "Norefjord"? A.—Yes.

Q.—When did you notice the "Norefjord's" engines going astern? A.—Just before the impact.

Q.—Just before the impact? A.—Yes.

Q.—Had they any effect on reducing her speed? A.—I couldn't tell from where I was.

Q.—How fast do you think the "Norefjord" was going when the collision 20 occurred? G.—It would be pretty hard to say.

Q.—Very slow? A.—Not very fast, but I wouldn't know just how fast.

Q.—She wasn't going anything like five knots? A.—Not then, no.

Q.—It was a pretty hard blow that the "Alcoa Rambler" struck the "Norefjord"? A.—I don't know. I wouldn't say it was so awful hard.

Q.—They were both loaded ships? A.—Yes.

Q.—They both had headway? A.—The "Rambler's" was very slight.

Q.—It had some headway? A.—Yes.

Q.—Otherwise she wouldn't be putting her anchor aboard, would she? A.—That is right. 30

Q.—And you say when you saw the "Norefjord" in the clear she was heading in an easterly direction? A.—Yes.

Q.—Over towards the Degaussing Range? A.—That is right.

Q.—And during all that time, she was heading towards the Degaussing range? A.—Yes, towards it—in that direction.

Q.—She was never parallel to the other ship? A.—No.

Q.—I just want to get the construction of your craft. You are helmsman or coxswain? A.—That is right.

Q.—What have you, a wheel house? A.—A wheel house, yes.

Q.—Is that forward of aft? A.—It is about amidships. 40

Q.—It is about amidships? A.—Yes.

Q.—And is the engine aft? A.—The engine is right under it.

Q.—Right under it? A.—Yes.

Q.—I see. And you have two deck hands, have you? A.—Yes.

Q.—Two deck hands and an engineer? A.—Yes.

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Ralph L.  
Clarke,  
Cross Ex-  
amination.

Q.—You say you went over in a northwesterly direction to approach the “Norefjord”? A.—Southwest direction.

Q.—In a southwest direction. When you were going in that direction, you couldn't be closely watching the “Alcoa Rambler”, could you? A.—No, not closely, no.

Q.—So you don't know very much what happened in the “Alcoa Rambler's” navigation from the time you left her until the collision occurred?

A.—No.

Q.—So any estimates you make about distances would be just when you were looking backwards? A.—That is right.

Q.—Over your shoulder out of the wheel house? A.—Yes.

Q.—And not forward? A.—No.

Q.—And which would be quite difficult, wouldn't it? A.—Yes.

10

### AND THEN THE WITNESS WITHDREW

RALPH CLARKE, being recalled, his cross-examination continued as follows:

EXAMINED BY MR. SMITH:

Q.—I suppose you couldn't tell the Court how long it took you to turn the vessel from her position when she was heading northwesterly until she got on her course for the Narrows? A.—I should think in the vicinity of 20 say ten minutes.

Q.—Ten minutes? A.—The first movement I remember, we started to turn before the anchor was away slowly.

Q.—I don't think you have marked the position on the big chart, Dyke No. 1? A.—Do you mean the anchorage position?

Q.—No, I beg your pardon now. The position where your ship was when you first observed the “Norefjord”?

THE COURT:

It is on the small one.

MR. MCINNES:

On the small graph chart.

30

MR. SMITH:

I would like to get it on the big chart.

BY MR. SMITH:

Q.—There is where you marked it on the other chart. Perhaps you could transpose it—the position. (Witness takes chart and goes to table). What is your position when you first saw her—I mean, behind the other ship?

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*In the  
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No. 19

In presence  
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Judge,  
Ralph L.  
Clarke,  
Cross Ex-  
amination.

MR. MCINNES:

You can look at the other chart.

BY MR. SMITH:

Q.—Yes, you can do that. (Witness marks on chart). Would you mark that with your initials? Perhaps we could put her, diagram of the “Alcoa Rambler” marked with initials R.L.C. marked by the witness on Exhibit Dyke 2, showing position of the “Alcoa Rambler” when the witness first observed the “Norefjord.”? Perhaps you could mark from there? A.—Anchored ship.

Q.—Anchored ship, with the initials of the witness is attempting to show 10 the ship that was between the “Alcoa Rambler” and the “Norefjord” when you first observed her? A.—That is right.

Q.—I understand that from the time the “Norefjord” got clear of the anchored ship up to the time of the collision there was a clear space of water between the two vessels? A.—Yes, I could see the hull of the “Norefjord.”

Q.—You could see the hull. There were no other ships obstructing the view? A.—No.

Q.—We had some discussion this morning about the time your engines were stopped. I think you said that at the time your engines were stopped your engines had been at slow? A.—Slow ahead, yes. 20

Q.—To be fair with you, that evidence doesn’t agree with what the Master of the ship said. He said, in his evidence, that when the other ship was observed she was at half speed? A.—I differ with him there.

Q.—You differ with him in that respect? A.—Yes.

Q.—And also that after seeing the other ship, as I understand his evidence the engine was put at slow and later that you ordered the engine stopped. But you say? A.—It was by the slow when we first observed the other ship. The engines were on slow when the other ship was observed first and then stopped.

Q.—I notice on reading the log that as you came down previous to sight- 30 ing the other ship your engines had been for seven minutes at half speed? A.—Humm, humm.

Q.—Do you think that would be accurate? A.—That might be accurate. I wouldn’t vouch for it, though. As I said, I had no time.

Q.—I quite appreciate that. And if your engines were at half speed for seven minutes, you would pick up quite a lot of speed? A.—That would depend on the head of speed the ship had at the time. If she didn’t have full steam, I wouldn’t get half speed.

Q.—It would give her pretty good speed? A.—Yes, I had fair headway

Q.—You had ample headway? A.—Yes. 40

Q.—At all times you had steerage way? There is no question about that? A.—Until a short while before the collision, I had steerage way.

Q.—Now, you said, I think, that you blew this K signal? A.—Yes.

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Q.—And that was immediately after your three short blasts? A.—Just a short while. I would say from the time I first seen the ship break clear, the moment I seen the ship break clear of the ship at anchor I blew three blasts. I wasn't absolutely certain in those few seconds what she was doing, but the "Norefjord" I could see that she was porting. I blew the K signal, the danger signal.

Q.—Have you any idea how long that was? A.—Not any more than say twelve or fifteen seconds.

Q.—In the meantime were your engines operating astern. A.—The engines were operating astern. when I blew the three -blasts. When I gave 10 three-blast signal, my engines were working astern then. That was before the K signal. The moment I seen the ship break clear, I wasn't exactly certain which way she was heading—

Q.—Just a minute. When you saw the ship breaking clear? A.—Yes.

Q.—You ordered the third officer to put the engines astern? A.—Yes.

Q.—And immediately you blew your three short blasts? A.—That is right.

Q.—But can you say the propeller was actually going astern before the K signal was given? A.—Yes, I looked over the side. I could see the boil or the wash. 20

Q.—Do you think that could all be done in ten or fifteen seconds? A.—I should think so. It was in this case in the vicinity of ten or fifteen seconds.

Q.—Now then, after you sounded this K signal, what next did you do or what was done on your ship? A.—Just a short while after—I don't know just what time, probably it might have been fifteen or twenty seconds, I dropped the port anchor.

Q.—You dropped anchor? A.—Yes.

Q.—Nothing else done on your ship? A.—There was nothing else I could do.

Q.—There was nothing else you could do. Did the Captain do anything 30 else? A.—No, the Captain suggested dropping the port anchor; but to satisfy him more or less, I said all right, you can drop it; but I said: "I don't think the deep water would help it."

Q.—Personally do you think it would help, to drop the anchor, to lessen the speed? A.—In shallow water it might have, but not in deep water.

Q.—When it was dropped, it would take some time to get to the bottom? A.—I don't know how long it would take. I claim that they paid out thirty fathoms, that is two shackles, before they checked her.

Q.—That is, put the break on? A.—Yes.

Q.—But you don't think that the anchor had any effect on the headway of your ship? A.—No, it would be previous little, if any at all.

Q.—Of course, it was dropped too late? A.—It didn't do any harm.

Q.—Was it dropped too late to do any good? A.—No, I didn't think that.

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Q.—When it was dropped, apparently the ship had headway on? A.—  
The ship had some headway on.

Q.—The ship had some headway on? A.—Very, very little.

Q.—Did the Captain take charge just before the collision? A.—No.

Q.—Did he give any orders on the telegraph after the K signal was given?

A.—Not to my knowledge excepting to give an extra warning.

Q.—How many times did he do that? A.—I think he did that twice, if  
I remember right.

Q.—When was that? A.—That was when the "Norefjord" first broke  
out behind the ship at anchor. 10

Q.—Was that before you put your anchor overboard? A.—Yes.

Q.—And was that before you blew your K signal? A.—Around about  
that time I blew the K signal, we seen the ship.

Q.—How far away were you from the "Norefjord" when you blew your  
K signal? A.—I should think about probably 600 feet.

Q.—Probably 500 or 600 feet? A.—Yes, but the ships were coming to-  
gether fast.

Q.—How far were you away from the "Norefjord" when you blew your  
first signal, three blasts? A.—I would be appreciably more. Probably  
the ships would have come together say 1200 or 1400 feet after I made 20  
certain what the "Norefjord" was doing instead of what I thought she was  
doing when I blew the one blast.

Q.—Between the time you blew the three blasts and the K signal the  
ships had approached in that time around 600 or 800 feet? A.—Around  
600 feet.

Q.—That is your best judgement? A.—That is my best judgment.

Q.—And you don't know how far the "Norefjord" was away when—  
it was the Captain gave this jingle? A.—Yes, it was the Captain gave  
this jingle.

Q.—What was the object of the jingle? A.—You give it as a warning. 30  
You try and get all the power on the engines possible so that the engineer  
might take his time. In case like that, the jingle was to hurry him up.

Q.—When you gave this first jingle were your engines going astern?  
A.—Yes, I think, they would have been going astern at that time. Just a  
matter of a few seconds after we rang astern we gave the signal and I seen  
the boil coming up.

Q.—Was the jingle after the K? A.—On or about the same time.

Q.—You must have been busy at that time sounding K signals and  
jingling the engines? A.—Those things have got to be done in a few  
seconds. 40

Q.—Where do you say the anchor was dropped? A.—When the ship  
was in the vicinity of 100 feet away from the "Norefjord."

Q.—You know as a matter of fact, that ships have to go over to the De-  
gaussing Range, don't you? A.—They go over to the Degaussing Range,  
yes.

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Q.—That is quite a common practice? A.—More or less common yes.

Q.—Most ships go over to the Degaussing Range to test the Degaussing apparatus? A.—Quite a number of ships, not most ships.

Q.—And you know where the Degaussing Range is? A.—Yes.

Q.—And if you had known the "Norefjord" was going to the Degaussing Range, you would have put your ship astern sooner? A.—If the ship had been warned by the escort, he would have checked and given me a chance to get by.

Q.—You think you were a munition ship and you had the right of way?

A.—No exactly the right of way, because you can't exercise the right of way in the Basin with 140 ships there.

Q.—At any rate, you didn't put your ship to astern the moment you saw the other ship? A.—The moment I saw the hull of the other ship, I put my ship astern, but not when I seen the masts.

Q.—What length of time elapsed from stop to astern of your engines?

A.—About a minute or so.

Q.—Do you think there would have been a collision if you had put your engines astern when you first saw her behind the other ship? A.—Possibly not.

MR. MCINNES:

That is for Your Lordship.

MR. SMITH:

This is cross-examination.

THE COURT:

It is a little different position, you think, from the one in which you were.

BY MR. SMITH:

Q.—This intervening ship, you don't remember her name, I suppose, do you? A.—No.

Q.—What kind of ship was she? A.—An ordinary cargo boat.

Q.—Just an ordinary ship? A.—I should think 3500 or 4000 tons register.

Q.—That is, she is about the same size as the "Alcoa Rambler" roughly?

A.—Yes, about the same size.

Q.—Bigger than the "Norefjord"? A.—Larger.

Q.—Larger? A.—Yes.

Q.—How close did you come to her when you passed her? A.—I think we would probably be about a ship's length away from her, 400 or 500 feet.

Q.—And she would be heading northwesterly? A.—She would be heading up the Basin northwesterly.

Q.—And you would probably pass her on an almost directly opposite course? A.—Yes, or parallel.

Q.—It would be a parallel course? A.—Yes.

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Q.—Would you pass her to starboard or pass her to port? A.—Passed her to starboard.

Q.—And the “Norefjord” wasn’t behind any ships then? She was in the fairway? A.—I wouldn’t say for certain. The only ship I thought she was behind was this ship we mentioned today.

Q.—This ship was much closer to you than she was to the “Norefjord”? A.—Yes.

Q.—So the “Norefjord” was in the clear? A.—She was more or less in the clear as I could see.

Q.—More or less, but what you say you weren’t quite in the clear? 10

A.—I was rather closer to this ship at anchor.

Q.—You said this morning, in answer to my question, that you didn’t observe the escort boat leaving; that the escort boat always kept in front of you? A.—As a rule, she is always in front of us.

Q.—I know as a rule, but I mean on this day? A.—If I can recall if she kept in front of me all the time?

Q.—Yes up to the collision? A.—She would be ahead most of the time on each bow and zig-zagging around. That is generally their procedure.

Q.—She never left you up to the time of the collision? She always stayed within 200 yards in front of you? A.—Yes, until she seen the 20 “Norefjord” break the anchor and she left me and went in that direction.

Q.—When you saw her leaving in that direction could you see the “Norefjord” here? A.—I could see the masts of the “Norefjord” but not her hull.

Q.—Could you see her hull? A.—No, the boat ahead seen her hull first, being that far ahead.

Q.—How much further was she ahead? A.—They claim—

Q.—How much further was she ahead? What do you say? A.—I should think around 150 yards.

Q.—So that you were coming at a speed of five or six knots. It wouldn’t 30 take very long for you to pass that other ship? A.—I wasn’t making any five or six knots when I was abeam of the other ship.

Q.—You differ from the Captain’s estimate of speed? A.—Quite.

Q.—The Captain suggested that a heavily loaded ship of this kind going at half speed and her speed was reduced to slow speed, it wouldn’t have much effect in reducing the speed? A.—That is the Captain’s opinion.

Q.—Is that your opinion? A.—No.

Q.—And also if she was at slow speed and she stopped it would take some time before she would run off her headway? A.—Some time.

Q.—Particular with a heavily loaded ship, it would be quite a percept- 40 ible time when her speed would be reduced perceptibly? A.—With her engines on stop.

Q.—With her engines on stop. You agreed with that? A.—Yes.

Q.—This diagram you drew of that ship is rather out of perspective, isn’t it? This intervening ship is about three times as big as any other ship.

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I mean, that really wasn't the position, was it? The anchored ship you show here, you have her about three or four times as big as the? A.— Do you want the ship drawn in proportion to the scale of the chart?

Q.—No, I just want it on the record that your ship and the anchored ship were about of the same size? (Witness changes the markings on the chart)

Q.—There is just one question: There is no question about it that the stem of the "Alcoa Rambler" struck the port side of the "Norefjord"?

A.—I answered that question this morning, that the "Alcoa Rambler" struck the "Norefjord." If the "Norefjord" was hard to starboard helm, as they claim, full speed astern, I rather think it would be a fifty fifty thing; 10 but the "Norefjord" would have come up into the—backing her stem up to port, would have come up into the "Alcoa Rambler" just as much as the "Alcoa Rambler" went into the "Norefjord."

Q.—But you said, as I understand, that the "Norefjord" at all times was canting to port? A.—When she came to stern on her engine, she was canting to starboard.

Q.—You haven't mentioned that before? A.—She pulled to port later.

Q.—You say she kept in a circle to port right up to the time of the collision?

A.—When they reversed the engines full speed astern, it killed the port swing—the rudder influence on the ship, and later they were practically in 20 the same direction coming astern. I wouldn't claim just how long, but that would be the natural effect.

Q.—You said at the time of the collision the "Norefjord" was heading northerly? A.—Northerly, yes.

Q.—And your ship was heading easterly? A.—Between east and southeasterly.

Q.—East and southeast, I think you said? A.—Yes, somewhere about that.

Q.—Just a little less than a right angle? A.—Yes.

Q.—So your ship must have swung off her course to port, you say? A.— 30 She would be inclined to swing to starboard.

Q.—I don't care whether she would be inclined to swing to starboard. On your boat, if you were heading east, southeast, you wouldn't be heading on your course for the Narrows? A.—Not on an east, southeast course.

Q.—No, you wouldn't so you must have shifted off your course before the collision? A.—We swung to starboard with the stern movement on the engines.

Q.—You swung to port, didn't you, if you got over further to the east? A.—No.

Q.—Let us get this straight. You are coming down here on a southeast 40 course, aren't you—approximately southeast course? A.—Yes, back in this direction.

Q.—What is that direction? A.—I had to give this ship at anchor a berth. I am manoeuvring down here between the different ships. I didn't keep the record of the courses we steered at the time or the intervals on the different courses.



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Q.—What was your general course? A.—Our general course was from the position 2-D towards the Narrows.

Q.—What is that course, practically on the range of South 24 East magnetic, is that right? A.—I am saying when on the range it probably would be less than that, say South 20 East Magnetic.

Q.—Say South 20 East magnetic. Yes, slightly starboard, the evidence was, to be fair to you—the evidence was of this young man on the escort boat, it wasn't necessary to make any—he came straight down; it wasn't necessary for him to make any changes in course. A.—That is his testimony. 10

Q.—You don't agree with that? A.—Certainly not; with 140 ships in the Basin it is impossible to do it.

Q.—I am asking you, up to the time of the collision, how did you get off that course of South, East 20? A.—South 20 East.

Q.—South 20 East. So that you were heading at the time of the collision East southeast? A.—I was manoeuvring clear of the ships at anchor all the way down. I had to clear this ship here.

Q.—You must have swung to port? A.—I must have swung to port to clear this ship here, but at the time of impact I was heading East, southeast.

Q.—I suppose the evidence is there. There is no use prolonging it, I 20 guess.

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RE-EXAMINED BY MR. MCINNES:

Q.—My learned friend referred to a report you put in to the Superintendent of Pilots. You remember that report? A.—Yes, I do.

Q.—Did you file that report the same day as the collision? A.—It made was out the same day. If it were filed the same day, I am not quite certain. In any case, it would be the next day.

Q.—You made it out that day? A.—Yes.

Q.—But if it were filed the same day—? A.—I drafted it the same day, but if it were filed the same day, I can't recall. 30

THE WITNESS THEN WITHDREW.

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WILLIAM J. ANDERSON, being called and duly sworn, testified as follows:

EXAMINED BY MR. MCINNES:

Q.—You are a member of the Royal Canadian Navy? A.—Yes.

Q.—When did you join the Navy? A.—I joined the Navy in September, 1942.

Q.—Have you been stationed at Halifax? A.—Yes.

Q.—On what craft were your duties? A.—On the harbour craft.

Q.—What is your profession, your ordinary civil profession? A. I 40 am a seaman.

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Q.—You are a native of Newfoundland? A.—I was a native of Newfoundland, yes.

Q.—Have you served on ships at all? A.—Yes.

Q.—For what period of time? A.—Twenty-seven years going to sea.

Q.—That is, you are a regular mariner by profession? A.—Yes.

Q.—Have you served on ocean ships? A.—Yes.

Q.—Large ships? A.—Yes.

Q.—Large and small? A.—Large and small.

Q.—Have you ever acted as helmsman or quarter-master of a steamer?

A.—Yes.

Q.—You were a deck hand on the naval launch H. C. 58 on the 20th of August, 1942? A.—Yes.

Q.—You remember, do you, the day of this collision? A.—Yes.

Q.—Coxswain Brannen was in charge of your boat? A.—That is right.

