

real point in dispute here is whether the "Regina B." improperly tacked right or close in front of the steamer, and thus violated rule 21. Captain Aucoin's statements as to the bearing of the "Irwin" when he first saw her are most unsatisfactory. In his examination he first states that he first saw the "Irwin" when he was on a west north-west course on the starboard tack, about half way between Meagher's Beach buoy and Middle ground buoy; that the "Irwin" was then about three-quarters of a mile or a mile distant coming out of the harbour, and bearing about a point or a point and a half on his (the "Regina's") starboard bow and that the "Irwin's" red light got broader on his bow as he continued his western tack. This statement cannot be accepted as to the bearing, as it is a very material contradiction of plaintiff's preliminary act. In such act the bearing of the "Irwin" when first seen is given as five or six points on the starboard bow of the "Regina B." when the "Irwin" was first seen at a distance of about one mile. The captain then further states that after continuing his starboard tack to the west of Middle ground buoy, the "Irwin" was at the point where he decided to tack, about one-half mile distant and bearing about two and one-half points on his starboard bow with his red light only shewing. Such a statement puts the "Irwin" in an altogether improbable place and position, considering her course out of the harbour and her bearing when first seen, and captain Aucoin's statements as to this position and his own reasons for tacking were most unsatisfactory. Another striking feature of Captain Aucoin's testimony was as to his course at the time of and the manner in which the ships came together. He states he was sailing on a north-east course on the port tack for about 200 yards after tacking west of Middle ground buoy, when the collision occurred, and that some time after he was on that course the "Irwin" opened her green light and came in contact with him aft of the main rigging with her stem and starboard bow. It is apparent this would require an extraordinary change of course on the part of the "Irwin" at short range, and it is difficult to accept such a statement, and the "Regina B." could not with the wind as stated, sail a north-east course. The best she could do would be probably a point north of east. Again this method of collision is inconsistent with the admission that the "Irwin's" port anchor in the collision fouled the main rigging of the "Regina B." Looking at the whole evidence I am satisfied that