

Ex. Court Adm.]

[March 13.]

S.S. "SANTANDERINO" v. VANVERT.

*Admiralty—Collision—Defective steering gear—Prompt action—Questions of fact—Appeal on.*

The S.S. *Santanderino* was entering the Sydney harbour, where the barque *Juno* was lying at anchor about two hundred yards to the right of the centre of the channel. She was making eight or nine knots with a slight list to port, and the *Juno* was on her starboard bow. As she came near the *Juno* her head fell off to port, and in porting the helm she came too much to starboard, and in putting the helm to starboard to put her straight on her course it was found that the wheel would not work. She was then from 200 to 250 yards from the *Juno*, and on her port quarter. The third officer, who was at the wheel, told the master that it would not work, and the master sent the second and third officers below to see what the matter was and inform the engineer, at the same time telegraphing to stop the engine. He then ordered the port anchor to be let go, the engine to be reversed, and then to be reversed at full speed, but before that could be done the steamer struck the *Juno* on the port side.

In an action for damages caused by this collision, it appeared that the defect in the steering gear was caused by the breaking of a small pin called the taper pin, which caused a longer pin to drop out and prevent an eccentric rod, by which the motion was imparted, from working. The judge in admiralty found that the steering gear was constructed under a proper patent, and was in good order when the steamer left Liverpool for Sydney, but that the collision was due to want of prompt action on the part of the officers of the steamer when it broke down.

*Held*, affirming the decision of the judge in admiralty (3 Ex. C.R. 378) SEDGEWICK and KING, JJ., dissenting, that though it was doubtful that the evidence was sufficient to support this conclusion, it was not so clearly erroneous that an appellate court would reverse it, the decision depending only on a question of fact.

Appeal dismissed with costs.

*Newcombe & McInnes* for the appellants.

*Borden, Q.C.*, for the respondents.

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Nova Scotia.]

[March 13.]

MACK v. NACK.

*Trustee—Administrator of estate—Release to, by widow and next of kin—Misrepresentation—Rescission of deed of release—Laches.*

M., administrator of his brother's estate, obtained from the widow and next of kin of the testator a release of all their respective interests in the real and personal property of the deceased, representing to them that if the property was sold at auction it would be sacrificed, and the most could be made of it by his having full control. The testator died in 1871, and from that time until his own death in 1888 M. held the property as his own, and did nothing with it as executor, either by passing accounts in the Probate Court or attempting to