Q.—And what were your particular duties? A.—To tie up the boat and look after everything.

Q.—Regular deck hand? A.—Regular deck hand job.

Q.—Were you carrying flags on this day? A.—Yes.

Q.—Do you remember what the flags were? A.—I. C. and red flag.

Q.—What constitutes the I. C. flag? A.—The I. C. flag means you are escorting a vessel down the harbour and the red flag means danger flag.

Q.—The I. C., are they two flags or one? A.—Two flags in one.

Q.—And you have mast on the vessel? A.—Yes, a little, small mast not very high.

Q.—And where were these fags flown from? A.—From the mast.

Q.—Were they above the cabin house? Have you got a cabin house?

A.—Yes, above the cabin house.

Q.—Did you speak to the "Alcoa Rambler" when you came alongside?

Q.—Yes, we spoke to her.

Q.—Do you remember the time that you got there? A.—I don't remember the time that we got there. It was something after seven o'clock in the morning.

Q.—And how was she lying, do you remember? A.—I seen her lying—her head was about northwest—in a westerly direction anyway.

Q.—And she came about, did she? A.—Yes.

Q.—And which way was she heading after leaving anchorage? A.—A.—Heading out the Harbour, out the Basin.

Q.—From that toward the Narrows? A.—Towards the Narrows.

Q.—Did your escort launch take up a position in relation to the "Alcoa Rambler"? A.—Yes.

Q.—Whereabouts? A.—About 200 feet ahead of her.

Q.—You say 200 feet, do you? A.—200 yards, I mean to say.

Q.—And did you maintain that position? A.—Yes, until we saw this other ship come around the stern of the ship that was anchored.

Q.—Were there many ships in the Basin that particular day? A.—Quite a few.

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Q.—Do you know what speed your escort launch was going down the Basin? A.—We were doing about seven or eight.

Q.—What was her top speed? A.—I could tell you her top speed.

Q.—Were you going top speed, or do you know? A.—No, we wasn't going top speed.

Q.—Have you any way of knowing what your own speed was? A.—No, I don't know.

Q.—You passed a number of ships, did you? A.—I don't just remember I know we passed one at anchor.

Q.—Yes, there was an anchored vessel? A.—There was an anchored vessel when we seen this—

Q.—Where was that anchored vessel to which you refer? A.—She was to the west of the "Alcoa Rambler."

Q.—You know the ship "Norefjord"? A.—Yes.

Q.—Now, on your passage down the Basin, did you see the ship "Norefjord"? A.—Yes, I saw her in line with the other ship coming around the stern.

Q.—That is, the anchored ship? A.—Yes. I seen the masts moving of the other one.

Q.—You saw the masts moving of the other one. Can you tell us which way the "Norefjord" was heading when you first saw her? A.—She was heading in an easterly course. I couldn't tell you what course she was heading in, but she was heading in an eastern course.

Q.—How would you describe the "Alcoa Rambler's" course? A.—She was heading across the Basin.

Q.—No. The "Norefjord" was heading across the Basin? A.—Yes.

Q.—What about the "Alcoa Rambler"? A.—She was heading towards the Narrows.

Q.—What did you see the "Norefjord" do? What was her course?

MR. SMITH:

He said what her course was.

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THE COURT:

I thought the question was all right.

BY MR. MCINNES:

What did the "Norefjord" do? A.—She came around the stern of the other vessel.

Q.—What do you mean, she came around the stern of the other vessel?

A.—She kept her course coming around the stern coming towards the "Alcoa Rambler" and when we seen that she was coming that way, we went over in the launch.

Q.—That is, you say she was moving towards the "Alcoa Rambler"?

A.—Yes.

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Q.—In what direction would that be, port or starboard? A.—Port.

Q.—Do you know how far she was away from you when you first saw her?

A.—She was about four or five ship-lengths.

Q.—And how far were you ahead of the "Alcoa Rambler" at the time you first saw the "Norefjord"? A.—About 200 yards.

Q.—Now, did you do anything about the "Norefjord" at that time?

A.—We went over and spoke to her, and I put up my hands like that, and I said: "Keep off, there is an ammunition ship coming down the harbour."

Q.—Was that said once? A.—Well, I couldn't tell you if I said it more than once. 10

Q.—But you remember saying it once? A.—I remember saying that.

Q.—How close did you get to the "Norefjord"? A.—About sixty feet.

Q.—Did you see anybody on the "Norefjord"? A.—I seen somebody on the bridge.

Q.—And did you get any reply or response to your warning? A.—Somebody wove their hand like that.

Q.—Somebody raised his hand like that, and he said? A.—He mumbled something. I understood it was: "Look out for yourself."

Q.—You understood it was: "Look out for yourself." How did here-  
ply? Did you see his hands at all? A.—No, I didn't see anything else, 20  
but he raised his hand like that.

Q.—Do you hear any other words other than: "Look out for yourself"?  
A.—No.

Q.—Did you see any flags on the "Alcoa Rambler" this day?  
A.—I didn't take any notice.

Q.—What do you say about the whistles? Did you hear any whistles  
from either ship? A.—Yes, I heard two from the "Alcoa Rambler".

Q.—Did you hear any more than the two? A.—I heard three after  
he stopped her engines.

Q.—You heard two whistles and you heard three? A.—And three. 30

Q.—How did these follow on each other? A.—There was an interval  
between them.

Q.—Do you know how long it was? A.—I couldn't exactly say.

Q.—Did you hear any whistles from the "Norefjord" at all? A.—No.

Q.—What about the "Norefjord's" speed when you went over toward  
her? Was there any change in that? A.—No, there was no change.

Q.—What would be your estimate of her speed as you had her under ob-  
servation? A.—About five knots, I imagine.

Q.—Did that speed continue or did it slow down? A.—It continued.

Q.—Was there a collision that day? A.—There was a collision after 40  
that when they collided.

Q.—A collision after that. After the "Alcoa Rambler" blew some sig-  
nals, to which you refer, what do you say about her speed? A.—She slow-  
ed down and then she blowed three blasts.

RECORD  
PART I

*In the  
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Judge,  
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Anderson,  
Direct Ex-  
amination.

Q.—That is, you heard two series of blasts, did you? A.—Yes.

Q.—Did you see the "Alcoa Rambler's" anchor? A.—Yes.

Q.—What happened to it? A.—He dropped his anchor.

Q.—And how far was the "Alcoa Rambler" from the "Norefjord" when he dropped his anchor, do you think? A.—About two ship lengths.

BY THE COURT:

Q.—Which is what?

MR. MCINNES:

A ship length is 400 feet.

BY MR. MCINNES:

Q.—Is that your recollection? A.—I said two ship-lengths. 10

Q.—You saw her drop her anchor in any event? A.—Yes, I saw her drop her anchor.

Q.—What did you see about the "Norefjord"? Did you see her anchor? A.—No, I never seen any.

Q.—At the time of the collision, what part of the ship touched the other or came in contact with the other? A.—I couldn't tell you.

Q.—Do you know which side of the "Norefjord" was injured? A.—On the port side.

Q.—Yes, and how was she injured there? A.—About amidships. I 20 never looked; I wasn't handy enough to it.

Q.—Can you tell us what part of the "Alcoa Rambler" came in contact with her? A.—The stem of her.

BY THE COURT:

Q.—If you didn't see her, how do you know? A.—That is what I imagine, anyway.

Q.—Don't say that. I understood you to say that.

BY MR. MCINNES:

Q.—You saw the collision? A.—Yes, I saw the collision.

THE COURT:

I understand from him a moment ago he didn't; he wasn't watching. 30

BY MR. MCINNES:

Q.—What do you say about that? A.—I saw the collision.

Q.—Where was your ship in relation to the "Norefjord" after you shouted to her? A.—We were, about sixty feet away from the "Norefjord."

Q.—Did you stay there? A.—We stayed there, yes.

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PART I

*In the  
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Defendant's  
Evidence.

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In presence  
of Trial  
Judge,  
William J.  
Anderson,  
Direct Ex-  
amination.

Defendants  
Evidence.

No. 21  
In presence  
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Judge,  
William J.  
Anderson,  
Cross Ex-  
amination.

Q.—Were your engines in motion after you shouted? A.—I think they were in motion.

Q.—And do you now how far away you were from these two ships at the time they collided? A.—We weren't very far, I know.

CROSS-EXAMINED BY MR. SMITH:

Q.—You think you came down the Basin at a pretty good clip, did you, —about seven or eight miles? A.—No, we did not.

Q.—How fast did you come down? You mentioned seven or eight miles in your direct examination? A.—That was the speed of our boat.

Q.—No, it was the speed at which you came down if I may correct you. 10  
What is the speed of your boat? A.—I don't know what the speed of her was when she opened up.

Q.—We are not getting very far with you. I suppose your estimates of speed are not very accurate, is that correct to say? A.—Well, we were coming at a moderate speed anyway.

Q.—At a moderate speed.

BY THE COURT:

Q.—Didn't you already say, in answer to Mr. McInnes, that you were coming at seven or eight knots or miles? A.—About five or six.

Q.—I understood you to say you were coming at seven or eight. A,— 20  
It is a long time now, I forget.

Q.—It couldn't be very long since you made the statement I suggested. All right.

BY MR. SMITH:

Q.—How far did you stayahead of the "Alcoa Rambler"? A.—About two hundred yards.

Q.—Did you always stay this two hundred yards? A.—No, we always stay until we see something was coming in contact with the ship!.

Q.—Did you go around her? A.—No, we didn't go around her.

Q.—I thought the pilot mentioned in his evidence to me that sometimes 30  
you rounded the "Alcoa Rambler" on her way down?

MR. MCINNES:

I think he was referring to ships generally.

MR. SMITH:

I am asking. He can answer.

BY MR. SMITH:

Q.—Did you have to change your speed or were you going at the same speed all the time? A.—We varies on our speed.

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Q.—Why do you vary on your speed? A.—We have got to give 200 yards distance of the ship.

Q.—So that, if the ship's speed increased, you would increase your speed? A.—Yes.

Q.—And if the ship's speed was decreased, you would slacken up your speed? A.—Sure.

Q.—And you came down in clear water all the time? A.—Yes.

Q.—Did you have to navigate for any vessels? Were there any vessels in the channel? A.—No.

Q.—The ship followed you right in a straight line? A.—Until we saw 10 the "Norefjord" coming.

Q.—I mean the "Alcoa Rambler" followed you in a straight line; she didn't have to go around any ships? A.—No.

Q.—And eventually on your way down you saw the ship which afterwards proved to be the "Norefjord"? A.—Yes.

Q.—And how far away was she then? A.—About four or five ship-lengths

Q.—About four or five ship-lengths. By ship-lengths you mean of 450 feet or so? A.—I don't really know the length of a ship.

Q.—You are using it for measurements, though. Supposing we stop talking about ship-lengths. If you say you don't know how long a ship is, 20 it doesn't assist the Judge very much? A.—I am saying it is about four or five ship-lengths, whether the ship is 200 feet, 400 feet or 600 feet.

Q.—I see, so it might be 800 feet or it might be 2000 feet, is that right? A.—This ship wasn't 2000 feet.

Q.—Which ship are you taking as a ship's length? A.—She is about 400 feet long, I would say.

Q.—What ship? A.—The "Norefjord" is about 400 feet long.

Q.—What you mean to say is: the distance when you saw her was about four or five times the length of the "Norefjord." A.—Yes.

Q.—And was she in the clear then? She was in clear water? A.—Yes, 30 she was in clear water.

Q.—And the "Alcoa Rambler" was behind you? A.—Yes.

Q.—About what distance? A.—About 200 yards.

Q.—About 200 yards. And you went over there, did you? A.—Yes, I went over there.

Q.—Where were you standing? A.—I was standing on the forecastle deck.

Q.—On the forecastle deck. You were the only man forward? A.—Yes, clear of the coxswain, he was there.

Q.—The coxswain at the wheel. That is about amidships? A.—Yes. 40

Q.—At the time when you proceeded from the "Alcoa Rambler" what was the "Alcoa Rambler" doing? Was she moving through the water? A.—Yes.

Q.—At a pretty good clip? A.—No, she was going at a moderate speed.

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amination.

Q.—What would you say a moderate speed was? A.—Four or five miles an hour.

Q.—She was going as fast as your boat was, otherwise he would never keep that 200 yards? A.—As I told you before, we had to vary our speed.

Q.—At any rate, she was going at a moderate speed, which doesn't mean very much. Had any signals been given by that time? A.—I couldn't tell you.

Q.—Did you hear any blast from the "Norefjord"? A.—No.

Q.—Did you hear a one-blast signal from the "Norefjord"? A.—No, I did not. 10

Q.—At any time? A.—No.

Q.—Did you hear three blasts from her? A.—No, didn't.

Q.—What blasts did you hear from the "Alcoa Rambler"? A.—Two blasts.

Q.—Yes, two blasts. That is, two short blasts? A.—Two short blasts.

Q.—Two short blasts. What does that signify? A.—It signifies I am directing my course to port.

Q.—So, giving his signal, he was directing his course to port on the "Alcoa Rambler, as you understood it? A.—Yes.

Q.—All right. Then what did you do? Where were you then when you heard that signal? A.—We was ahead of the "Alcoa Ramgler." 20

Q.—Had you then started to approach the "Norefjord"? A.—Yes, going over towards the anchored ship.

Q.—How far had you proceeded, half-way over to her? A.—That is a question..

Q.—That is a question. That is the question I am asking you. You don't know? You had proceeded a good part of your way over? A.—We had proceeded a good part of the way over.

Q.—Would you say a good part of your way over? A.—Yes.

Q.—You heard this two-blasts signal. Did you hear any other signal on your way over? A.—Three short blasts. 30

Q.—What does that mean to you? A.—He was stopping his engines.

Q.—He was stopping his engines, going astern? A.—Going astern.

Q.—When did you hear these three short blasts? What was the time that elapsed between the two short blasts and the three short blasts? A.—It wasn't very long.

Q.—Not very long. As you were going over, were you watching the "Alcoa Rambler" or were you watching the "Norefjord"? A.—I was watching the "Norefjord."

Q.—The "Norefjord." But you heard what you thought were two signals? A.—Yes. 40

Q.—And could you tell us at the time, we will say, the first two blasts were given how far the ships were apart? A.—About two ship-lengths.

Q.—About two ship-lengths, all right. And when the three short blasts were given, how far were they apart? A.—I couldn't say for I never measured it.



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Q.—I know, but you are giving estimates. What is your best estimate—  
a ship's length? Were you watching? No answer.

Q.—Can you answer that question?

THE COURT:

Repeat the question.

BY MR. SMITH:

Q.—And when the three short blasts were given, how far were they apart?

A.—About two ship's lengths.

Q.—So there was no difference in the distance between the two ships  
between the two-blast signal and the three-blast signal, is that right? 10

You don't mean that, do you? A.—Oh yes, there was a little difference,  
yes.

Q.—Was there quite a time that elapsed between the two signals?  
A.—No, in short intervals.

Q.—Short intervals. Now, when you got alongside the "Norefjord,"  
you were the man that did the hollering? A.—Yes.

Q.—Your voice is not particularly strong, is it? A.—Well, I can holler  
a good click.

Q.—You can do better than you are doing now? A.—I can, yes when  
I see there is any danger at hand. 20

Q.—The noise of the diesel engine is pretty loud, isn't it? A.—Yes.

Q.—The exhaust? A.—Yes, the exhaust and then the under-water.

Q.—The exhaust is underwater? A.—Yes. There is quite a little noise.

Q.—Quite a lot of noise, and you don't know, in fact, that they understood  
what you were hollering to them? A.—He wove his hand, so I imagine  
then he heard some.

Q.—He heard something. What was the answer you thought you heard  
in reply? A.—"Keep up. Look out for yourself."

Q.—Was that said in an English voice or Norwegian voice? A.—I  
couldn't say. It was English all right. 30

Q.—Did it sound like a foreigner or a Canadian or Newfoundlander if  
you know? A.—I am forced to answer that?

Q.—Anyway, what did you do after that? Had your engine been stop-  
ped? When you did this hollering, you only remember hollering once?  
A.—That is all.

Q.—That is all you remember. And you cupped your hands? A.—  
Yes, put my hands like a megaphone.

Q.—And your engine was still going? A.—Yes, the engine was still go-  
ing.

Q.—And your ship was going through the water? A.—Yes. 40

Q.—And you would be quite low? How high would the fore-castle of  
your boat be above the water? A.—Five or six feet.

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Q.—About five or six feet. And the men on the bridge would be very much higher, wouldn't they? A.—Not a great deal higher.

Q.—I see. And she was moving through the water and would be making some noise, wouldn't she? A.—She would be making a little noise, yes.

Q.—Naturally, she would be making some noise, if, as you say, she was going at five miles, wouldn't she? A.—Yes, she would be making some noise.

Q.—You kept your engine going while you had this conversation? The engine was going while you carried on this conversation? A.—Yes, the engine was going. 10

Q.—Then, what happened to it in the meantime? Did you hear anything else from the "Alcoa Rambler"? A.—No, I didn't hear anything else.

Q.—Was the engine of the "Norefjord" going astern? A.—No, she was going ahead through the water, so it couldn't be going astern.

Q.—Did you ever notice it going astern before the collision? A.—No.

Q.—You didn't notice it going through. Would it be quite possible for a propeller to go astern and a ship have headway on? A.—Yes, it could be possible, but she wasn't going astern and making a back-drift through the water. 20

Q.—When you were doing this talking, I suppose you were looking up at the bridge of the "Norefjord"? A.—Yes.

Q.—And you had your back to the "Alcoa Rambler" all the time, didn't you? A.—Yes.

Q.—All right. How long did you engage in this conversation? A.—I couldn't tell you.

Q.—In the meantime, what was the next thing you saw? I think you told us first, in your direct examination, you didn't see the collision and afterwards you said you did? A.—I seen the collision after.

Q.—Where were you when you saw the collision? A.—I was on the fore-castle deck. 30

Q.—Which way was your vessel heading? A.—We was heading towards the "Alcoa Rambler."

Q.—You were heading first towards the "Norefjord"? A.—Yes.

Q.—And did you follow the "Norefjord" into the collision? A.—No, we stopped.

Q.—How far away from the collision did you stop? A.—We was about three ship lengths, I guess.

Q.—Three ship-lengths, I see. And when the "Alcoa Rambler" had blown those whistles, they were two ship-lengths away, is that right? 40  
A.—No, that is not right.

Q.—All right, your answer is there. Do you know the Tug "Bansurf"?  
A.—Yes, I know her.

Q.—Did you see her around that day before the collision? A.—No, I did not.

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PART I

*In the  
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Evidence.

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*In presence  
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Anderson,  
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Q.—Did you see her before the collision? A.—No.

Q.—Did you see her after the collision? A.—No.

Q.—Did you see what happened to the "Norefjord"? A.—Yes.

Q.—What happened to her? A.—She got bumped on the port side.

Q.—She got bumped on the port side. What happened after that?

A.—They took her across the harbour.

Q.—Who did? A.—I don't know. The tugs came up there and took her.

Q.—There was a tug then? A.—There was a tug then, yes.

Q.—How long after the collision was that? A.—About ten or fifteen 10  
minutes, I suppose.

Q.—Didn't you see a tug come up to the "Norefjord" immediately after the collision? A.—No, I did not.

Q.—If she was there, you would have seen her if you were observing?

A.—She might have been on the starboard side of her I and wouldn't see her.

Q.—You mean on the starboard side of the "Norefjord"? A.—On the starboard side of the "Norefjord".

Q.—Did you see the tug going around the stern of the "Alcoa Rambler"?

A.—No, I didn't.

Q.—If you were very observant, and there was a tug there, you wouldn't 20  
miss her, would you? A.—I don't think I would.

