

steamer, the Canadian, as the result of a collision with the defendants' steamer, the Merwin, in Thirty-Mile River on 21st August, 1899. The defendants counter-claimed for damages. At the trial the plaintiffs' claim was dismissed and defendants on their counter-claim got judgment for \$735. Plaintiffs appealed.

*Held* by the Full Court that the appeal must be limited to the judgment on the counter-claim as the claim was not for an appealable amount.

The plaintiffs did not file a preliminary act as required by Order XIX, r. 28 of the English Rules, which DUGAS, J., held to be in force in the absence of a local rule. At the trial it was also held that no evidence could be given in support of the plaintiffs' claim.

*Held*, that the above ruling was correct.

The ship Canadian navigated by an American pilot was making a landing against a current of about six miles an hour. The ship Merwin, also navigated by an American pilot, was coming down stream. Both vessels before collision gave blasts which were interpreted by each ship according to American regulations. It was held at the trial that under the circumstances the Canadian was alone to blame.

*Held*, by WALKER and DRAKE, J.J., that both vessels were to blame, and the appeal should be allowed without costs. By IRVING, J., that both vessels were to blame, and that it be referred back to assess the damages to the Canadian, and then the damages should be apportioned according to the Admiralty rule. By MARTIN, J., that the appeal should be dismissed.

Observations as to the undesirability of the importation of foreign sailing rules, and as to the necessity of using in Canadian waters the signals authorized by the Canadian Rules.

Appeal allowed without costs and no costs of counter-claim in court below.

*Bodwell*, K.C., and *Duff*, K.C., for the appeal. *Cassidy*, K.C., contra.

Full Court.]

WILLIAMS & FAULKNER.  
RAYMOND & FAULKNER.

[July 24, 1901.

*Yukon law - Order of reference - Jurisdiction - N. W. T. Orders XXIII., rr. 233 and 236, and XXXIII., r. 401 - Co. Or. N. W. T. 1898, c. 21.*

Appeals from the judgment of Craig, J., in the Territorial Court of the Yukon, argued together at Victoria. Plaintiffs sued defendants, who were adjoining placer mining claim owners for damages for wrongfully drifting and tunnelling through their claims and taking away pay-dirt. On plaintiffs' application, Dugas, J., made an order appointing one McGillivray to inspect the dump and workings in question for the purpose of ascertaining (1) if the said workings encroached on the mining claim of the plaintiffs, the Baker Fraction, and if so, to what extent; (2) if any pay-dirt had been taken from the said mining claim, and if so, to what amount; (3) the amount of pay-dirt in the dump in question; and (4) generally the condi-