

BRITISH COLUMBIA ADMIRALTY DISTRICT

CANADIAN PACIFIC RAILWAY } COMPANY }	}	PLAINTIFF;
AND		
VANCOUVER TUG BOAT COM- } PANY LIMITED }	}	DEFENDANT.

1957
 Feb. 28,
 Mar. 1
 Mar. 12

Shipping—Collision—One vessel standing too long before taking avoiding action—One vessel trying to pass ahead of other vessel—Assessment of damages and costs.

Held: That where, in a collision between plaintiff's vessel and that of defendant, plaintiff's vessel was partly to blame for standing too long before taking avoiding action and defendant's vessel was partly to blame for deliberately trying to pass ahead of plaintiff's vessel making collision inevitable, the negligence must be assessed one quarter to plaintiff and three quarters to defendant.

ACTION for damages caused by collision of two vessels.

The action was tried before the Honourable Mr. Justice Sidney Smith, District Judge in Admiralty for the British Columbia Admiralty District, at Vancouver.

A. G. Harvey and F. H. Britton for plaintiff.

J. I. Bird and A. F. Campney for defendant.

SIDNEY SMITH D.J.A.:—This collision occurred at the western entrance of the First Narrows, Vancouver Harbour, about 8 p.m. on 13 October 1955 in clear, dark weather. The vessels concerned were the plaintiff's car and passenger

1957
 CANADIAN
 PACIFIC
 RY. Co.
 v.
 VANCOUVER
 TUG BOAT
 Co. LTD.
 Sidney Smith
 D.J.A.

steamer, *Princess Elaine*, bound in from Nanaimo, and the defendant's tug *La Bonne*, having lashed along her starboard side the Barge *V.T. 25*. The *La Bonne* was bound for False Creek. The Master of the *Elaine* saw the green light of the *La Bonne* on his port bow but wrongly thought she was bound towards either Point Grey or Point Atkinson, and that she would momentarily show her red light and thus pass port to port. In this he was mistaken and must be held partly to blame for standing on too long before taking avoiding action. I formed the opinion that both Masters were men of integrity.

Much the greater blame, however, attaches to the *La Bonne* for she deliberately tried to pass ahead of the *Elaine* making collision inevitable. No doubt, too, she was carried further to the west by the three knot ebb tide then running but this should have been within the contemplation of her Master.

I must hold the *La Bonne* three-quarters to blame and the *Elaine* one-quarter, with corresponding costs.

If need be there will be a reference to the learned Registrar.

Judgment accordingly.