### THE WITNESS THEN WITHDREW

STANLEY COOK, being called and duly sworn, testified as follows:

Defendant's  
Evidence.

No. 22

*In the  
presence of  
Trial  
Judge.  
Stanley  
Cook,  
Direct Ex-  
amination.*

EXAMINED BY MR. MCINNES:

Q.—You are a member of the Royal Canadian Navy, are you? A.—Yes.

Q.—When did you join the navy? A.—In March, 1941.

Q.—Have you been stationed at Halifax? A.—Yes. 30

Q.—And what is your peace-time profession? A.—Going to sea.

Q.—Are you a native of Newfoundland? A.—Yes.

Q.—Have you served on ships? A.—Yes.

Q.—Steamers and schooners? A.—Yes.

Q.—For a number of years? A.—Yes.

Q.—Have you steered ships of size? A.—Yes.

Q.—Steamers? A.—Yes.

Q.—You were with the "Lady Hawkins", were you not? A.—Yes.

Q.—Were you ever quartermaster on the "Lady Hawkins"? A.—No.

Q.—You were able seaman on her? A.—Yes. 40

Q.—How big a ship is the "Lady Hawkins"? A.—4920.

Q.—Net tonnage? A.—Yes.

Q.—What was her gross tonnage, by the way, approximately? Perhaps you don't know? She is a passenger liner, in any event? A.—Yes.

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Trial  
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Cook,  
Direct Ex-  
amination.*
- Q.—Now, your duties in August of 1942 were in respect to the vessel “Tuna”, were they? A.—Yes.
- Q.—What is the “Tuna”? A.—A motor launch.
- Q.—And what particular work did she do? A.—Patrol work.
- Q.—Do you work in the Degaussing office? A.—Yes.
- Q.—And that office lies in Bedford Basin, does it? A.—Yes.
- Q.—As we have it already in several places, it is on the east side of the Basin? A.—Yes.
- Q.—Is there an office there? A.—There is an office and that is called the range office. 10
- Q.—What do you do in respect to the Degaussing office? A.—Taking officers back and forth from the ships to the range—to different ships, and we take them back to the range when finished.
- Q.—You serve as a ferry to the Degaussing office? A.—Yes.
- Q.—And you take them off and back to ships? A.—Yes.
- Q.—On the 20th of August, 1942, did you take a Degaussing officer of a ship? A.—Yes.
- Q.—Or intended to take him to a ship? A.—To the office first.
- Q.—To the office first? A.—Yes.
- Q.—That is the range office? A.—That is the range office, yes. 20
- Q.—You have a jetty there? A.—Yes.
- Q.—Is the jetty shown on the chart? A.—It should be.
- Q.—I am showing you exhibit Dyke 2? A.—It is not marked on this chart.
- Q.—It is not marked on this chart. It is shown on one of the other charts. It is shown on the one we have with the “Alcoa Rambler’s” Exhibits, I believe. I am showing you “Alcoa Rambler” Exhibit 10 and I am asking you if you can show us the Degaussing Range jetty there? A.—Right there.
- Q.—Would you mark it with D.R.? (Witness marks). Now, were you lying alongside this jetty? A.—Yes. 30
- Q.—And you took an officer, Lieutenant Dyke? A.—Lieutenant Dyke.
- Q.—And where did you go on leaving the jetty? A.—We left to go to the Norwegian ship “Norefjord.”
- Q.—Did you know the Norwegian ship’s name at that time? A.—No.
- Q.—Did you know where she was lying? A.—Yes.
- Q.—Where was she lying? A.—At B in the Basin.
- Q.—Where is B? What part—western side, eastern side? A.—Western side of the Basin.
- Q.—Now, you got under way, did you? A.—Yes. 40
- A.—And did you see the “Alcoa Rambler” this day? A.—Just as we got under way, we saw her.
- Q.—You saw a ship, which later proved to be the Alcoa Rambler,” is that right? A.—Yes.

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amination.

Q.—Where was she when you first saw her? A.—She was laying off the range about half a mile.

Q.—Yes. Was she under way? A.—Yes.

Q.—And did you see the "Norefjord" also? A.—Yes.

Q.—When you say "laying off the range," what do you mean? A.—She was on her way off the range.

Q.—About half a mile? A.—About half a mile from the range pier.

Q.—And did you see the "Norefjord"? A.—Yes.

Q.—Which vessel did you see the first, the "Norefjord" or the "Alcoa Rambler"? A.—I saw the both of them at the same time. 10

Q.—Yes. And how was the "Alcoa Rambler" heading? A.—She was heading in a southerly direction out the Basin.

Q.—Did you see any other launch on this day? A.—Yes.

Q.—What launch was that? A.—The escort launch.

Q.—Where was she in relation to the "Alcoa Rambler"? A.—She was laying ahead of her about 200 yards.

Q.—How far away was the "Norefjord" when you saw her? A.—Three-quarters of a mile.

Q.—And when you say that, it is measured from where you were?

A.—Just off the Degaussing pier. 20

Q.—Just off the Degaussing pier? A.—Yes.

Q.—If I understand you correctly, you saw the both of these vessels at approximately the same time? A.—Yes.

Q.—When the "Alcoa Rambler" was half a mile from you and the "Norefjord" about three-quarters of a mile? A.—Yes.

Q.—Your purpose was to put an officer on board the "Norefjord"? A.—Yes.

Q.—And what did you do about that? A.—We left to go off and was steering by a full course and altered our course west to go around the stern of the "Alcoa Rambler." 30

Q.—Were you obliged to alter your course? A.—Yes.

Q.—Yes. Had you kept on what was your position in respect for the "Alcoa Rambler"? A.—We would have went across her bow.

Q.—In what way did you alter your course? A.—We altered our course to starboard.

Q.—Did you alter it very much? A.—No, not very much.

Q.—What do you say about the course of the "Norefjord" as you had her under observation after leaving the jetty? A.—About east northeast, roughly.

Q.—Yes. And can you say what helm she was under? A.—Port the 40 helm.

Q.—Can you describe her course as you saw her there? What did you see her do? A.—She was slightly turned to port all the time.

Q.—That is, all the time that you saw her? A.—Yes.

RECORD  
PART I

*In the  
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Defendant's  
Evidence.

No. 22  
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presence  
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Trial  
Judge.  
Stanley  
Cooke,  
Direct Ex-  
amination.

Q.—Now, you passed astern of the 'Alcoa Rambler' I think you said?  
A. Yes.

Q.—What would you say about the "Alcoa Rambler's" speed at the time you passed under her stern? A.—About three knots—three miles an hour.

Q.—Did you hear any whistles from the "Alcoa Rambler"? A.—Yes.

Q.—What whistles did you hear? A.—We heard three blasts at different times.

Q.—That is, you heard different series of three lasts? A.—Yes.

Q.—Can you identify them in respect to length? That is, were they long or short blasts, or do you remember? A.—I can remember one lot of 10 the blasts was about the same.

Q.—Where were you when you heard the first three blasts from the "Alcoa Rambler"? Where was your launch, the "Tuna"? A.—It was on the port side.

Q.—Yes, and where did you proceed? You went around the stern, did you? A.—Around the stern, yes.

Q.—What was your purpose in going around the "Alcoa Rambler"? A.—I thought to go around the stern of the "Alcoa Rambler" to put the officer on board the "Norefjord".

Q.—Did you expect the "Norefjord" to cross in front of the 'Alcoa Ram- 20 bler'?"

MR. SMITH:

Surely that, My Lord, is not a proper question: what he expected. I move to have that question struck out. I so move.

THE COURT:

I don't think it is a proper question.

BY MR. MCINNES:

Q.—Where were you when you heard the second series of blasts from the "Alcoa Rambler"? A.—About under the stern—twenty yards back of 30 the stern of the "Alcoa Rambler."

Q.—What do you say about the wash from the "Alcoa Rambler"? Was there any wash? A.—Yes, a back wash.

Q.—A back wash? A.—Yes.

Q.—And when did you first see this back wash? A.—When we started to go around the stern.

Q.—You came to the starboard side of the 'Alcoa Rambler,' is that right? A.—Yes.

Q.—Where was the "Norefjord" when you first saw her after coming around the stern? A.—She was off the starboard bow of the "Alcoa 40 Rambler" about 250 yards.

Q.—That is, there is a space of 250 yards from the bow of the 'Alcoa Rambler' to the "Norefjord"? A.—To the Norefjord," yes.

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Trial  
Judge.  
Stanley  
Cooke,  
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amination.

Q.—What part of the “Norefjord” are you referring to? A.—The Bow.

Q.—Did you hear any whistles from the “Norefjord” at any time? A.—

No.

Q.—At no time at all? A.—No.

Q.—What did you see the “Norefjord” do? A.—She proceeded on her course.

Q.—What course is that? A.—An easterly course.

Q.—Yes. And was there any change in that course as you saw her?

A.—She was slightly altering to port all the time.

Q.—That is, is it correct to say she was altering to port—

10

MR. SMITH:

Just a minute. Surely, he can't put the question in the form, is it correct to say this.

BY MR. MCINNES:

Q.—Did you see any change in course of the “Norefjord” after you came around the stern of the “Alcoa Rambler”? A.—She was slightly changing to port all the time.

Q.—And was there any change in the course of the “Norefjord” up to the time of the impact? A.—She was still turning slightly to port. 20

Q.—What about the “Norefjord's” speed? A.—She was keeping up the same speed.

Q.—How fast would you say she was going when you saw her after coming around the “Alcoa Rambler”? A.—Approximately five mile an hour.

Q.—Yes. And was there any variation in that speed? A.—No.

Q.—What do you say about the “Alcoa Rambler”? What was her speed after you came around the stern? A.—About  $2\frac{1}{2}$ .

Q.—Had her way checked? A.—Yes. 30

Q.—Did you see the anchor of the “Alcoa Rambler” on this day? A.—Yes.

Q.—What do you say about it? A.—She dropped it about half a ship's length away.

Q.—Away from where? A.—Away from the “Norefjord.”

Q.—Yes. What do you say about the impact? There was an impact, was there? A.—Yes.

Q.—Was the “Alcoa Rambler” moving at the time of the impact? A.—Yes.

Q.—Can you describe her speed? A.—The same speed five knots—five 40 miles an hour.

Q.—What parts of each ship came in contact with the other? A.—The stem of the “Alcoa Rambler” struck the “Norefjord” about amidships.

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PART I

*In the  
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No. 22

In the  
presence  
of the  
Trial  
Judge,  
Stanley  
Cooke,  
Direct Ex-  
amination.

Q.—Yes. Where were you? You came around the ‘Alcoa Rambler’ and you have related some events that you saw. What was your launch doing? A.—After we came around the helm.

Q.—After you came around, where were you heading, first of all? A.—We were heading for the “Norefjord.”

Q.—Yes, and how far from the starboard side of the “Alcoa Rambler” were you? A.—About sixty yards.

Q.—And how far, after coming around the ‘Alcoa Rambler’s’ stern, were you from the “Norefjord”—that is, your own boat? A.—About 300 yards. 10

Q.—And did you continue on your way to the Norefjord” or what did your launch do? A.—No, we slowed up there.

Q.—Where did you slow up? A.—About amidships off the starboard side of the “Alcoa Rambler.”

Q.—Before you went around the stern of the “Alcoa Rambler,” did you anticipate a collision?

MR. SMITH:  
Objects.

THE COURT:  
There was a collision. 20

BY MR. MCINNES:

Q.—There was a collision. I won’t insist on the question. Did you see the escort launch? You had her under observation one time, did you not? A.—Yes.

Q.—Are you able to say what she did? A.—She went over to the “Norefjord.”

Q.—Did she go over before you crossed under the stern, or can you tell us when she went over? A.—After we got around the other side.

Q.—You saw the escort launch? A.—Yes.

Q.—Where was she after you came around the side of the “Alcoa Rambler”? A.—She was over alongside the “Norefjord.” 30

Q.—Did you see any flags on the launch? A.—Yes.

Q.—Do you remember what those flags were? A.—I. C. B.

Q.—Did you see any flag on the “Alcoa Rambler” this day? A.—Yes.

Q.—What flag? A.—The B flag and H pilot flag.

Q.—Did you see any tug on this day around the time of the collision?

A.—Not until after the collision.

Q.—You saw a tug after the collision? A.—Yes.

Q.—What tug was that? A.—The “Bansurf.”

Q.—Yes. Did you see any tug in the vicinity of the “Alcoa Rambler” at the time you came around the stern of that ship? A.—No. 40



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Q.—If there had been a tug in that vicinity, would you have seen it if you had been observant? A.—Yes, I think.

Q.—And you didn't see any 'Bansurf'? A.—No.

Q.—But you did see her later? A.—Yes.

Q.—You know that tug, don't you? A.—Yes.

CROSS EXAMINED BY MR. SMITH:

Q.—You were in the shed on the jetty with Lieutenant Dyke? A.—Yes.

Q.—Your object was to take Lieutenant Dyke on board the ship, is that right? A.—Yes.

Q.—Now, you arrived over there and you went in the shed, is that right? 10

A.—That is right.

Q.—Are you the man that steers the "Tuna"? A.—Yes.

Q.—I see. Have you ever talked anything about this collision over with any of your shipmates? A.—Yes.

Q.—I mean, you have discussed it? A.—We talked about it.

Q.—Yes. Have you discussed it with these men that have given evidence here today? A.—Yes, just one man.

Q.—Which man? A.—Wambolt.

Q.—He hasn't given evidence yet. He is supposed to give evidence. 20

A.—Yes. Q.—He is a buddy of yours? A.—He is on the boat with me.

Q.—He is on the boat with you. Did you know the other fellows that gave evidence—the other fellows that were on the escort boat? A.—I know them to see them.

Q.—Have you ever talked with him? A.—No.

Q.—Did you talk with them today? A.—I talked with them today.

Q.—Did you talk about the accident at all? A.—Yes, some.

Q.—Did you exchange views about what happened? A.—No.

Q.—Did you tell the other fellows what you saw? A.—Some of it, I did. 30

Q.—Yes. And did they tell you what they saw? A.—Some.

Q.—You had quite a discussion about it all, didn't you? A.—Not a great lot—more so about the court.

Q.—What? A.—About what was going on inside. We were never to a court before.

Q.—You were never to a court before, but I suppose you discussed what you were going to say when you got on the stand? A.—No.

Q.—Did you talk it over with Brannen? A.—I did some.

Q.—What do you mean by some? A.—Some points.

Q.—Now, you say that you were in the shed on the jetty, and you were watching for the "Norefjord," were you? Did you know where the "Norefjord" was lying at anchor? A.—I knew her berth. 40

Q.—You knew her berth? A.—Yes.

Q.—Where was her berth? A.—B in the Basin.

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Q.—Where is B? A.—B is on the west side of the Basin.  
 Q.—B is on the west side of the Basin. How far would that be from the  
 jetty? A.—About a mile and a half.  
 Q.—About a mile and a half from the jetty, I see. A.—About that.  
 Q.—And you were watching for her? A.—Yes.  
 Q.—And Lieutenant Dyke was the man that was chiefly concerned? He  
 wanted to go on board of her? A.—Yes.  
 Q.—And sometime you saw her moving, did you? A.—Yes.  
 Q.—And then you got in your boat—the “Tuna”? A.—Yes.  
 Q.—And you and Lieutenant Dyke, and did you have another man in 10  
 the boat? A.—Yes.  
 Q.—Wambolt? A.—Wambolt.  
 Q.—All right. And you proceeded out to board her—for Lieut. Dyke  
 to board her? A.—Yes.  
 Q.—And on the way out, you saw the “Alcoa Rambler” coming out the  
 basin? A.—Yes.  
 Q.—What was her position when you left the jetty? Was she abreast  
 the jetty or where was she exactly? A.—About abreast of the jetty.  
 Q.—You went around her stern? A.—Yes.  
 Q.—How far out from the jetty, was she? A.—Approximately half a mile 20  
 Q.—She was half a mile out? A.—Approximately.  
 Q.—And you went around the stern of the “Alcoa Rambler”? A.—Yes  
 Q.—How close did you go to her stern? A.—About twenty yards.  
 Q.—About twenty yards. And you came around on her starboard side?  
 A.—On the starboard side.  
 Q.—When you were going out, could you see the “Norefjord”? A.—Yes  
 Q.—All the time? A.—After she came in sight, we could, yes.  
 Q.—Wasn't the “Alcoa Rambler” between you and the “Norefjord”?  
 A.—No.  
 Q.—She wasn't? A.—Well, she was, but the “Alcoa Rambler” was 30  
 off the jetty and the “Norefjord” was down coming across from B in the  
 Basin.  
 Q.—Coming across from B. And you say you could see the “Norefjord”  
 all the time? A.—Yes.  
 Q.—From the time you left the jetty until the collision occurred? A.—  
 Well, no. When we were going around the “Alcoa Rambler,” we lost  
 sight of her then.  
 Q.—You couldn't see her? A.—We couldn't see her.  
 Q.—All right. You came around the stern of the “Alcoa Rambler” and  
 came up on her starboard side, did you? A.—Yes. 40  
 Q.—And then did you see the “Norefjord”? A.—Yes.  
 Q.—And was the “Norefjord” coming over then towards the Degaussing  
 Range? A.—Yes.  
 Q.—She was heading towards it? A.—Yes.

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Q.—And you know she was going to the Degaussing Range? A.—Yes.

Q.—And she was in the clear? A.—Yes.

Q.—There was no ships between? A.—No.

Q.—How far was she away from you? A.—About 300 yards.

Q.—And how far were you from the “Alcoa Rambler”? A.—Sixty yards.

Q.—You just stayed sixty yards from the “Alcoa Rambler”? A.—Yes.

Q.—Did you stop your engine when you were sixty yards from the “Alcoa Rambler”? A.—No, we slowed up to the same speed as the “Alcoa Rambler.”

Q.—All right. You slowed up to the same speed as the “Alcoa Rambler” You followed the “Alcoa Rambler” up? A.—Yes.

Q.—At a distance of sixty yards away from her? A.—Yes.

Q.—And you stayed there at that position up to the time of the collision? A.—Yes.

Q.—That is what you say? A.—Yes.

Q.—Do you know the evidenced that Lieut. Dyke has given? A.—I don't know.

Q.—I suppose you don't know. His story—I will put it to you: is this correct?

MR. MCINNES:

Unless my learned friend is going to read the evidence, I don't know if he can sum it up. It consists of thirty pages.

THE COURT:

It is all right unless I ask for it. I don't quite understand if he was following up when he went around, why wasn't he struck himself or pretty nearly struck.

BY MR. SMITH:

Q.—You were following the “Alcoa Rambler” right up to the time of the collision on her starboard side? A.—Yes.

Q.—You knew she was an ammunition ship? A.—Yes.

Q.—And you still kept right alongside of her? A.—About sixty yards away.

Q.—About sixty yards away? A.—Yes.

Q.—And how far were you away from her when the actual collision occurred? A.—About sixty yards.

Q.—In the meantime, the “Norefjord” was coming over towards you? A.—Yes.

Q.—The “Norefjord” was coming over towards you all the time? A.—Yes.

Q.—And the two ships were approaching? A.—Yes.

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Q.—So you were no further away than sixty yards from her at the time of the collision? A.—About that.

Q.—That is what you say? A.—Approximately sixty yards.

BY THE COURT:

Q.—Why were you following that ship? You had no business with her? Your business was with the other ship. Why were you following in the wake of the “Alcoa Rambler”? A.—As she was coming—the bow of the “Alcoa Rambler”—we were waiting to put the officer aboard. I didn't like to put him aboard at that time.

Q.—No. That is what I am asking you: Why did you stay and follow 10 in the wake, as I understood you to say?

MR. MCINNES:

He didn't say in the wake. He said he came around—if I may interpret.

