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No. 13

APPELLATE DIVISION.

NOVEMBER 23RD, 1915.

SHENANGO STEAMSHIP CO. v. SOO DREDGING AND
CONSTRUCTION CO. LIMITED.

*Negligence—Allowing Boulder Placed in Stream to Remain Un-
marked without Warning to Navigators—Injury to Vessel—
Navigable Waters' Protection Act, R.S.C. 1906 ch. 115, sec.
14—Evidence—Findings of Fact of Trial Judge—Appeal.*

Appeal by the plaintiffs from the judgment of BRITTON, J., 8
O.W.N. 530.

The appeal was heard by FALCONBRIDGE, C.J.K.B., RIDDELL,
LATCHFORD, and KELLY, JJ.

R. McKay, K.C., and Gideon Grant, for the appellants.

W. N. Ferguson, K.C., for the defendants, respondents.

FALCONBRIDGE, C.J.K.B., agreed with the learned trial Judge
in finding that the plaintiffs had failed to make out their case.

LATCHFORD, J., reviewed the evidence in a written opinion of
considerable length, and stated his conclusion that the learned
trial Judge was right in holding that the plaintiffs had failed to
establish that their vessel, the "W. P. Snyder," had grounded
on a boulder placed in the channel by the defendants. His (Mr.
Justice Latchford's) finding would have been that what the
vessel did ground upon was the large boulder situated about
1,000 feet south-east of the south pier and 15 to 20 feet outside
of the channel, as to which no negligence whatever was attribut-
able to the defendants.

KELLY, J., also gave written reasons for judgment, in which,
after a careful review of the evidence, he stated his conclusion