

ston harbour during the afternoon of Saturday 27th June, 1908.

Francis King, Kingston, for plaintiffs.

McGregor Young, K.C., and H. A. Stewart, K.C., for defendant.

THE LOCAL JUDGE:—The evidence proves that the steamer "Caspian," which had been moored stern inwards on the north-east side of Swift's dock, steamed stern outward on a semi-circular course from the dock about 5 o'clock on the afternoon of 27th June, and, after steaming a certain distance out, commenced her voyage towards Lake Ontario, taking a semi-circular course, under helm hard a starboard, on a course to port, so as to pass clear of the dock; that about the same time the steamer "Kingston," which had been moored at the other side of the dock, also steamed stern outwards, taking a more direct course out, and then started on her voyage towards Lake Ontario on the port side of the "Caspian." The yacht "Magedorna" had been moored bow inwards at the same side of the dock, but between the "Kingston" and the shore.

After the two steamers "Caspian" and "Kingston" had left the dock, and were backing out preliminary to commencing their respective voyages, the master in charge of the "Caspian" noticed that the "Magedorna" was commencing to back out from the dock, and thereupon the master of the "Caspian" gave two whistles to warn the yacht that he was directing his course to port, which was the proper course to enable him to clear the dock; but no notice was taken of the warning or any responsive whistle given by the "Magedorna."

When nearing the dock, the "Caspian" was steaming at about 10 miles an hour; the master of the "Caspian," seeing that the "Magedorna" was coming on towards a course intersecting that which the "Caspian" was taking, ordered the helm first amidships and then hard a port, so as to steady her, and prevent the "Caspian's" stern swinging on to the "Magedorna."

That the "Magedorna" continued backing and infringing on the course of the "Caspian" is shewn from the evidence of Captain Mills of the "Caspian;" and this fact is proved by Captain Johnston of the "Magedorna," who said that he gave the yacht two kicks astern to back her from the