THE COURT:

Yes, he came around and followed him.

BY THE COURT:

Q.—You came around in the same direction as the “Alcoa Rambler”?

A.—Yes.

Q.—Why? A.—We agreed to get the officer on the “Norefjord”.

Q.—Why didn't you keep away instead of following? A.—That is the 20 way the “Norefjord” was coming, across that way.

MR. SMITH:

It is an entirely different story from what Dyke says anyway.

MR. MCINNES:

I don't agree with my learned friend's observation.

MR. SMITH:

I will allow Your Lordship to read that evidence, and I think there is—

MR. MCINNES:

Oh well.

BY MR. SMITH:

Q.—You say, anyway, you kept going alongside parallel in the course of the “Alcoa Rambler”? A.—Yes.

Q.—And you kept on up to the time of the collision? A.—Yes.

Q.—How far away were the two ships when you rounded the stern? A.—About 250 yards.

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Q.—About 250 yards. And when you rounded the stern, you say that the helm of the "Alcoa Rambler" was going astern? A.—The helm?

Q.—The propeller of the "Alcoa Rambler" was going astern? A.—Yes.

Q.—Is that right? A.—That is right.

Q.—But she still had headway? A.—She still had headway.

Q.—How much headway did she have? You said three miles an hour?

A.—Approximately three miles an hour.

Q.—On your way out from the jetty, had you observed the wake of her propeller for some time? A.—Yes.

Q.—All the time you were going out from the jetty, were her engines as- 10  
tern? A.—No.

Q.—When did they go astern? A.—When we got off to her port side or to the westward.

Q.—When you got off to her port side? You were on her port side when you got to the jetty? A.—I mean to say, when we got that close to vessel on her port side.

Q.—When you were around the stern of it, what did you see? A.—I saw the back wash of the propeller. That was after I heard the whistles.

Q.—The back wash didn't come on until both whistles or one of the whistles? A.—I can't say that. 20

Q.—In any event, the sequence is this: You heard three whistles? A.—Yes.

Q.—And later on you heard three other whistles, is that right? A.—Yes.

Q.—And after the first whistle, you saw the back wash? A.—Yes.

Q.—How long afterward? What is the speed of the "Tuna"? A.—  
Nine miles an hour.

Q.—Is that the speed? A.—Yes.

Q.—How far did you proceed from the jetty until you got around on the starboard side of the "Alcoa Rambler"? A.—Approximately half a mile.

Q.—Half a mile. That would take you a matter of how long? A.—We 30  
weren't going at full speed then.

Q.—All right. What speed were you going? A.—It is hard to judge.

Q.—Were you going six miles an hour? A.—Between five and six.

Q.—Five and six. To go half a mile would take you five minutes at least?

A.—Yes, if we were going that speed.

Q.—If you were going that speed? A.—Yes.

Q.—If we were going faster, it wouldn't take you as long? A.—No.

Q.—How fast were you going? A.—I don't know, we never towed logs.

Q.—No, but you have been estimating the speed of a lot of ships. You would know your own better than you would the speed of the "Alcoa Ram- 40  
bler"? A.—We never logged her.

Q.—All right. What was the speed that day? A.—Five or six.

Q.—Five or six. It would take you five minutes to go around the stern. I suppose you had to slow up when you went around the stern? A.—The same speed.

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Q.—Did you slow up after you got to the other side? A.—Yes.

Q.—And you kept the sixty yards and followed up the "Alcoa Rambler"?

A.—Yes.

Q.—In the meantime, the "Norefjord" was coming across? A.—Yes.

Q.—Weren't you in a position of danger yourself? A.—No, in sixty feet we were passing amidships of the "Alcoa Rambler."

Q.—Did you know she was a munition ship? A.—Yes.

Q.—You were taking a chance of something happening? A.—Yes.

Q.—Why did you stick so close to the "Alcoa Rambler"? Wasn't it your job to put the man on the other ship? A.—I thought something would happen and I was waiting. 10

Q.—You gave the "Norefjord" speed of five miles? A.—Yes.

Q.—And you say she kept it right up to the time of the collision? A.—Yes.

Q.—And at the time of the collision, she was going five miles an hour?

A.—Yes.

Q.—Were her engines going astern at all? A.—I never saw them.

Q.—You never saw them. And you never saw a tug? A.—I never saw the tug until after the collision.

Q.—Where did you see the tug then? A.—I am not sure, but I think she was on the starboard side of the "Norefjord." 20

Q.—On the starboard side of the "Norefjord"? A.—Yes.

Q.—Did you see her coming up on the port side of the "Alcoa Rambler"?

A.—No.

Q.—Could you see her rounding the stern of the "Alcoa Rambler"?

A.—No.

Q.—If she was there, would you have seen her? A.—I don't know. I was in the wheel house.

Q.—You know the "Bansurf", don't you? A.—Yes.

Q.—She is a tug—an ordinary harbour tug? A.—Yes, but when you are at the wheel you are not looking all along; you are looking ahead. 30

Q.—You were looking a lot this day. You have given us all kinds of distances. You told us you could see the "Alcoa Rambler" and you could see the "Norefjord", when you were in the wheel house, at all times except when you were rounding the stern of the "Alcoa Rambler", is that right?

A.—Yes.

Q.—But you couldn't see the tug? A.—I couldn't see the tug.

MR. MCINNES:

Of course, we have no evidence there was a tug at all.

THE COURT:

I don't know. 40

MR. MCINNES:

I don't know. I never heard of it before today.

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BY MR. SMITH:

Q.—Now, you say that the “Norefjord” never decreased her speed at all from the time you saw her. It was about 300 yards away, did you say?

A.—Yes.

Q.—250 or 300 yards? A.—About 300 yards from us.

Q.—Yes. And all the time from the time you rounded the stern of the “Alcoa Rambler” her engines were going astern? A.—Yes.

Q.—And some time her anchor was dropped? A.—Yes.

Q.—And when was her anchor dropped? How far were the ships away then? A.—About half a length away from the “Norefjord.” 10

Q.—About what? A.—Half a ship's length away from the “Norefjord.”

Q.—That would be roughly 200 feet? A.—Yes.

Q.—And the collision must have happened very soon afterwards if the “Norefjord” was going five miles an hour, didn't it? A.—Yes.

Q.—Do you really believe the “Norefjord” was going five miles an hour? A.—I think she was. It is hard to judge it.

Q.—Did you notice any difference in speed from the time you first saw her? A.—No.

Q.—From the time you saw her, how far was she away when you first saw her? A.—About three-quarters of a mile. 20

Q.—About three-quarters of a mile from where? A.—Just after we left the Degaussing Range jetty.

Q.—You say she was about three-quarters of a mile when you first saw her? A.—Yes.

Q.—And you had gone another half mile, hadn't you? A.—Yes.

Q.—You had gone more than half a mile? A.—Approximately.

Q.—In about five minutes, is that right? A.—Approximately.

Q.—And presumably the “Norefjord” was coming all the time during those five minutes? A.—Yes.

Q.—And where you saw her when you got around—she was still practically in the same place, according to your evidence, when you got around the stern of the “Alcoa Rambler”? Is that what you are trying to say? 30

MR. MCINNES:

I don't think my learned friend's mathematics are correct.

MR. SMITH:

You correct them on cross-examination. Just tell me where I am wrong.

BY MR. SMITH:

Q.—Now, this is the position as I understand from your evidence. You say that the “Alcoa Rambler” was half a mile out from the jetty when you left the jetty, is that right? A.—Yes. 40

Q.—And you say that when you saw the “Norefjord” she was three-quarters of a mile from the jetty? A.—Yes.

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Q.—And you left the jetty and proceeded the half mile and rounded the stern and got on the starboard side of the “Alcoa Rambler”? A.—Yes.

Q.—And when you got there, you had proceeded more than half a mile, hadn't you? A.—I guess so.

Q.—So that, if your first estimate was right, if the “Norefjord” had remained stationary, she would be a quarter of a mile away? A.—The way the fairway comes down, it leans in towards the jetty to come down.

Q.—How far do you think the “Norefjord” would have gone in five minutes in the five minutes that you took to get on the other side of the “Alcoa Rambler”? A.—I don't know. I am not a navigator by any means. 10

Q.—That is what you say, anyway? A.—Yes.

THE COURT:

His little ship and the plaintiff's ship were going in opposite directions, weren't they?

MR. SMITH:

They were up to the time she rounded the stern. Then, of course, according to his story, she was paralleling the course of the “Alcoa Rambler”

THE COURT:

I would like to find out if, when he first saw the “Norefjord,” she was 20 under way.

BY MR. SMITH:

Q.—Was she under way when you first saw her? A.—Yes.

Q.—Before you left the jetty? A.—Just after we left the jetty.

Q.—After. What do you mean by that? A.—Just as we left the line get clear of the jetty.

Q.—You knew where she was likely going or did you have some idea where she was going? A.—Yes.

Q.—Where? A.—Coming over on the range.

Q.—Where you were leaving? A.—Yes. 30

Q.—And you proceeded towards her? A.—Yes.

Q.—But you didn't follow that? You proceeded to follow the “Alcoa Rambler” and not the “Norefjord”? A.—We went around the “Alcoa Rambler's” stern.

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RE-EXAMINED BY MR. MCINNIS:

Q.—When you first saw the “Norefjord,” was she under way? A.—Yes.

Q.—That is, did you see her from the time of her coming away from anchorage? A.—No.

Q.—I asked that question to clear up what I understood Your Lordship wanted to know. 40



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nation.*

THE COURT:

Yes, I wanted to know was she under way when he first saw her.

BY MR. MCINNES:

Q.—Was she under way? A.—Yes.

RE-CROSS EXAMINED BY MR. SMITH:

Q.—When you said she was under way, you said she was only three-quarters of a mile away? A.—Yes.

Q.—And had there been any change in course the next time you saw her when she was in the clear? Was she behind any ships at that time? A.—  
No. 10

Q.—She was in clear? A.—Yes.

Q.—And where was the “Rambler” then? A.—The “Rambler was off the Degaussing Range jetty about half a mile.

Q.—The “Rambler” was coming out? A.—Yes.

Q.—And you had to go out half a mile, didn't you, before you got to the “Alcoa Rambler”? A.—She was still proceeding down the Basin.

Q.—When you left the jetty, she must have been further up the Basin, wasn't she? A.—She was proceeding down the Basin so that would bring her handier to me.

Q.—I know, but at the time you left the jetty, she must have been further up than you say, because you had to go out half a mile and then went around her stern, is that right? A.—Yes.

Q.—So that when you first saw the “Alcoa Rambler” she was further up than just opposite the jetty?

MR. MCINNES:

I don't think my learned friend should accuse—

MR. SMITH:

Surely this is cross-examination.

MR. MCINNES:

—with a mistatement when the “Alcoa Rambler” was off the jetty 30 and not up the Basin, as my learned friend forms his question.

MR. SMITH:

I don't know if my learned friend understands my question—with all deference.

THE COURT:

I understand why you were asking the question, because she was making some headway and she was down some way.

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BY MR. SMITH:

Q.—As I understand it, your evidence is that at all times there were no ships between you and either ship? A.—No.

Q.—There were no anchored ships, I mean? A.—No.

Q.—You don't know anything about what ships were lying at anchor? A.—No.

Defendants  
Evidence.

No. 22  
In the  
presence  
of the  
Trial  
Judge,  
Stanley  
Cook,  
Re Cross  
Exami-  
nation.

BY MR. MCINNES:

Q.—You say that when you first saw the “Alcoa Rambler” she was half a mile away from you? A.—Away from the jetty, yes.

Q.—Away from the jetty? A.—Yes.

Q.—Did you have to go half a mile yourself to go under her stern? A.—No quite, no.

Q.—That is, was the “Alcoa Rambler” approaching nearer to you? A.—Yes, the fairway, the way it lays, it is coming down towards the jetty all the time.

10

RECORD  
PART I

## Decision of Mr. Justice Carroll, L. J. A.

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

Mo. 23  
Decision.  
Mr. Justice  
Carroll,  
L. J. A.,  
Dated  
27th  
October,  
1944

CARROL, J. On August 20th at about 9:18 a.m. the ship "Norefjord," owned and controlled by the plaintiff, and the defendant ship "Alcoa Rambler" came into collision in Bedford Basin, which is the upper reaches of Halifax Harbour. The weather was fine, little or no wind, and no appreciable tide. The "Norefjord" was anchored in the western side of the Basin and the "Rambler" in a place assigned to ship carrying explosives.

The plaintiff ship left her anchorage for the Degaussing Range located on the eastern side of the Basin, which would necessitate her crossing the fairway. 10

The "Rambler" was bound out of the Harbour through the Narrows and her course would be in a general southerly direction, and the course of the plaintiff, when lines were cast off, was practically east.

The plaintiff ship was in charge of a pilot, Charles Tupper Hayes, and the "Rambler" in charge of Pilot Clark from the time the ships left their berths until the collision. Both these pilots testified at the trial, and, as very often happens, their evidence is contradictory.

The Case, I think, boils down to a consideration of the question as to whether these were crossing vessels within the meaning of Rule 19 of Regulations for Preventing Collision: 20

"When two steam vessels are crossing so as to involve risk of collision, the vessel which has the other on her starboard side shall keep out of the way of the other."

I find as a fact that at all times up until some manoeuvres just before the collision that the plaintiff vessel was on an easterly course, with the "Rambler" on her port bow, and the "Rambler" was going in a southerly direction with the plaintiff ship on her starboard side. There was no such situation at any time after the plaintiff cast off lines, when the ships were on parallel courses. Neither was the plaintiff at any time on what one of the witnesses described as making a circle. The ships were cross- 30  
ing ships within the meaning of the rule, and there was a duty incumbent on the "Rambler" to keepout of the way of the plaintiff ship.

Another question to be answered is whether the plaintiff ship kept her course and speed in compliance with Article 21:

"Where, by any of these rules, one of two vessels is to keep out of the way, the other shall keep her course and speed."

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

No. 23  
Decision.  
Mr. Justice  
Carroll,  
L. J. A.,  
Dated  
27th  
October,  
1944.

There were a number of vessels in the Basin on the morning in question; but, according to Captain Verge of the Tug "Bansurf," there was a straight channel down between the ships at anchor and across the Basin and the only interference to that course was made by a tug and scow going into the Basin when the plaintiff went to starboard to safely avoid the tug. Pilot Hayes, of the plaintiff ship corroborated this evidence and further said that when the tug and tow were fairly clear he ordered an easy porthelm, which brought his ship back on course to the Degaussing Range, I am accepting this evidence of both Pilot Hayes and Captain Verge as true. A deviation of course to that extent and under those circumstances is not a contravention of Article 21. 10

The Echo, 1917, Probate Division 132;

The Velocity (1869) L. R. 3, P. C. 44.

So I find that up to the time of a manoeuvre or two by the plaintiff ship shortly before the accident she kept her course.. As to speed, the same I find is true, that the speed of the plaintiff ship, five or six knots, was kept consistently up to the stage to which I shall later refer.

At about the time the plaintiff swung to port and to her course, Pilot Hayes noticed the spars of another ship beyond an intervening ship coming coming down the Basin, which was the "Rambler," at the distance of about 2000 feet. The Plaintiff ship was then making five or six knots. The plaintiff gave one blast indicating a starboard move. The "Rambler" immediately answered with three short, indicating an astern movement. There was, in my opinion, at that moment sufficient space and time for the plaintiff to safely cross the bow of the "Rambler" had the "full astern" order been obeyed and the "Rambler's" mechanism responsive, and certainly so had the "Rambler" dropped an anchor. Pilot Hayes testified that after the three blasts the "Rambler", which had been moving slowly, seemed to pick up speed. Captain Verge, who was in a commanding position to see, testified that almost immediately after the three blasts from the "Rambler" she picked up speed. He watched for back astern movement of the engines but instead there was a forward movement. The ships were then, in his opinion, 2100 feet apart. There is no reason why I should not give credit to Verge's testimony in this matter. I accept it. It is corroborated by the evidence of Pilot Hayes. Therefore, one of two things happened: The engineer must have misconstrued his ship's three-blast signal or the engines failed to properly respond. To indicate that there was something wrong, there is the evidence of Mr. Johnston, third officer on the "Rambler," who was in the wheel house. He testified that after the astern signal his Captain came in to give the jingle astern, went out and in thirty seconds came back again used the telegraph for some purpose. He also said there was excitement around with the Captain of the "Rambler" grumbling and growling." why jingle, especially twice, if the ship responded to 30 40

RECORD  
PART I

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

No. 23  
Decision.  
Mr. Justice  
Carroll,  
L. J. A.,  
Dated  
27th  
October,  
1944.

the astern order, and there was a full speed astern. Now, the pilot and Captain of the "Rambler" knew that the plaintiff ship was proceeding to the Degaussing Range even before the ships came into full view of one another. Captain Verge was hailed from the "Rambler" by, I believe, the pilot Mr. Clark as to where the plaintiff ship was going, and was told to the range. This evidence is corroborated by the testimony of Johnston, third officer on the "Rambler". The Captain of the "Rambler" was there and got the information.

The collision might have been avoided had the "Rambler" reversed in time and certainly so if she had reversed and had thrown out an anchor 10 after giving the three-blast signal. She could, in my judgement, also have avoided the collision by directing her course to starboard to go under the plaintiff's stern. In thus failing to take the proper steps to keep out of the way of the crossing vessel, the "Alcoa Rambler" must be held to be at fault and must bear blame for the collision.

The one-blast signal by the plaintiff ship, already mentioned, must be considered. It indicated a change of course for the purpose, says Hayes, to give more space to get across. It may have to an extent misled the "Rambler" but only to a momentary extent because its three-blast signal indicated that it knew it was the burdened ship. However, I deem it a 20 fault, and the plaintiff ship must bear a small share of blame for the collision.

Dealing with manoeuvres of the plaintiff ship, when between 75 and 100 yards from the "Rambler" I cannot find that she was in any fault. Putting the engines astern, then ahead, and astern again, was, I am advised,—and it is my own opinion—was done to impart as quick and radical a starboard swing to the plaintiff ship as possible. It cannot be looked upon as a change in course in contravention of the rule, but was a manoeuvre performed in the agony of collision. The pilot used his best judgment, which seems to me to be good judgement under the circumstances.

There was considerable argument concerning a "traffic rule" in force 30 in Halifax Harbour and its application to the circumstances of this case. This traffic regulation follows:

"Ships entering harbour and carrying explosives will be escorted from the Boom to the Quarantine Anchorage by a Naval Craft flying International Letters I. C. They will remain in Quarantine Anchorage until they have been examined and found to be in safe condition and will then be moved to a berth in Bedford Basin. On this passage the Naval Craft will again provide escort. All ships seeing the naval vessel flying International I. C. are to keep well clear."

RECORD  
PART 1

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

No. 23  
Decision,  
Mr. Justice  
Carroll,  
L. J. A.,  
Dated  
27th  
October,  
1944.

The "Rambler" was being escorted *out of Bedford Basin* on the day in question by a naval escort. She was flying the flag. There is some question as to whether Hayes, who had control of the navigation of the plaintiff ship, recognized the escort as such, and there is some question as to whether the "Rambler" gave the K signal, and there is some question as to whether the regulation applies to ships outbound from Bedford Basin; but, for the purposes of this decision, and for that only, I take it that Hayes knew the "Rambler" was carrying explosives, that she sounded the K signal and that the ship was bound to have an escort under the rule. Notwithstanding all this, I still am of opinion that, under the circumstances of this case, there was no obligation on the plaintiff ship to do other than she did, or to manoeuvre differently because of the presence of the ammunition ship. I take it that there was more reason for the "Rambler" to be careful than the ordinary ship because she new without doubt of her own dangerous cargo. I do feel, however, had the K signal been given by the "Rambler" in advance of the full speed astern signal, that the probabilities are that the plaintiff ship would have been a little differently handled, but not on the ground that the traffic regulation has any precedence over the Rules of the Road.

