

S.S. "PAWNEE" v. ROBERTS.

1902

*Admiralty law—Collision—Undue speed—Ship in default—Rule 16—**May 10, 13.
Navigation during fog.

Judgment appealed from (7 Ex. C.R. 390), varied, Girouard J. dissenting.

APPEAL from the judgment against the steamship "Pawnee" in the New Brunswick Admiralty District of the Exchequer Court of Canada (McLeod J.) (1), deciding that she was wholly to blame for a collision which occurred between her and the schooner "Roland" during a thick fog near the entrance of the Harbour of St. John, N.B., on the 17th of July, 1901, by which the schooner and her cargo were lost, and awarding damages and costs to the respondent, owner of the schooner.

The learned trial judge held that it was the duty of the steamer, upon hearing fog signals sounded by the schooner, to have stopped her engines as far as possible and to navigate with caution until the danger of collision was over; that the steamship had neglected these precautions and was, therefore, wholly to blame for the collision, and he assessed the damages against the "Pawnee" as follows, viz.: \$4,000 for the value of the schooner; \$90 for her freight, and, after deduction of the value of a few items, \$550 for personal effects.

After hearing counsel for the parties, the court reserved judgment and, on a subsequent day, allowed the appeal in part, the value of the schooner being reduced to \$2,500, thereby reducing the verdict by \$1,500. Mr. Justice Girouard J. dissented. No costs were allowed on the appeal.

Appeal allowed in part without costs.

C. J. Coster for the appellant.

McLean K.C. for the respondent.

* **PRESENT**;—Taschereau, Sedgewick, Girouard, Davies and Mills J J.

(1) 7 Ex. C. R. 390.