

The collision occurred at the entrance of the Lachine canal, in the harbour of Montreal, on the 2nd of July, 1907, about 7 p.m., while it was yet daylight.

The "Havana," bound from Quebec to Erie with a cargo of pulp wood, was just about to enter the canal. Her bow had reached the north wing wall of the entrance to the south lock (No. 1), and she had landed two of her men on the wall for the purpose of making fast her lines, when the acting lock-master ordered her to keep back and let the "Prescott" pass in first. The "Prescott" was coming up immediately behind the "Havana," but her approach had not been noticed by those on board the "Havana." She was entitled to priority of passage, ranking as a vessel of the "first class," under the definition contained in the "Canal Regulations of 1st of May, 1895," made by the Governor-General in Council.

In obedience to the order of the lock-master, the "Havana" reversed her engines and was going astern. The "Prescott," without waiting for the "Havana" to get clear out of the way, "crushed past," as some of the witnesses expressed it, between the pier and the "Havana," scraping hard against the fenders on the side of the pier and jamming the "Havana" against a lumber barge lying up against the south wing wall. She entered the lock at great speed. Some of the witnesses—lock-men who had been employed at the lock for ten years or so—deposed to the effect that they had never before seen a vessel going in so fast. And then, by some accident, owing to defects in equipment and to unskilful management, her speed was actually increased. She went on without stopping and crashed through the upper gates, bringing down the contents of the basin above. The rush of water swept her out of the lock and dashed her against the "Havana," which had begun to move across to her former position as soon as the "Prescott" was clear of the lower gates.

On the appeal to the Supreme Court, the learned Judges were all of opinion that the "Prescott" was in fault. On that point they did not call upon the counsel for the "Havana." But they were divided equally—three to three—on the question whether the "Havana" was also to blame. And so the judgment of the trial Judge was affirmed, and affirmed with costs.