The blame for the collision will be distributed in the proportions of three-fourth parts to the "Alcoa Rambler" and one-fourth part to the "Norefjord."

## Notice of Appeal

No. 24  
Defendants  
Notice of  
Appeal.  
Dated  
13th Nov.  
1944.

TAKE NOTICE that Alcoa Steamship Company, Inc. intends to and does hereby appeal to the Supreme Court of Canada from the judgment or decision of the Honourable Mr. Justice Carroll, Local Judge in Admiralty for the Nova Scotia Admiralty District of the above named Exchequer Court of Canada given herein on or about the 27th day of October, 1944, and that the same has been set down for hearing on appeal in the Supreme Court of Canada.

AND FURTHER TAKE NOTICE that the required security has been deposited with the Registrar of the Supreme Court of Canada.

DATED at Halifax, Nova Scotia this 13th day of November, A.D., 1944.

To the Plaintiff Oivind Lorentzen as Director of Shipping and Curator of The Royal Norwegian Government, or his solicitor or agent

DONALD MCINNES,  
Solicitor for Alcoa Steamship Company, Inc.

To the Registrar of the Exchequer Court of Canada, Nova Scotia Admiralty District, and

RECORD  
PART I

# Receipt for Deposit of Security

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

"B." No. 820.  
The Bank of Montreal.

... 15th ... day of ... November ... 1944

No. 25  
Receipt  
Deposit of  
Security  
by  
Defendant.

\$50.00. *The Ship "Alcoa Rambler" and Ovind Lorentzen . . . . .*

**This is to Certify** that Mr. E. F. Newcombe, K. C., . . . . . has this day paid into this Bank, to the credit of the account of the Registrar of the SUPREME COURT OF CANADA, and one of the Judges thereof, the sum of . . . . . *Fifty . . . . .* 00 Dollars. 10

FOR THE BANK OF MONTREAL,  
1-5 OTTAWA, ONT.  
W. A. MONTGOMERY.

*Manager*

## Decree

No. 26  
Decree  
dated  
20th  
Nov. 1944.

On this 20th day of November A.D., 1944,  
Before The Honourable Mr. Justice Carroll, District Judge in Admiralty.

The Judge having heard and read the evidence adduced in this action and counterclaim, and having heard Counsel as well for the Plaintiff as for the Defendant, and having read the arguments of Counsel submitted in writing, pronounced the collision in question was occasioned as to three-quarters by the fault or default of the Owners, Master and Crew of the Steamship "ALCOA RAMBLER" and as to one-quarter by the fault or default of the Owners, Master and Crew of the Steamship "NOREFJORD" and he condemned the Defendant Alcoa Steamship Company Inc. in three-quarters of the amount to be found due to the Plaintiff Ovind Lorentzen as Director of Shipping and Curator of the Royal Norwegian Government in his claim for damages in consequence thereof and in three-quarters of the costs of the action and counterclaim to be taxed and he also condemned the Plaintiff in one-quarter of the amount to be found due to the Defendant in its counterclaim for damages in consequence thereof and in one-quarter of the said costs of the claim and counterclaim; 20 30

And he ordered that accounts should be taken of the claim and of the counterclaim and he referred the same to the Deputy District Judge in Admiralty to report the amounts due respectively on the claim and counterclaim and he ordered that all accounts and vouchers with the proofs in support thereof should be filed within such time as the said Deputy District Judge might order.

(Sgd.) L. S. WHINYARD  
DISTRICT REGISTRAR

RECORD  
PART I

## Notice of Cross Appeal

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

No. 27  
Plaintiff's  
Notice of  
Cross  
Appeal.  
Dated  
22nd. Nov.,  
1944.

TAKE NOTICE that the above-named Respondent (Plaintiff) intends upon the hearing of the appeal under the Appellant's Notice of Appeal dated the 13th day of November A.D. 1944 from the decision or judgment of the Honourable Mr. Justice Carroll, District Judge in Admiralty of the Nova Scotia Admiralty District of the Exchequer Court of Canada, to contend that so much of the said decision or judgment as adjudges or orders that the S. S. "Norefjord" was in fault and that the S. S. "Norefjord" and the Respondent, as owner of the said S. S. "Norefjord", must bear one-fourth part of the blame for the collision between the S. S. "Norefjord" and the S. S. Alcoa Rambler should be rescinded and that instead thereof it should be adjudged and ordered that the said S. S. "Norefjord" and the Respondent, her owner, were not in fault and are not responsible for the said collision in any degree and that the S. S. "Alcoa Rambler" and her owner, the Appellant, are solely responsible for the said collision, and that the Respondent recover the whole of his damages occasioned thereby and that the counterclaim be dismissed with costs of the action and counterclaim as well as of the said appeal. 10

Dated at Halifax, Nova Scotia, this 22nd day of November, A.D. 1944.

F. D. SMITH, 20  
85-93 Granville Street,  
Halifax, Nova Scotia.

*Solicitor for Ovind Lorentzen as Director of Shipping and Curator of the Royal Norwegian Government, the above-named Respondent.*

To Alcoa Steamship Company, Inc. its solicitor or agent.



RECORD  
PART I

## Agreement Settling Case

*In the  
Exchequer  
Court  
of Canada,  
Nova Scotia  
Admiralty  
District.*

No. 28  
Agreement  
Settling  
Case.  
Dated  
15th Jan.  
1945.

IT IS AGREED by an between the solicitors for the parties hereto that the following documents shall constitute the printed case on appeal to the Supreme Court of Canada.

1. The Preliminary Acts of both parties.
2. The Minutes of Evidence including the Minutes of evidence taken by both parties by consent before trial.
3. The Decision of His Lordship Mr. Justice Carroll, Local Judge in Admiralty.
4. The Decree and Order based on the said Judgment. 10
5. Receipt for Security of Alcoa Steamship Co., Inc. in the sum of fifty Dollars (\$50 00 on file in this appeal.
6. Notice of Appeal.
7. Notice of Cross-Appeal.
8. The Exhibits tendered at the trial. A substantial number of copies of the several charts of Bedford Basin filed as exhibits are to be prepared and such charts are to be incorporated in a Plan Book. Photostatic copies of the exhibits dealing with the Log Book of the NOREFJORD are to be prepared (The entries being in the Norwegian language) and included in the Plan Book. Transla- 20  
tions are to be available.
9. Solicitor's Certificate under Rule 13 Form O.
10. This Agreement.
11. Certificate of the Registrar.

DATED at Halifax, N. S., this 15th day of January, A.D. 1945.

DONALD MCINNES  
Solicitor for ALCOA STEAM-  
SHIP CO. INC. Owners of the  
ALCO RAMBLER,  
*Appellant.*

F. D. SMITH  
Solicitor for IVIND LORENT-  
ZEN, as Director of Shipping  
and Curator of The Royal  
Norwegian Government, 30  
*Respondent*

RECORD  
PART I **CERTIFICATE OF THE REGISTRAR OF THE EXCHEQUER COURT  
OF CANADA**

*In the  
Exchequer  
Court  
of Canada  
Nova Scotia  
Admiralty  
District.*

## **Nova Scotia Admiralty District**

No. 29  
Certificate  
of Registrar  
Exchequer  
Court.  
Nova Scotia  
Admiralty  
District.

I, the undersigned, Registrar of the Exchequer Court of Canada Nova Scotia Admiralty District, do hereby certify that the foregoing printed document from page 1 to page 296 inclusive, is the case stated by the parties pursuant to the Supreme Court Act and the Exchequer Court Act and the Rules of the Supreme Court of Canada and Exchequer Court of Canadian an appeal and cross-appeal to the said Supreme Court of Canada, in a certain case pending in the said Exchequer Court of Canada Nova Scotia Admiralty District between the said parties. 10

In testimony whereof I have hereunto subscribed my name and affixed the seal of the Exchequer Court of Canada Nova Scotia Admiralty District at the City of Halifax this 21st day of February, A.D. 1945.

**L. S. WHINYARD**  
Registrar.

## **Certificate of Solicitor**

No. 30  
Solicitor's  
Certificate  
dated  
21 Feb. 1945

I, Donald McInnes, of the firm of Macdonald, McInnes, MacQuarrie & Pattillo, solicitors for the Appellant, hereby certify that I have personally compared the annexed printed case in appeal to the Supreme Court of Canada with the originals and that the same is a true and correct reproduction of said originals. 20

DATED at Halifax, N. S., this 21st day of February, A.D. 1945.

**DONALD MCINNES**  
Macdonald, McInnes, MacQuarrie &  
Pattillo,  
Solicitors for the appellant.

## NO. 31

RECORD  
PART 1*In the  
Supreme  
Court of  
Canada.*REASONS FOR JUDGMENT OF THE SUPREME COURT  
OF CANADA

THE HONOURABLE THE CHIEF JUSTICE:

No. 31  
Reasons for  
Judgment  
of the  
Supreme  
Court of  
Canada by  
the Honour-  
able The  
Chief  
Justice.

The Norwegian ship "Norefjord," owned and controlled by the respondent, came into collision with the appellant ship "Alcoa Rambler" in Bedford Basin in the Harbour of Halifax.

The learned trial judge, sitting in the Nova Scotia Admiralty District of the Exchequer Court, held that the blame for the collision should be distributed in the proportions of three-fourths parts to the "Alcoa Rambler" and one-fourth part to the "Norefjord." 10

The learned judge thought the case resumed itself into a consideration of the question as to whether these were crossing vessels within the meaning of Rule 19 of Regulations for Preventing Collision:

"When two steam vessels are crossing so as to involve risk of collision, the vessel which has the other on her starboard side shall keep out of the way of the other."

He said that the respondent ship had left her anchorage for the De-gaussing Range located on the eastern side of the Basin, which would necessitate her crossing the fairway. 20

The "Rambler" was bound out of the Harbour and her course would be in a general southerly direction, while the course of the respondent ship would be practically east.

Having found that the ships were crossing ships within the meaning of the Rule, the learned judge established that there was a duty incumbent on the "Rambler" to keep out of the way of the "Norefjord," and that as a result, under Article 21, the "Rambler" being bound to keep out of the way, the "Norefjord" had to keep her course and speed.

However, it was found by the learned judge that the "Norefjord" "gave one blast indicating a starboard move" and that the "Rambler" immediately answered with three short, indicating an astern movement. 30

An independent witness, Captain Verge, testified that after the three blasts the "Rambler" picked up speed. The learned judge gave credit to Verge's testimony and he accepted it, further pointing out that it was corroborated by the evidence of Pilot Hayes in charge of the "Norefjord."

RECORD  
PART I*In the  
Supreme  
Court of  
Canada.*No. 31  
Reasons for  
Judgment  
of the  
Supreme  
Court of  
Canada by  
the Honour-  
able The  
Chief  
Justice.

Continued.

The learned judge asserted that the one-blast signal by the respondent ship may have to an extent misled the "Rambler," although only to a momentary extent because, in his opinion, the three-blast signal from the "Rambler" indicated an admission that she was the burdened ship.

Nevertheless, he deemed it a fault and for that reason apportioned the blame for the collision to the "Norefjord" for a one-fourth part.

But the learned judge did not take into consideration that the "Rambler" was an ammunition ship flying International Letters I. C. and that she was being escorted out of Bedford Basin, on the day in question, by a naval escort.

10

Now, there is no doubt whatever that Hayes, the Pilot of the "Norefjord" was fully aware of the meaning of the I. C. flag. When asked about it in the course of his evidence, he said it meant "Keep out of my way, I have a dangerous cargo aboard." And he also knew that when you see an outbound vessel with an escort launch flying the I. C. flag, it meant "It is escorting an ammunition ship."

Hayes stated he was familiar with these regulations and that he had a copy of them.

He well knew the practice and the rules. The fact is that the flying of that flag signifies the presence of explosives to the knowledge of pilots 20 and others in the Port of Halifax.

Captain Verge said: "When they are moving in and out with explosive ships, the Navy sends an escort boat ahead of them."

Captain Verge himself saw both the flag and the escort launch. There is therefore no apparent reason why the Pilot and the Master of the "Norefjord" should not have seen them. They ought to have seen them, and the fact that they did not discern them only shows their careless indifference in the circumstances.

Moreover, when the Norefjord came into view, the Alcoa Rambler's naval escort speeded over towards the side of the Norefjord and hailed her 30 with a warning to keep clear of the munitions ship. And although that hail was answered with a movement of the arm by someone on the Norefjord's bridge, the Norefjord admittedly paid no attention to it. She kept on going full speed ahead.

Now, there was a traffic regulation in force in Halifax Harbour dealing precisely with that question of Naval crafts flying International Letters

RECORD  
PART 1

*In the  
Supreme  
Court of  
Canada.*

No. 31  
Reasons for  
Judgment  
of the  
Supreme  
Court of  
Canada by  
the Honour-  
able The  
Chief  
Justice.

Continued.

I. C. and the escort to be provided for them. That regulation enacted that "all ships seeing the naval vessel bearing International I. C. are to keep well clear."

The learned trial judge stated that there was some question as to whether the regulation applied to ships outbound from Bedford Basin.

But he added that, for the purposes of his decision, he took it that Hayes knew the "Rambler" was carrying explosives, that she sounded the "K" signal and that the ship was bound to have an escort under the rule.

Notwithstanding all this, he stated it to be his opinion that, under the circumstances of this case, there was no obligation on the "Norefjord" 10 to do other than she did, or to manoeuvre differently because of the presence of the ammunition ship.

Whether or not the traffic regulation in Halifax Harbour should be held to have precedence over the Rules of the Road, the evidence is too clear that it was undoubtedly the practice in the Harbour, both for incoming and outgoing vessels, to act in accordance with that regulation.

Why the practice was not followed by the "Norefjord" in the present case, I am unable to understand. A careful study of the record, of the explanations both from the Master and Pilot, of the respondent ship, and I may say, with respect, of the judgment appealed from, has failed to dis- 20 close any reason or excuse for it.

Article 27 is to the effect that:

"In obeying and construing these rules due regard shall be had to all dangers of navigation and collision and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger."

In my opinion, the situation in which the vessels first saw each other was governed by that article of the regulations. In conformity with the very words of the article, it should not be held that a ship is to adhere to the printed rules, notwithstanding and in disregard of the requirements of 30 ordinary prudence.

It is clear that, according to the established practice in the Harbour of Halifax, the "Rambler" being an ammunition ship and flying the International Letters I. C. and being escorted out of the Basin by a naval escort, was entitled to rely upon that practice, and to assume that the respondent ship would keep out of her way on account of the dangerous cargo the "Rambler" was carrying.

RECORD  
PART I

*In the  
Supreme  
Court of  
Canada.*

No. 31  
Reasons for  
Judgment  
of the  
Supreme  
Court of  
Canada by  
the Honour-  
able The  
Chief  
Justice.

Continued.

No. 32  
Reasons for  
Judgment  
of the  
Supreme  
Court of  
Canada by  
the Honour-  
able Mr.  
Justice  
Kerwin.

The "Norefjord" did not do that and I think she should bear the whole responsibility for the collision.

I would therefore allow the appeal with costs and, reversing the judgment appealed from, maintain the action of the appellant, also with costs.

There should be a reference to ascertain the damages of the appellant.

It follows that the cross-appeal should be dismissed with costs.

## NO. 32

### REASONS FOR JUDGMENT OF THE SUPREME COURT OF CANADA

KERWIN, J.:

I agree in the allowance of the appeal and the dismissal of the cross- 10  
appeal with costs. The action should be dismissed and the counter-claim  
allowed with costs. There should be a reference to the Deputy District  
Judge in Admiralty to determine the amount due on the counter-claim and  
judgment should go for the amount so reported subject to confirmation,  
the costs of the reference and confirmation to be disposed of by the Dis-  
trict Judge in Admiralty.

## NO. 33

No. 33  
Reasons for  
Judgment of  
the Supreme  
Court of  
Canada by  
the Honour-  
able Mr.  
Justice  
Taschereau.

### REASONS FOR JUDGMENT OF THE SUPREME COURT OF CANADA

TASCHEREAU, J.:

This action arises out of a collision which happened in Bedford Basin, 20  
Halifax, N. S. on the 20th of August, 1942, between the ships "Norefjord"  
and "Alcoa Rambler." As a result of this accident, the respondent Oivind  
Lorentzen, as director of shipping and curator of the Royal Norwegian  
Government, owners of the ship "Norefjord," brought action in the Nova  
Scotia Admiralty District of the Exchequer Court of Canada, against the  
appellant "Alcoa Steamship Company Incorporated," owners of the ship  
"Alcoa Rambler." The claim was for \$300,000. and the appellant counter-  
claimed for \$50,000.

Mr. Justice Carroll, the local judge in Admiralty, distributed the  
blame for the collision in the proportion of three-fourths parts to the "Al- 30  
coa Rambler," and one-fourth part to the "Norefjord," and both parties  
now appeal to this Court.

RECORD  
PART I

*In the  
Supreme  
Court of  
Canada.*

No. 33

Reasons for  
Judgment of  
the Supreme  
Court of  
Canada by

the Honour-  
able Mr.  
Justice

Taschereau.

Continued.

The "Alcoa Rambler" is a United States steamship of 3381 net and 5500 gross tons, and she has a length of 417 feet over all, 54 feet wide and 30 feet deep. Her normal speed is approximately eleven knots per hour. She had been anchored in the upper or northern part of Bedford Basin, and at the relevant time was laden with a cargo of general supplies for the United States Army and 1500 tons of bombs, and was going to sea for gun practice.

The "Norefjord" with a cargo of 4653 tons of sulphur had been lying on the south-western side of Bedford Basin, just slightly above Mount St. Vincent Academy, at approximately 500 yards from the shore. She was proceeding to the Degaussing Range near Wright's Point on the eastern side of Bedford Basin. 10

It is admitted by both parties that it is the stem of the "Alcoa Rambler" that came into contact with the port side of the "Norefjord" amidships at the watertight bulkhead between No. 3 hold and the stokehold. As a result of the impact, the damage to the "Norefjord" was so serious, that she had to be grounded to avoid a total loss.

The main question that has to be determined is: Which of the two ships had the right of way? It is the contention of the plaintiff-respondent that the "Norefjord", going approximately in a north-east direction, towards the Degaussing Range was the privileged ship, because she was on the starboard side of the "Alcoa Rambler." It is claimed that occupying such a position, Rules 19 and 21 apply, and that as a result, it was the duty of the "Alcoa Rambler" to give her the right of way. These Rules read as follows:— 20

"19. When two steam vessels are crossing so as to involve risk of collision, the vessel which has the other on her starboard side shall keep out of the way of the other."

"21. Where, by any of these rules, one of two vessels is to keep out of the way, the other shall keep her course and speed." 30

On this point Mr. Justice Carroll says in his reasons for judgment "in thus failing to take the proper steps to keep out of the way of the crossing vessel, the "Alcoa Rambler" must be held to be at fault and must bear blame for the collision."

It is submitted on behalf of the appellant that this finding reveals a misunderstanding of the application of the Rules, and that the fundamental error of the trial judge was to assume that the "Norefjord" was on a "definite course," a necessary element to make her a privileged ship, and that even if originally she had that special character, she waived her rights by

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giving a one-blast signal, indicating that she would not cross in front of the "Alcoa Rambler," but that she was taking a different course to her right.

Moreover, the appellant invokes, and relies upon, the provisions of the Public Traffic Regulations of the Port of Halifax, section 33(a). This section reads as follows:—

"Ships entering harbour and carrying explosives, will be escorted from the Boom to the Quarantine Anchorage by a Naval craft flying International letters I. C. They will remain in Quarantine Anchorage until they have been examined and found to be in safe condition and will then be moved to a berth in Bedford Basin. On this passage the Naval craft will again provide escort. All ships seeing the Naval Vessel flying International I. C. are to keep well clear." 10

These regulations have been issued pursuant to P. C. 2412 dated the 26th of August, 1939, under the authority of The War Measures Act, 1914, Statutes of Canada, Chap. 2.

