

her ahead so as to keep her out of the course the "Caspian" was taking, as would clearly have best averted the collision.

The defence contends that the damages claimed by the "Caspian" cannot include the loss of profits that might have been made had the "Caspian" been able to continue her voyage on the Saturday afternoon of the collision. The proposed voyage was from Kingston to Charlotte, and then Rochester, then Cobourg and Port Hope; and return to Charlotte, and then to Kingston. The Sunday continuation of the voyage is objected to by the defendant as being an excursion, but this objection is not sustained by the Lord's Day Act, for it allows "the continuance to their destination of trains and vessels on transit when the Lord's day begins, and work incidental thereto."

And as to estimated profits lost by the cancellation of the proposed voyage then just begun, I think they are allowable under the case of *The "Argentino,"* 13 P. D. 61 and 191, and on appeal, 14 App. Cas. 579, as the profits the "Caspian" might ordinarily and fairly be expected to earn on her advertised voyage, and which, but for the collision, might have been realised by the plaintiff company.

And in giving judgment in the House of Lords, Lord Herschell said: "I think that damages which flow directly and naturally, or in the ordinary course of things, from the wrongful act, cannot be regarded as too remote. The loss of the use of the vessel, and of the earnings which would ordinarily be derived from its use during the time it is under repair, and therefore not available for trading purposes, is certainly damage which directly and naturally flows from a collision And if, at the time of the collision, the damaged vessel had obtained an engagement for an ordinary maritime adventure, the loss of the fair and ordinary earnings of such a vessel on such an adventure appear to me to be the direct and natural consequence of the collision."

I therefore assess the damages to which the plaintiffs are entitled against the defendant at \$460.76; costs to follow the event.

The claim of the defendant for damages against the "Caspian" is dismissed.