

I have carefully read the evidence given at the trial, and I am of opinion that the learned Judge has arrived at a correct conclusion.

The question at issue in the main turns upon disputed questions of fact, and I would be loath to overrule the trial Judge who had the benefit of seeing and hearing the witnesses, and was in a much better position to judge of their credibility than I can be, sitting in appeal.

I wish to state, however, that after a minute perusal of the evidence with the contentions of counsel before me, I am of opinion that the learned Judge arrived at a proper conclusion, and I agree with him in all his findings.

The learned trial Judge has dealt with the evidence and law in a very exhaustive opinion, and it would be mere repetition on my part to add anything to his opinion.

It was proved conclusively at the trial that the tug "Glide" on two occasions blew three short blasts, the customary signal in those waters, to notify up-coming vessels to check down. It is said that these blasts were not heard by those on board the "Norwalk." Mr. Angers, K.C., during his argument, stated that it was fortunate they were not heard, as since 1905 three short blasts mean: "My engines are going full speed astern." This, however, is only east of the Victoria Bridge, and is not a rule applicable to the waters in question.

The "Norwalk" was aware that the tug "Glide" had a tow. It is proved that the beam of the "Winnipeg" is 37½ feet and the beam of the "Jet" 30 feet. The beam of the tug "Glide" is 16 feet.

The "Winnipeg" was on the starboard side and carried the regulation green light. The "Jet" was on the port side carrying the regulation red light. It is said that those on board the "Norwalk" did not see these lights, giving as a reason that they were apparently obscured by the lightship No. 2. This lightship is about 35 feet long and 10 to 12 feet beam.

Had the "Norwalk" been in that part of the channel northerly of the lightship with the lightship on her port bow, and the tow in the channel northerly of the lightship it is difficult to understand how the lights, or one of them, would be obscured. It is quite evident to my mind that the pilot of the "Norwalk" deliberately intended to pass the light ship on the southerly side.