On that morning of August 20th, 1942, Bedford Basin was the scene of great activity as usual. Many ships were anchored while others were getting ready for departure. The weather was clear and the visibility was good. The "Alcoa Rambler" drew away from her anchorage at 8.56 A.M. She swung to shape her course towards the Narrows in a north-west south-east direction, and proceeded under reduced speed. From the moment of her departure until the time of the collision her speed was, according to the engineer's log, 20

8.56	Half ahead	
9.03	Slow ahead	
9.12	Half ahead	
9.14	Slow ahead	
9.15	Stop	
9.16½	Full astern	
9.17	Full astern jingle	30
9.17½	Full astern jingle.	

She was escorted by a small Naval craft which proceeded ahead of her, and was flying a pilot flag and the red "B" signal, indicating explosives. The escort vessel was flying the signal flags I. C. and also the red "B" flag of danger. The I. C. signal indicated that the Naval craft was escorting a ship loaded with explosives; its literal code translation being: "You should keep clear of me. I am loaded with dangerous cargo."



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The "Norefjord" which, as already stated, had been lying at anchor on the south-western part of the Basin, lifted her anchor at 9.05. When she left her anchorage, she was obscured by other anchored vessels which were located between her and the outbound "Alcoa Rambler." In order to proceed to the Degaussing Range, she necessarily had to cross the "Alcoa Rambler," and if the Public Traffic Regulations of the Port of Halifax do not apply, she had the right of way under Rules 19 and 21, and the "Alcoa Rambler" being the burdened ship, had to keep out of her way.

When the "Norefjord" commenced to manoeuvre, her master and pilot happened to notice the "masts" of the oncoming "Alcoa Rambler" through the intervening other anchored vessels, and the movements of the "Norefjord" were also partly observed by the officers of the "Alcoa Rambler." If it were obvious that the "Alcoa Rambler" was proceeding on a straight line to the Narrows, it was more problematical to determine the course that would be followed by the "Norefjord." When she lifted her anchor, although her original heading was in a northerly direction, the tug Bansurf pushed on her starboard bow, swinging her in an easterly direction towards the Narrows. As pilot Hayes says in his evidence: "When I let the tug go, we were heading practically east." She then proceeded ahead with the rudder to port, and was making from five to six knots an hour, and was picking up speed. When she was first observed by the officers of the "Alcoa Rambler," her masts gave the appearance that she was heading towards the east, and there was no indication after this swinging movement, that she would turn to port and proceed across the course of the "Alcoa Rambler."

In sighting the moving masts, the "Alcoa Rambler" stopped her engine, and shortly thereafter the "Norefjord" which had already given a first-blast signal, gave a second one-blast signal, announcing that she intended to go to starboard. This is what the pilot of the "Norefjord" says:—

Q.—And did your ship proceed? A.—Yes.

Q.—And what was your course? A.—I wasn't steering any course.

Q.—No. You were steering no compass course? A.—No. The Basin was so congested with ships it was impossible to steer any course.

Q.—You might just tell the Court exactly what happened from the time you started ahead? You put the engine at full speed, did you? A.—Yes.

Q.—All right. Just tell from there what happened? A.—After putting the engine full speed ahead, we continued on our course for a short distance and then noticed a tow boat with barge go across our bow going up the Basin.

Q.—A tow boat with barge going up the Basin? A.—Yes.

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Q.—How far was the tow boat away? A.—About 300 yards, and I blew one-blast and starboarded her helm. The ship swung to the right.

Q.—And what happened to the tug and tow? A.—We kept on going and when I saw he was finally clear I told the fellow to ease his helm, which he did, and I told him to port his helm easy.

Q.—Now, what was your object in porting your helm easy? A.—I had to port where I was wanting to go up on the Degaussing Range.

Q.—All right. What was done from then on? A.—As she was swinging, when she started to swing to port, I happened to notice a ship's spars over another ship at anchor. The other ship at anchor was anchored about west of the Degaussing Range. When he came in the clear that I saw he was coming down the Basin to the Narrows, I blew one blast indicating that we were starboarding her helm. I told the helmsman to put the wheel hard to starboard because she had a port swing on her then. 10

Q.—How far do you estimate the other ship was when you first saw her spars? A.—A couple of thousand feet or more.

Q.—Then later, you say, she came in the clear? A.—Yes.

Q.—What do you mean by that, it was clear water between the two of you? A.—Yes, she came clear of the other ship. I had a clear view of her and I could see what she was doing." 20

This movement to starboard would have brought the "Norefjord" practically in a parallel line with the "Alcoa Rambler," and all possibility of danger would therefore have been eliminated. But unfortunately, instead of proceeding as indicated by the one-blast signal, the "Norefjord" emerged into full view under the stern of an anchored vessel, swinging to her port side and heading across the course of the "Alcoa Rambler." Realizing then the imminence of danger, the "Alcoa Rambler" immediately reversed, blew a signal of three short blasts to indicate her reversed engine, and then followed promptly by the "K" signal of three blasts meaning: "You are standing into danger." 30

It must also be noted that when the "Norefjord" came into view, the "Alcoa Rambler's" naval escort speeded over towards the side of the "Norefjord," and hailed with a warning to keep clear of the munition ship. Although this hail was acknowledged with a wave of the hand by a member of the crew of the "Norefjord," the pilot and the master denied understanding the message.

After having given the "K" signal of three blasts, and seeing that the "Norefjord" was not going to the right as advertized, the officers of the "Alcoa Rambler" rung the engine telegraph twice again "full speed astern" at 9.17 and 9.17½. An anchor was immediately dropped, and when both ships came into contact, the "Alcoa Rambler" was practically stopped. It is fair to say, as suggested by the appellant, that it was the "Norefjord," moving ahead at several knots an hour, which hit the "Alcoa Rambler."

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The learned trial judge reached the conclusion that the collision might have been avoided had the "Alcoa Rambler" reversed in time, and had thrown out an anchor after giving the three-blast signal. For failing to take the proper steps to keep out of the way of the crossing vessel, the "Alcoa Rambler" was held to be at fault and to bear three-fourths parts of the blame. As to the "Norefjord," the learned trial judge found that she should be held liable for one-fourth part, because the one-blast signal given by her indicated a change of course which misled the "Alcoa Rambler," but only to a momentary extent.

Unfortunately, and with great respect, I cannot agree with these views 10 of the learned trial judge. I believe that the sole and determining cause of the accident is this one-blast signal given by the "Norefjord." Admitt- ing for the purpose of the argument, that the "Norefjord" was on a "defi- nite course", she had the right of way, and it was upon the "Alcoa Ramb- ler" to stop. But, the "Norefjord," obviously by giving this one-blast signal, indicated that she would go to starboard, and that conveyed to the officers of the "Alcoa Rambler" the very definite impression that the "Norefjord" was taking her course to the right.

I agree that if the "Alcoa Rambler" had put her engine full astern 20 and had dropped an anchor before she did, the collision might have been avoided; but the blame for this delay must be attributed to the "Noref- jord." When the "Alcoa Rambler" realized the possibility of danger, she stopped her engine, and the one-blast signal that came from the "Noref- jord," indicating a starboard movement, dispensed her from taking any further action. Why should she reverse and cast her anchor, if the "Noref- jord" after hesitating as to the course that she would follow, had definitely signalled her intentions to go to starboard? No fault can be attributed to the officers of the "Alcoa Rambler," and their conduct cannot be qualified as negligent, if with their engine at "stop", they waited for a few moments 30 to observe the manoeuvre that would eliminate all possibility of accident. It is precisely this "temporary misleading" that occasioned the delay and consequently the accident.

It seems clear to me that this one-blast signal, and the failure by the "Norefjord" to act as indicated, and to follow the course that the "Alcoa Rambler" was justified to anticipate, are sufficient excuses for any delay from the "Alcoa Rambler" in reversing her engine and casting her anchor. It is solely this misleading signal, and this unexpected course followed by the "Norefjord," that created the sudden emergency, which made it impossible for the "Alcoa Rambler" to avoid the accident. Under the cir- cumstances, her officers who were on the alert, were fully justified in be- 40 lieving that the "Norefjord" was not crossing in front of them, and that as a result, they were not burdened in favour of a privileged ship. They

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displayed the seamanship that ordinary prudent men would have, and I think that the "Norefjord" should alone bear the consequences of this accident.

In view of these conclusions, it is unnecessary to determine whether or not, the Public Traffic Regulations of the Port of Halifax (section 33a) apply in the present case.

I should allow the appeal and dismiss the cross-appeal. The principal action should therefore be dismissed and the counter-claim maintained, the whole with costs here and in the court below. The record should be referred to the Admiralty Court for determination of damages on the counter-claim. 10

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REASONS FOR JUDGMENT OF THE SUPREME COURT OF CANADA

RAND, J.:

This is an action arising out of a collision between two vessels in Halifax harbour. The "Alcoa Rambler" owned by the Appellant, was proceeding southeasterly down Bedford Basin to the Narrows outbound, and the "Norefjord", from the southwestern part of the Basin to the degaussing range on the lower eastern side. The Local Judge in Admiralty held that they were crossing ships within the meaning of No. 19 of the International Rules and that the Rambler, as the burdened vessel, had failed to fulfill her duty; but he considered the Norefjord to have contributed somewhat to the accident, and he distributed liability in the proportions of 75% against the Rambler and 25% against the Norefjord. From this judgment both parties appeal. 20

The application of Rule 19 was made as a general conclusion which dispensed with a detailed examination of some of the circumstances leading up to the collision, but in the view I take of the matter I find it desirable to try to reconstruct the situation within the critical period so far as that is possible. Both time and area were limited and the rough and conflicting observations and estimates made by the witnesses make that somewhat difficult, and any degree of ascertainment requires a careful weighing of the evidence offered. 30

The Rambler was approximately 417 feet in length and of 5500 gross tonnage, and was carrying a full cargo including 1500 tons of bombs. She

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was anchored in the northwesterly part of the Basin in a berthing area known as "2-D." This lies approximately north-north-west magnetic from the Narrows.

The Norefjord, 331 feet in length and of 3082 gross tonnage, with a lading of 4650 tons of sulphur, was anchored in the southwesterly portion of the Basin generally known as "B." This area is approximately half a mile square. The precise berth occupied was a matter of considerable difference of opinion between witnesses. The one specific fact that appears is that the vessel had anchored in 28 fathoms of water. Now to approach that depth, it is necessary to go to the extreme northerly limit of the area, and this brings the position near to where she is said to have been first seen by the captain of the Rambler, and in that upper portion of "B" I think her berth lay. 10

At anchor she was pointing northwesterly, and after being turned to port 180°, was heading toward Turtle Head. From there the ship moved for some distance east-southeasterly between anchored vessels in a basin which, in the words of her pilot, was "so congested with ships it was impossible to steer any course." She next went to starboard after a one blast signal to pass a tug and scow going up the Basin, and then turned on a port course which shortly before the collision had brought her head at least east by north between Turtle Head and the degaussing jetty. As she was coming into view of the Rambler, she sounded a one blast signal that she was taking a course to starboard: this the report of the pilot says was taken to avoid collision; but whatever helm action was taken, the captain admits the effect on the vessel's course was "little." 20

She had been early set at full speed, and this was maintained until less than a minute before the impact. Within that time, her engines were reversed set ahead and reversed again, in a desperate effort to force a starboard swing. Her maximum speed was put by the captain at 7 knots and by the pilot at between 5 and 6: it was probably not less than 6 knots when the Rambler was first seen: and the captain admits the speed at that moment was gaining. 30

The Rambler, flying both a pilot's flag and a red flag indicating a dangerous cargo, likewise had to manoeuvre between anchored vessels; and the engines were never at more than half speed, which could produce 7 knots an hour. That maximum was not reached, however, and it seems to be clear that when the captain and the pilot first caught sight of the Norefjord beyond intervening vessels, the engine was already stopped. At the most, her speed may have touched 5 knots an hour; when the Norefjord came into full view, it was probably not more than 4 knots: and the captain of the Norefjord places it at 3. 40

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Shortly after 9 o'clock, Dyke, in charge of a naval launch, set out from the degaussing jetty toward the Norefjord. His course was about west, and the Rambler loomed up almost straight ahead. The distance between the jetty and the course of the Rambler was about one-half a mile. The launch has a speed of 7 or 8 knots and would probably reach the Rambler in about four minutes. Their courses were crossing, and the launch swung to starboard to pass under the stern. While still on the port side of the Rambler, she heard the latter give three short blasts of her whistle. When astern, at about 60 feet, three more blasts were blown, long-short-long, known as a "K" signal, which indicated a condition of danger. 10

At the time of the first three blasts, the Rambler had come into view of the Norefjord past the line of another vessel anchored and pointing in a northwesterly direction, approximately 500 feet on the starboard side of the Rambler. The distance at that moment between the moving vessels was about 2000 feet. Admittedly, the Norefjord was then swinging on a port course; there is difference of opinion as to the degree of this swing, but there can be no doubt of the course itself.

Now, when her masts were first seen, she appeared to the captain and to Clarke, the pilot of the Rambler, to be moving in a generally southeasterly direction, and their evidence is to the effect that until she came into the open they were uncertain of her destination. From the facts as I take them to have been, that would not be an unreasonable view. But the trial judge has accepted the evidence of Verge, master of the tug working with the Norefjord, who after turning the Norefjord, had swung to the north and east for the degaussing range, that he was spoken by the pilot of the Rambler to whom he gave the word that the vessel was bound for the range. As this apparently preceded the starboard signal, it presents a grave obstacle to the acceptance of the other account. Apart from that, Clarke could reasonably say that he was uncertain whether the Norefjord was outbound, or was intending to turn northerly into the Basin or to cross to the range: and the starboard signal might have meant either a change in purpose or a move to avoid danger. In any event, the single blast signified that the vessel was not holding her course; but it is evident that she was either difficult to swing or the steps said to have been taken to change her course were not in fact taken. 20 30

When the vessels were what is more or less agreed upon as about 600 feet apart and approaching each other at an obtuse angle, the Rambler gave the "K" danger signal. The three blasts were heard by the captain of the Norefjord, and although he does not admit the different lengths, I have no doubt the signal was properly given. At this moment, Dyke was passing around the stern of the Rambler and his testimony and the evidence generally make it clear that then at least the engines of the Rambler were 40

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going astern and the churning of the water visible. The pilot says full speed was maintained on the Norefjord until about 75 yards from the Rambler when he resorted to the engine action already mentioned. When the vessels met, the Rambler was, in the language of most of the witnesses, "practically stopped" while the Norefjord had some headway. The angle of impact does not seem to have been much off a right angle, and there is some evidence that just before the collision both vessels were veering slightly to starboard.

Taking the distances about which there is little or no dispute, the relative speeds and the courses, I have come to the conclusion that from the time the vessels emerged into open view of each other until the collision, the Norefjord travelled a distance of approximately 1800 feet in a swinging course to port which less than a minute before the impact ran out into a slight starboard, and in the same time the Rambler went approximately 1200 feet with very little variation in course. 10

Preceding the Rambler as she came from her berth was a naval launch which had been ordered to escort her out of the harbour. The order was given by the naval authorities at Halifax. The launch was in charge of a coxswain, a member of the Naval Reserve, with one or two seamen, and preceded the Rambler down to the point of the anchored vessel at a distance of about 200 yards. She was carrying the I. C. and the B. flags. The I. C. meant that the launch was escorting a vessel down the harbour and the red was a danger flag. As the launch came around the stern of the anchored vessel, she saw the Norefjord and at once under full speed moved southwesterly toward her. At a distance of about 60 feet, a seaman on the bow called out to those on the bridge to "keep off; there is an ammunition ship coming down the harbour." That was repeated. From the bridge some one waved his hand and at the same time the seaman caught the words "look out for yourself." The pilot admits he saw the launch and heard the seaman shouting, but claims he was too far away to hear what was said and that owing to there being no wind, he could not tell what the flags were. At any rate, no change was made in the speed or course of the Norefjord. 30

The accident took place between 18 minutes and 20 minutes after 9 a.m. I do not think it doubtful that the Norefjord was late in her appointment for the degaussing range, and it is perfectly clear that the pilot, although warned by his captain to be careful, was bent upon putting his vessel across the bows of the Rambler.

On the evidence as I read it, I would be satisfied that at the time the first blasts were blown by the Rambler, the engines were reversed; but that fact is challenged. The evidence of Verge is that when he came up to the Rambler her engines were stopped. When he had passed astern 40

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and was about 75 feet to port the three blasts were sounded. He looked to see evidence of reversed engines, but instead he saw the vessel pick up speed ahead. This piece of extraordinary evidence the trial judge has accepted. The matter was not mentioned in the preliminary acts nor was there any cross-examination of any witness from the Rambler on it. It is significant that Verge kept on his course, north of east, and went approximately 300 yards before he turned his boat southerly to look for the vessel which he was to attend. At the moment of the blasts the vessels were open to each other, and if he had seen signs that the engines instead of going astern were accelerating ahead, it surely would have aroused in him a thought or a fear of collision; but there is nothing given us of that nature. During this testimony, the trial judge suggested the pick-up in speed indicated an error in the signal: that what was intended on the Rambler was to go ahead. We are not told what such a signal would have been, and from a careful reading of the evidence, I feel bound to say there does not seem to be any support for the suggestion. 10

But with these two express findings of fact, depending on the acceptance of Verge's testimony, that he gave Clarke the destination of the Norefjord and that the Rambler quickened her speed ahead after her first signal, I am forced to disregard what otherwise would be my conclusion from the whole of the evidence; and on this basis I would reluctantly dismiss the appeal. 20

But a further question arises. Under the War Measures Act, Order in Council P. C. 2412 was made, containing regulations for the government of navigation within Canadian waters. Clause 1 reads as follows:

- “1. Every vessel within the ports of Canada or Canadian waters, as defined in the Customs Act, shall comply with such orders as to the navigation and mooring of vessels as may be issued by, or on behalf of, the Minister of National Defence, and shall obey any orders given, whether by signal or otherwise, by any officer in command of any of His Majesty's Canadian ships or of any other of His Majesty's ships or any naval, military or air force officer engaged in the defence of the coasts of Canada.” 30

Pursuant to that authority, the Rear Admiral commanding the Atlantic Coast issued a notice to mariners that within the limits of the Port of Halifax certain regulations were to be observed, among which was the following:



## "AMMUNITION AND OIL SUPPLY SHIPS"

33. (a) Ships entering harbour and carrying explosives, will be escorted from the Boom to the Quarantine Anchorage by a Naval Craft flying International letters I. C. They will remain in Quarantine Anchorage until they have been examined and found to be in safe condition and will then be moved to a berth in Bedford Basin. On this passage the Naval Craft will again provide escort. All ships seeing the Naval vessel flying International are to keep well clear." 10

Now, it was agreed that in fact ammunition ships were escorted not only into the harbour but generally outbound from it, and that what was done in this case was the usual practice. The Respondent takes the position and it was held by the trial judge that the provision of 33(a) does not apply to an outbound vessel and its language would seem to put that beyond much doubt. What it does is to prescribe an obligatory escort inbound; but it leaves untouched the question of orders for vessels moving within the harbour or outbound. The latter part of the clause is independent of general orders issued under the first part, and is obligatory of its own force. 20

Regulation 1 under Order in Council P. C. 2412 was first brought into effect in 1939, on the threshold of war. Its objects are perfectly clear, to place the harbours of the Dominion under the immediate direction of those to whom the safety of Canadian coasts has been entrusted. In the light of what happened in 1917, obviously an ammunition ship moving in the harbour at Halifax during wartime should be safeguarded and an escort seems to be the most effective means for that purpose. The question then is whether or not the direction to the Norefjord was an order "whether by signal or otherwise" given by a naval officer in command of any of His Majesty's Canadian ships, or engaged in the defence of the coasts of Canada. 30

By section nine of chapter two of the Regulations and Instructions for the Royal Canadian Navy, 1940, all warrant, subordinate and petty officers shall be appointed in such manner and hold such rank and perform such duties as may be prescribed. By section twelve, paragraph three of the same chapter, an officer or rating of any Naval Reserve Force of Canada may be employed in His Majesty's Canadian ships or establishment in lieu of an officer or rating of like or higher rating authorized but not borne. By section two, subsection two of Part I of Defence of Canada Regulations (Consolidated) 1941 which were in effect on August 20th, 1942, it is provided: 40

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“For the purposes of these Regulations, the person for the time being in charge of any vessel or aircraft shall be deemed to be the master of the vessel or the pilot of the aircraft, as the case may be.”

and the words “ship” and “vessel” are to have the same meaning as in the Canada Shipping Act, 1934. As defined by that Act, “vessel” includes any ship or boat or any other description of vessel used or designed to be used in navigation; and “ship,” every description of vessel used in navigation not propelled by oars.

The work of escort in a harbour by its nature must be carried out by such members of the Naval Service as were assigned in this case. It consists primarily in warning off other craft and in providing a clear way for the protected vessel. It is initiated by an order from Naval Headquarters to the person in charge of the naval launch. Under that instruction, the coxswain here became the master of the launch and the representative of the Naval Service to execute authority conferred on that Service by section 49 (1) of the Defence of Canada Regulations (Consolidated) (1941) (P. C. 2412 Sec. 1). I think, therefore, that he was an officer in charge of a ship of His Majesty’s Canadian Navy, and an officer engaged in the defence of the coasts of Canada, and that his warning to the Norefjord to “keep off” was an order “by signal or otherwise” under that section. His duty was of the utmost importance, and it would be intolerable in the circumstances that the authority carried by him should be flouted. Hayes, the pilot, had daily familiarity with the work of escorting launches, and if he chose to proceed with his vessel in ignorance of what had been attempted at least to be communicated to him from a naval vessel carrying the signs of her authority, he must be charged with the same responsibility as if he had heard the order and disregarded it.

There was thus a legislative regulation of the port whether within or without Rule 30 of the International Rules which was paramount to those rules. Rule 19 did not then in the circumstances apply. The Norefjord failed to obey the order given: but Clarke was entitled to assume that it would be obeyed; and it is not seriously urged that from the moment it became apparent that action by both vessels was necessary to avoid collision the Rambler failed in her duty. The Norefjord must, therefore, be visited with sole responsibility for the collision.

I would, therefore, allow the appeal, dismiss the action with costs, allow the cross-appeal and give judgment to the Appellant on its counter-claim with costs both in this Court and in the Court below.

**REASONS FOR JUDGMENT OF THE SUPREME COURT OF CANADA****KELLOCK, J.:**

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This is an appeal by the defendant from the judgment of Carroll, L. J. A., dated 27th October, 1944, in proceedings in rem in the Exchequer Court. The proceedings arose out of a collision which occurred in Bedford Basin, Halifax, on the morning of the 20th of August, 1942, between the appellant ship and the Norefjord, a ship belonging to the respondent. The Norefjord is 331' in length, 46.7' beam and 23.1' in depth. At the time of the collision she had 4,653 tons of sulphur on board. The appellant is a steamship of 5,500 gross tons. She is 417' in length, 54' in breadth and 32' deep. Her cargo included general supplies for the United States Army, including 1,500 tons of bombs. 10

The appellant was on her way out of the Basin proceeding toward the Narrows in a south easterly direction down what is known as the fairway. This fairway extends north easterly from the Narrows toward the northerly end of the Basin and in it ships were prohibited from anchoring, although, as the evidence shows, this was not always observed. The respondent ship was proceeding from an anchorage in the south westerly part of the Basin over toward its easterly side to what is known as the De-gaussing Range, for the purpose of undergoing some tests there. The contact between the vessels at the time of the collision took place between the bow of the appellant and the port side of the respondent vessel. The damage to the Norefjord was such that she had to be beached. Ultimately, the respondent instituted these proceedings in respect of this damage and the appellant counter-claimed in respect of the damage sustained by it. 20

The learned trial judge found the collision took place at about 9.18 a.m. on the day in question; that the weather was fine, with little or no wind, and no appreciable tide. He was of the opinion that the case "boils down to a consideration of the question as to whether these vessels were crossing vessels," within the meaning of Rule 19 of the International Rules of the Road. He found as a fact that at all times up until some manoeuvres just before the collision, the respondent vessel was on an easterly course with the appellant on her port bow and that there was no situation at any time after the respondent cast off lines when the ships were on parallel courses. He held that the ships were crossing ships within the meaning of the rule and that there was a duty incumbent upon the appellant to keep out of the way of the respondent. He also found that there was a straight channel across the Basin between ships at anchor for the respondent vessel and that "up to the time of a manoeuvre or two" by the respondent shortly before the accident she had kept her course and her speed of 5 or 6 knots until shortly before the collision. 30 40

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The learned judge also found that after the respondent ship turned to starboard to avoid a tug and a barge proceeding up the Basin she had swung to port "and to her course" and that at about this time her pilot noticed the spars of the appellant beyond an intervening anchored ship at a distance of about 2,000 feet, that the respondent then "gave one blast indicating a starboard move" which was immediately answered by the appellant with three short whistles which indicated a movement astern. He was of the opinion that at that moment there was sufficient space and time for the respondent to cross the path of the appellant in safety had the appellant's full astern order been obeyed and its mechanism responsive and certainly had it dropped an anchor. 10

As to the one-blast signal of the respondent the trial judge says "it indicated a change of course for the purpose, says Hayes," (the pilot of the respondent ship) "to give more space to get across," and he held that while it may have, to an extent, misled the appellant, it was only to a momentary extent "because its three-blast signal indicated that it knew it was the burdened ship." He considered the giving of this signal by the respondent a fault and for that reason attributed one-quarter of the responsibility for the collision to it. The learned judge observed that there was some question as to whether rule 33(a) of the Public Traffic Regulations of the Port of Halifax applied to ships outbound from the Basin, but held that the respondent's pilot knew that the appellant was carrying explosives; that she sounded the "K," or danger signal, and that the appellant was bound to have an escort vessel under the rule. Nonetheless he was of opinion that under all the circumstances there was no obligation upon the respondent ship to do other than she did and that there was more reason for the appellant to be careful because she knew the nature of the cargo she was carrying. 20

The judgment in appeal is attacked on a number of grounds, but particularly upon the ground that the learned judge was in error in applying Articles 19 and 21 of the rules of the road, and secondly, that the learned judge failed to give the proper effect to the one-blast signal given by the respondent ship which was the first signal given by either ship. In considering these and the other objections urged by the appellant, it will be necessary to consider the evidence in the light of the relevant findings made by the learned trial judge. 30

The Norefjord had been anchored that morning it is said in what is known as anchorage "B," at a point about 500 yards from the west shore of the Basin somewhat north and east of Mount St. Vincent Academy, as shown on Norefjord Exhibit 1. The pilot, Hayes, had come aboard at 8.40 a.m. and the weighing of anchor had commenced about 8.50. The ship was then lying heading in a northerly direction. The Norefjord was due on 40

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the Degaussing Range at 9.00 a.m. and was accordingly late. When the pilot came aboard, he was informed by the Captain that they were not yet ready in the engine-room but a few minutes later the signal came from below that they were ready. Anchor was weighed at 9.05. The ship's head was pushed around to port by the tug Bansurf, and the engine was started slowly. The next signal to the engine-room was full speed ahead, and the ship continued under this order until the first of the manoeuvres referred to by the trial judge which occurred shortly before the collision.

As already pointed out the learned trial judge was of opinion that when the lines were cast off the Norefjord, her course was practically east and he accepted the evidence of the tug captain and some evidence of Hayes that there was a straight channel down between the ships at anchor and across the Basin to the Degaussing Range and that the only interference to that course was occasioned by the tug and tow proceeding up the Basin which had occasioned the Norefjord to go to her starboard for a time. 10

The evidence, in my opinion, does not bear out this view. Captain Skelbred, the Norefjord's Captain, whose evidence was not given before the learned trial judge, but was taken before the trial and read into the record, gave the following evidence in answer to his own counsel:

"Q.—Were there other ships in the Basin at anchor? A.—Oh Yes, 20 there was lots of ships.

Q.—And did you have to manoeuvre across the Basin? A.—Oh yes, I had to manoeuvre between the ships—steer clear of the ships and manoeuvre between the ships there."

The Captain was on the bridge with the pilot, the third officer and the helmsman. Hayes, the pilot, gave the following evidence in examination in chief:

"Q.—And did your ship proceed? A.—Yes.

Q.—And what was your course? A.—I was not steering any course.

Q.—No. You were steering no compass course? A.—No. The 30 Basin was so congested with ships it was impossible to steer any course."

In cross-examination he said:

"Q.—I want you to show on this same chart the course of the Norefjord from the leaving of anchorage up to the time of collision. A.—We didn't have any course."

Hayes said that he noticed the tug and barge proceeding up the Basin at a distance of about 300 yards, and that on observing it he blew one blast, starboarded the helm and the ship swung to the right. When he saw his

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ship was clear of the tug and the tow, he ordered the helmsman to port the helm "easy" and on being asked by his counsel his object in so doing his answer was that he "had to port where I was wanting to go up on the Degaussing Range." In his report of the accident made on the day it occurred, however, he stated that when his vessel was clear of the tug and barge, "I ported easy to clear a ship at anchor" and that it was after clearing this anchored ship that he noticed the spars of the appellant beyond another anchored ship and in cross-examination he admits that this latter is the true account of the actual occurrence.

It therefore appears clearly upon the respondent's own evidence that 10  
the Norefjord did not, as the learned trial judge thought, have a straight channel between the ships at anchor across the Basin, interfered with only by the tug and barge coming up the Basin, but that, as her Captain said, she had to manoeuvre between the ships which were there. At a later stage the Captain also said that all the waters of the Basin were congested except over on the eastern side, the Degaussing Range, which was a forbidden anchorage.

Hayes and Captain Skelbred do not tell exactly the same story at all times as to the events leading up to the collision, but it appears that immediately on seeing the Alcoa Rambler, or after having travelled one hun- 20  
dred yards from the point where she was first seen, as Hayes put it in one place in his evidence, the helm of the Norefjord was put hard astarboard and the one-blast signal was given. This, he says, was immediately answered by three blasts from the appellant. At this time the ships were from 1,800 to 2,000 feet apart. Both Captain Skelbred and Hayes say variously that the appellant when first observed was "moving slowly," was "practically stopped," "had no weigh on her." The Norefjord, on her part, however, after giving the one-blast signal kept on at her speed of five or six knots. In fact her Captain says that she was picking up speed. 30  
She so continued until the distance between the ships had narrowed to some seventy-five yards when her engines were put astern. After this she appears to have put her engines ahead again and again reversed them, these manoeuvres being close to the last moment and were for the purpose of trying to swing her head to starboard. Hayes says that the Norefjord had continued to swing to port for some time after the helm was put hard to starboard.

The Alcoa Rambler was proceeding out of the Basin for the purpose of gun practice at sea. She had been anchored in the upper or north-east end of the Basin where munition ships were usually anchored. As she pro- 40  
ceeded down the Basin she was escorted by a Naval Patrol Launch which preceded her. The Rambler had her pilot flag and what is known as a "B" flag flying, the last mentioned flag indicating that she had explosives

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aboard. The Naval Patrol Launch on her part had flying what is known as an I. C. flag, indicating "You should keep clear of me, I am loaded with dangerous cargo." The weather was practically calm, but with the movement of the vessels the flags would blow out to some extent and the Captain of the Bansurf stated in evidence that he observed the "B" flag on the respondent ship at a distance of some 300 yards.

The respondent ship weighed anchor at 8.55 a.m. and proceeded under her own power. Her first engine movement was slow ahead. Her Captain stated that there were very many ships lying at anchor that morning and they were distributed on both sides of her as she proceeded. 10

There is evidence which the learned trial judge accepts, to the effect that the respondent ship knew that the Norefjord was proceeding to the Degaussing Range having been given that information by the Captain of the Bansurf, as that tug was waiting to permit the respondent ship to pass before proceeding across to the upper end of the Range. The Captain of the Rambler says that he had first observed the Norefjord to his starboard beyond some intervening ships and that she appeared to him to be moving in the same general direction as the Rambler and at that time she was approximately four ship lengths away, or approximately 1,700 feet. He says he continued to watch her and that she appeared to turn to port toward the respondent. The evidence of the respondent, to which I have already referred, that the Norefjord had swung to starboard to avoid the up-coming tug and tow and had then swung to port to avoid an anchored ship and was still swinging to port when her Captain and pilot observed the Rambler some 2,000 feet away, would indicate that these movements of the Norefjord are consistent with the observations of the Rambler's Captain. 20

Clarke, the appellant's pilot says that after turning the Rambler around heading toward the Narrows, he proceeded on his way porting and starboarding, as was necessary, to clear anchored ships. He noticed the mast of another ship, which proved to be the Norefjord, to the west of another ship's hull and he also says that the Norefjord appeared to be proceeding in approximately the same direction as the appellant. On his attention being drawn to the Norefjord, he and the Captain having observed her at the same time, he says he immediately stopped the engines, as he was not certain where she was proceeding. A few moments later he heard the Norefjord blow one blast on her whistle, indicating she was altering her course to starboard, but he still could not see anything but the superstructure of the ship. The Rambler's engines remained stopped until Clarke saw the Norefjord come around the stern of the ship at anchor approximately 1,800 to 2,000 feet away. She was at that time porting. On seeing this Clarke gave the order to go full speed astern and blew three short blasts of the whistle. He says that the Norefjord continued under the influence of her port helm. 40

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The escort launch had preceded the Rambler down the fairway by about two hundred yards. On passing what the coxswain, Brannen, described as "the most southerly ship" of those which were anchored to his starboard, he saw the Norefjord heading in an easterly direction, about five ship lengths away, which would be from 2,000 to 2,500 feet. Brannen immediately speeded over to within twenty yards of her and one of his seamen, under his instructions, shouted an order for the Norefjord to keep out of the way because an ammunition ship was coming out of the Basin and Brannen saw someone on the Norefjord wave his hand. The ship, however, continued on her way without altering speed. The Norefjord's 10  
Captain admits that he saw the launch before the collision but he says he paid no attention to it, although when he first saw the Rambler he says he told Hayes, the pilot, to be careful. The latter denies this. Hayes says that he saw the launch but that he did not know she was escorting anything. He admits that the launch headed toward the Norefjord and that he heard somebody shouting but he couldn't hear what was said. It is on this evidence that the learned trial judge found that Hayes knew that the Rambler was carrying explosives and that she was bound to have an escort under the rule. Hayes could only have known that the Rambler was bound to 20  
have an escort under the rule if he knew she were carrying explosives and he could have gained that knowledge only by hearing the hail from the launch or seeing the "B" flag on the Rambler itself, or the flags on the launch. I take it from what the learned trial judge says and I would make that finding on the evidence in the absence of a contrary finding by the trial judge that Hayes did see and recognize the escort launch if he had not already seen the "B" flag on the Rambler itself, and I would make the further finding that Hayes, or Captain Skelbred, or both, recognized what was being said to them from Brannen's launch—that they were to keep out of the way. Regardless of the phrasing of rule 33(a) the evidence, including that of Hayes himself, is that ammunition ships, incoming or out- 30  
going, were, as a matter of practice, always escorted.

Under the provisions of Section 40, Sub-section 1, of the Defence of Canada Regulations it is provided that:

"Every vessel within the ports of Canada or Canadian Waters, as defined in the Customs Act, . . . shall obey any order given, whether by signal or otherwise, by any officer in command of any of His Majesty's Canadian ships or any other of His Majesty's ships or any Naval, Military or Air Force Officer engaged in the defence of the coasts of Canada."

'Officer' is not defined in the regulations. In Murray's New English Dic- 40  
tionary, "coxswain" is defined as "person on board ship having permanent charge of a boat and its crew, of which he has command, unless a



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superior officer is present.” I see no reason for not regarding Brannen as an ‘officer’ within the meaning of this regulation. He was acting under instructions at the time to escort the Rambler out of the Basin. Accordingly, it was the duty of the Norefjord, having received that order, to keep out of the way of the appellant.

The conduct of those in charge of the navigation of the Norefjord indicates that they did not regard her, on sighting the Rambler, as a “crossing” ship within the meaning of rule 19 at all, but that they recognized their obligation to keep clear of the Rambler. The Norefjord was late for her appointment and chose to take the risk, pressing on at full speed and trying to turn away to starboard in an endeavour to pass in front of the Rambler. The Norefjord did not respond to her helm sufficiently, if at all, and it may be, as the evidence suggests, it was because the steering gear was operated by steam and had not sufficiently warmed up. Whatever the reason, she did not succeed in turning sufficiently away from the Rambler to pass without collision. 10

It remains to consider the finding of the trial judge with regard to the conduct of the Rambler.

After referring to the one-blast signal given by the Norefjord on sighting the Rambler, the learned judge in his reasons says: 20

“The Rambler immediately answered with three short, indicating an astern movement. There was, in my opinion, at that moment sufficient space and time for the plaintiff to safely cross the bow of the Rambler had the “full astern” order been obeyed and the Rambler’s mechanism responsive, and certainly so had the Rambler dropped an anchor. Pilot Hayes testified that after the three blasts the Rambler which had been moving slowly, seemed to pick up speed. Captain Verge, who was in a commanding position to see, testified that almost immediately after the three blasts from the Rambler she picked up speed. He watched for back astern movement of the engines but instead there was a forward movement. The ships were then, in his opinion, 2100 feet apart. There is no reason why I should not give credit to Verge’s testimony in this matter. I accept it. It is corroborated by the evidence of Pilot Hayes. Therefore, one of two things happened: The engineer must have misconstrued his ship’s three-blast signal or the engines failed to properly respond. To indicate that there was something wrong, there is the evidence of Mr. Johnston, third officer on the Rambler, who was in the wheel house. He testified that after the astern signal his Captain came in to give the jingle astern, went out and in thirty seconds came back again used the telegraph for some purpose. He also said there was excitement 30 40

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around with the Captain of the Rambler grumbling and growling. Why jingle, especially twice, if the ship responded to the astern order, and there was a full speed astern."

The learned judge, therefore, on evidence of Verge, which he considered had been corroborated by that of Hayes, reached the conclusion that the Rambler's first engine movement after having stopped was to go ahead instead of to reverse. The learned trial judge is, however, under a misconception as to the function of the ship's whistle. The three-blast signal was not in any sense a signal from the bridge to the engine-room, but a signal from the Rambler to the Norefjord in accordance with Article 28. 10  
In coming to his conclusion also, he is apparently influenced by the repetition of the astern signal given from the bridge to the engine-room of the Rambler. This was explained not to be due to any misunderstanding on the part of the engine-room which had become apparent to the bridge but was for the purpose of having the engineer apply the fullest pressure of steam possible to the reversing engines.

Coming to an examination of the evidence, Verge, in command of the tug Bansurf, after letting go of the Norefjord, had proceeded easterly through some anchored ships to the fairway and stopped in order to let the Rambler pass down in front of him. At that time he says the engines 20  
of the Rambler were stopped. The Bansurf drifted past the stern of the Rambler to the port side of the latter and as the tug was passing the Rambler's stern, the Rambler gave three short blasts. Verge's evidence then proceeds:

"Q.—And I think we arrived at the time when you said that there was three short blasts from the Alcoa Rambler? A.—Alcoa Rambler, yes.

Q.—All right. You might go on from there? A.—I was watching to see the water turn up when she blew the three blasts to go astern.

Q.—Yes? A.—But the water, *as I took it to be*, came out and went 30  
astern—the engine went ahead and the boat picked up speed."

Verge then said that he started up the engine of his tug and went in the direction of the two ships and then said:

"The Rambler was between me and the Norefjord. *I couldn't see* if the Rambler was going astern until the Norefjord's bow came out past the bow of the Rambler. I heard the chain running and I could see the water then stirring up foam and white from the propeller. At that time she was about I would say about 75 or 100 feet from the Norefjord."

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When Verge was passing around the stern of the Rambler at the time when he "took it to be" that the Rambler's engines were going ahead, he says the Rambler was about 700 yards from the Norefjord. In the excerpt from his evidence last quoted it will be observed that he is unable to say how long the Rambler's engines had gone ahead, as he "took it to be," nor how long they had been reversing prior to the collision.

Turning to the evidence of Hayes, that witness, after stating that the Norefjord's one-blast had been answered by the three-blast signal when the ships were 1,800 to 2,000 feet apart said:

"Q.—And what did you notice after she gave the three signals? A.— 10  
Well, instead of slowing up, she seemed to me to gather more headway.

Q.—Instead of slowing up, she seemed to you to gather more headway? A.—That is the way it appeared to me.

Q.—Did you notice any alteration in course on her part? A.—Very little, if any; but if his engines would go astern, it would have a tendency to swing her bow to starboard.

Q.—You say it appeared to you the other ship was gaining speed after she gave the three short blasts? A.—As far as I could see she didn't—in my estimation she didn't stop any and *as we were closely* together she seemed to me to be coming through the water faster than I figured she was 20  
when I first sighted her.

Q.—What was done next by either of the ships? What did you observe was done next by either of the ships? A.—I don't know what was done on his ship, but I know *when I saw her coming through the water* I thought that she was coming too fast and there would be a chance of collision, and I *kept* the helm hard to starboard and went full astern.

Q.—Could you give an estimate as to the distance the ships were apart when the engines were put astern? A.—When we put the engines astern on our ship?

Q.—Yes. How far was the Alcoa Rambler away then? A.—I 30  
would say about 75 yards at that time."

According to the above evidence, therefore, when Hayes observed the Rambler coming at what he thought was too fast, he reversed the engines of the Norefjord and this was when the ships were about 75 yards apart, or as he had said in the first part of the above evidence, when the ships were "closely together."

Hayes also said:

"Q.—Could you observe the speed at which the other ship was coming when you first saw her clear of the other ships? A.—When I first saw her I didn't think she had very little way on her." 40

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“Q.—That is you intended to go across in front of the Alcoa Rambler—to cut across? A.—Yes because when I saw the Alcoa Rambler she was practically stopped as far as I could see from the distance.”

Accordingly, if the Rambler were practically stopped when Hayes first observed her, it does not advance matters much to say that when she was 75 yards away she seemed to be coming faster than he had judged when he first saw her, particularly when one observes that Hayes’ answers are not uniformly careful in their accuracy.

Continued. As to the evidence of Verge, he “took” the movement of the water at 10 the stern of the Rambler to indicate an engine movement ahead instead of astern, and that at the time when she had signalled to the Norefjord by three blasts that she was reversing. Why the Rambler would do this is incomprehensible. If it be true it can only indicate an error on the part of the engineer at the throttle, not in misinterpreting the three blasts, as the learned judge says. They were not for him. His error, if error there was, could only be in misinterpreting the telegraph. Even taking Verge’s evidence at face value he does not say how long the forward movement of the Rambler’s engines continued. He says he “couldn’t see.” This is the evidence. 20

“I started the engine of the tug and I kept on the way I was going. She was heading about east—the tug was—and I swung and I went about 300 yards, I suppose, and I swung around about south again in the direction of where the two ships were. Of course, I couldn’t see the Norefjord, only her spars. The Rambler was between me and the Norefjord. *I couldn’t see if the Rambler was going astern* until the Norefjord bow came out past the bow of the Rambler. I heard the chain running and I could see the water *then* stirring up foam and white from the propeller. At that time she was about I would say about 75 or 100 feet from the Norefjord.” 30

“Q.—How long do you think elapsed from the time the three-blast signal was given by the Alcoa Rambler till you observed the engines going astern on the Alcoa Rambler and heard the chain being dropped? A.—It might be three minutes anyway, probably a little more by not looking at a watch, but it seemed to be quite a little bit of time and the distance that the boat had got away from me, she must have been three minutes anyway. I didn’t look at any watch; I am only approximately making that.”

It is quite unjustifiable to take from this that the Rambler’s engines went ahead for three minutes. Verge saw the Norefjord’s bow and “then” saw that the Rambler was going astern but he does not speak of the interval 40

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before that. He "couldn't see." Accordingly, the next time Verge was able to judge by the movement of the water at the Rambler's stern what her engines were doing after concluding that they were going ahead, they were reversing. I find it impossible to say, in view of the engine-room records, which are not impugned, and the evidence of the witness, Cook, that even if the engine did go ahead at the moment when Verge made his first observation, it was anything more than momentary or that it had any effect in bringing about the collision. The witness, Cook, who was on the launch which was taking an officer out to the Norefjord for the purpose of the tests, said that as his launch approached the Rambler from the east, and while still on her port side, he observed that her engines were reversing. The launch proceeded around the stern of the Rambler until Cook could see the Norefjord and the two ships were then 250 yards away. During this period the Rambler's engines continued to reverse. 10

I would allow the appeal with costs here and below and would direct judgment for the appellant with a reference to the Deputy District Judge in Admiralty to determine the amount of damage sustained by the appellant, the costs of the said reference to be in the discretion of the said Deputy District Judge.

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and dismiss-  
ing cross  
appeal of  
plaintiff,  
dated  
April 11th,  
1946.

**FORMAL JUDGMENT OF SUPREME COURT OF CANADA AL-  
LOWING APPEAL OF DEFENDANT AND DISMISSING CROSS  
APPEAL OF PLAINTIFF.**

**IN THE SUPREME COURT OF CANADA**

**ON APPEAL FROM THE EXCHEQUER COURT OF CANADA**

**NOVA SCOTIA ADMIRALTY DISTRICT**

**DATED THE ELEVENTH DAY OF APRIL A.D. 1946**

**PRESENT:**

**THE HONOURABLE THE CHIEF JUSTICE OF 10  
CANADA  
THE HONOURABLE MR. JUSTICE KERWIN  
THE HONOURABLE MR. JUSTICE TASCHEREAU  
THE HONOURABLE MR. JUSTICE RAND  
THE HONOURABLE MR. JUSTICE KELLOCK**

**BETWEEN:**

**THE SHIP "ALCOA RAMBLER"  
(Alcoa Steamship Company Inc. Owners)**

*Appellant.*

**and**

**20**

**OIVIND LORENTZEN as Director of Shipping  
and Curator of The Royal Norwegian Govern-  
ment**  
*Respondent.*

The appeal of the above named Appellant and the Cross Appeal of the above named Respondent from the Judgment of the Honourable Mr. Justice Carroll, the Local Judge in Admiralty for the Nova Scotia Admiralty District of the Exchequer Court of Canada, pronounced in the above cause on the twenty-seventh day of October in the year of Our Lord one thousand nine hundred and forty-four, having come on to be heard before this Court on the fifteenth and sixteenth days of October, in the year of 30 Our Lord one thousand nine hundred and forty-five in the presence of counsel as well for the Appellant as for the Respondent, whereupon and upon hearing what was alleged by counsel aforesaid, this Court was pleased to direct that the said appeal should stand over for Judgment and the same coming on this day for Judgment,

RECORD  
PART I

*In the  
Supreme  
Court of  
Canada.*

No. 36  
Formal  
Judgment  
of the  
Supreme  
Court of  
Canada  
allowing  
appeal of  
defendant  
and dismiss-  
ing cross  
appeal of  
plaintiff  
dated  
April 11th,  
1946.

Continued.

THIS COURT DID ORDER AND ADJUDGE that the said appeal should be and the same was allowed with costs, that the said Cross Appeal should be and the same was dismissed with costs; and that the action herein should be and the same was dismissed and the counterclaim herein allowed with costs;

AND THIS COURT DID FURTHER ORDER AND ADJUDGE that there should be a reference to the Deputy District Judge in Admiralty for the Nova Scotia Admiralty District to determine the amount due on the counterclaim and that judgment should go for the amount so reported subject to confirmation. 10

AND THIS COURT DID FURTHER ORDER AND ADJUDGE that the costs of the reference and confirmation should be disposed of by the District Judge in Admiralty.

SETTLED this 18th day of June, A. D. 1946.

PAUL LEDUC,  
Registrar.

NO. 37

No. 37  
Notice of  
appeal of  
the plaintiff  
Oivind  
Lorentzen,  
as Director  
of Shipping  
and Curator  
of the  
Royal  
Norwegian  
Government  
from the  
Judgment  
of the  
Supreme  
Court of  
Canada,  
dated May  
4th, 1946.

NOTICE OF APPEAL OF THE PLAINTIFF OIVIND LORENTZEN AS DIRECTOR OF SHIPPING AND CURATOR OF THE ROYAL NORWEGIAN GOVERNMENT FROM THE JUDGMENT OF THE SUPREME COURT OF CANADA. 20

IN THE SUPREME COURT OF CANADA

ON APPEAL FROM

THE EXCHEQUER COURT OF CANADA

NOVA SCOTIA ADMIRALTY DISTRICT

NO. 973

BETWEEN: THE SHIP "ALCOA RAMBLER"  
(Alcoa Steamship Company Inc. Owners)

*Appellant.*

and

30

OIVIND LORENTZEN, as Director of Shipping and Curator of the Royal Norwegian Government.

(*Plaintiff*)  
*Respondent.*

RECORD  
PART 1

*In the  
Supreme  
Court of  
Canada.*

No. 37  
Notice of  
Appeal of  
the Plaintiff  
Oivind  
Lorentzen  
as Director  
of shipping  
and curator  
of the  
Royal  
Norwegian  
Government  
from the  
Judgment  
of the  
Supreme  
Court of  
Canada,  
dated May  
4th, 1946.  
Continued.

TAKE NOTICE that the above named (plaintiff) Respondent hereby appeals to His Majesty the King in Council from the judgment of the Supreme Court of Canada, dated the 11th day of April, A.D. 1946, whereby the appeal of the above named Appellant was allowed, the cross appeal of the above named (plaintiff) Respondent was disallowed and judgment was directed for the Appellant on its counterclaim, with costs, as therein directed. The (plaintiff) Respondent appeals from the whole of the judgment of the Supreme Court of Canada.

DATED the 4th day of May, A. D. 1946

F. D. SMITH,  
Solicitor for the above named 10  
(plaintiff) Respondent.

NO. 38

**NOTICE OF APPLICATIONS TO FIX BAIL AND TO APPROVE  
SECURITY ON APPEAL TO HIS MAJESTY IN COUNCIL.**

**IN THE SUPREME COURT OF CANADA**

**ON APPEAL FROM**

**THE EXCHEQUER COURT OF CANADA**

**NOVA SCOTIA ADMIRALTY DISTRICT**

No. 38  
Notice of  
applications  
to fix bail  
and to  
approve  
security on  
appeal to  
His  
Majesty in  
Council  
dated May  
4th, 1946.

NO. 973

BETWEEN: **THE SHIP "ALCOA RAMBLER"** 20  
**(Alcoa Steamship Company Inc. Owners)**  
*Appellant.*

AND

**OIVIND LORENTZEN, as Director of Shipping and  
Curator of the Royal Norwegian Government,**  
*(Plaintiff)*  
*Respondent.*

TAKE NOTICE that an application on behalf of the above named (plaintiff) Respondent will be made before the presiding Judge in Chambers in the Supreme Court Building in the City of Ottawa on Friday the 30 10th day of May, A. D. 1946, at the hour of 10.30 o'clock in the forenoon, or so soon thereafter as the application can be heard, for an order fixing the



RECORD  
PART I

*In the  
Supreme  
Court of  
Canada.*

No. 38  
Notice of  
applications  
to fix bail  
and to  
approve  
security on  
appeal to  
His Majesty  
in Council  
dated May  
4th, 1946.

Continued.

bail to be given by the above named (plaintiff) Respondent, upon the appeal of the said (plaintiff) Respondent to His Majesty the King in Council, from the judgment of this Honourable Court, made in this action and dated the 11th day of April, A.D. 1946, to answer the costs of the said appeal.

AND FURTHER TAKE NOTICE that upon such application leave will be craved to refer to the Notice of Appeal herein.

AND FURTHER TAKE NOTICE that an application on behalf of the above (plaintiff) Respondent will be made before the Registrar at his Chambers in the Supreme Court Building in the City of Ottawa, on 10 Friday the said 10th day of May, A. D. 1946, at the hour of 11.30 o'clock in the forenoon or so soon thereafter as the application can be heard for an order approving such bail as may be ordered or fixed by the said Judge.

DATED this 4th day of May, A. D. 1946.

F. D. SMITH,

Solicitor for the above named  
(plaintiff) Respondent.

TO:

DONALD McINNES, Esq.,  
Solicitor for the Appellant.

20

**NO. 39**

No. 39  
Order of the  
Hon. Mr.  
Justice  
Rand of the  
Supreme  
Court of  
Canada  
fixing bail  
on the  
appeal to  
His  
Majesty in  
Council,  
dated May  
10th, 1946.

**ORDER OF THE HONOURABLE MR. JUSTICE RAND OF THE  
SUPREME COURT OF CANADA FIXING BAIL ON THE  
APPEAL TO HIS MAJESTY IN COUNCIL.**

**IN THE SUPREME COURT OF CANADA**

**FRIDAY, THE 10TH DAY OF MAY, A. D. 1946.**

**BEFORE THE HONOURABLE MR. JUSTICE RAND IN  
CHAMBERS.**

**BETWEEN: THE SHIP "ALCOA RAMBLER" (Alcoa Steamship  
Company Inc. Owners), *Appellant.* 30**

AND

**OIVIND LORENTZEN, as Director of  
Shipping and Curator of the Royal  
Norwegian Government, *(Plaintiff)*  
*Respondent.***

RECORD  
PART I

*In the  
Supreme  
Court of  
Canada.*

No. 39  
Order of the  
Hon. Mr.  
Justice  
Rand of the  
Supreme  
Court of  
Canada  
fixing bail  
on the  
appeal to  
His  
Majesty in  
Council,  
dated May  
10th, 1946

Continued

Upon motion made by counsel for the (Plaintiff) Respondent, Oivind Lorentzen, for an Order fixing the Bail to be given by the said (Plaintiff) Respondent, Oivind Lorentzen, upon his Appeal to His Majesty the King in Council from the Judgment of this Court dated the eleventh day of April, A.D. 1946 to answer the costs of said Appeal;

UPON reading the said Judgment of this Court, the Notice of Appeal served on Saturday, the fourth day of May, A.D. 1946, the Notice of Application to fix the Bail served herein on Saturday, the fourth day of May, A. D. 1946, filed, and upon hearing counsel for the Appellant and (Plaintiff) Respondent.

10

IT IS ORDERED that the above named (Plaintiff) Respondent do give Bail to answer the costs of Appeal to His Majesty the King in Council for the sum of One Thousand Three Hundred Dollars to the satisfaction of the Registrar of this Court on or before the 10th day of May, A.D., 1946.

AND IT IS FURTHER ORDERED that the costs of this application which are hereby fixed at \$50.00 and disbursements be costs in the cause.

PAUL LEDUC,  
Registrar.

NO. 40

20

No. -40  
Board of  
United  
States  
Fidelity  
and  
Guaranty  
Company  
on the  
appeal to  
His  
Majesty in  
Council,  
dated May  
10, 1946.

**BOND OF UNITED STATES FIDELITY AND GUARANTY COMPANY ON THE APPEAL TO HIS MAJESTY IN COUNCIL.**

**IN THE SUPREME COURT OF CANADA**

**ON APPEAL TO HIS MAJESTY'S PRIVY COUNCIL**

**BETWEEN: THE SHIP "ALCOA RAMBLER" (Alcoa Steamship Company Inc. Owners), Appellant.**

**AND  
OIVIND LORENTZEN, as Director of  
Shipping and Curator of the Royal  
Norwegian Government.**

*(Plaintiff) 30  
Respondent.*

KNOW ALL MEN BY THESE PRESENTS that we, United States Fidelity and Guaranty Company, hereby submit to the jurisdiction of this Court and consent that if the said Oivind Lorentzen, (Plaintiff) Respond-

RECORD  
PART I

In the  
Supreme  
Court of  
Canada.

No. 40  
Bond of  
United  
States  
Fidelity and  
Guaranty  
Company  
on the  
appeal  
to His  
Majesty in  
Council,  
dated May  
10th, 1946.

Continued

No. 41  
Order of the  
~~Honourable~~  
~~Mr. Justice~~  
~~Rand of the~~  
Supreme  
Court of  
Canada  
approving  
the security  
on the  
appeal to  
His  
Majesty in  
Council,  
dated May  
10th, 1946.

ent, as Director of Shipping and Curator of the Royal Norwegian Govern-  
ment, shall not pay what may be adjudged against him in the above action  
for costs in His Majesty's Privy Council, execution may issue against us,  
our successors and assigns, goods and chattels for a sum not exceeding One  
Thousand Three Hundred Dollars (\$1,300.00).

SIGNED, SEALED and EX-  
ECUTED by the said United  
States Fidelity and Guaranty  
Company by its resident At-  
torney this 10th day of May,  
1946.

UNITED STATES FIDELITY AND  
GUARANTY COMPANY.

(Seal)

10

NO. 41  
REGISTRAR

ORDER OF THE ~~HONOURABLE MR. JUSTICE RAND~~ OF THE  
SUPREME COURT OF CANADA APPROVING THE SECURITY  
ON THE APPEAL TO HIS MAJESTY IN COUNCIL.

IN THE SUPREME COURT OF CANADA.

BEFORE THE REGISTRAR IN CHAMBERS

FRIDAY THE 10TH DAY OF MAY, 1946.

BETWEEN: THE SHIP "ALCOA RAMBLER" (Alcoa  
Steamship Company Inc. Owners),

*Appellant.* 20

AND

OIVIND LORENTZEN, as Director of  
Shipping and Curator of the Royal  
Norwegian Government,

*(Plaintiff)*  
*Respondent.*

UPON the application of counsel on behalf of the above named  
(Plaintiff) Respondent in the presence of counsel for the above named Ap-  
pellant and upon hearing what was alleged by counsel aforesaid;

IT IS ORDERED that a certain Bond bearing date the 10th day of 30  
May, A. D. 1946, in which United States Fidelity and Guarantee Com-  
pany is obligor and the above named Appellant is Obligee, as security that

RECORD  
PART 1

*In the  
Supreme  
Court of  
Canada.*

the above named (Plaintiff) Respondent will effectually prosecute his Appeal to His Majesty in Council from the Judgment of this Court bearing date the eleventh day of April, A.D. 1946 and will pay such costs as may be awarded against him by His Majesty in Council, be and the same is hereby approved and allowed as good and sufficient security.

No. 41  
Order of the  
Honourable  
Mr. Justice  
Rand of the  
Supreme  
Court of  
Canada  
approving  
the security  
on the  
appeal to  
His  
Majesty in  
Council,  
dated May  
10th, 1946.

AND IT IS FURTHER ORDERED that the costs of this application be costs in the cause.

PAUL LEDUC,  
Registrar.

Continued