

an end to the difficulty in the application of this Rule to the case of a second trial or a new trial, arising from the conflict of previous decisions of the Judges of the Queen's Bench and Common Pleas Divisions on the one hand, and the Exchequer Division on the other."

The result therefore is that the appeal must be allowed, with costs, and the order appealed from must be discharged with costs.

HODGINS, LOCAL JUDGE IN ADMIRALTY. APRIL 25TH, 1906.

EXCHEQUER COURT IN ADMIRALTY.

ST. CLAIR NAVIGATION CO. v. THE "D. C. WHITNEY."

Ship—Collision—Damages—Assessment by Registrar—Items of Damage—Use of Pump—Services of Tug—Surveyors' Report—Salvage Charges—Value of Ship—Cost of Repairs—Appeal—Costs.

Appeal by the owners of the defendant ship from the report of the deputy registrar at Windsor allowing the sum of \$3,751.35 as the amount of the damages to which plaintiffs were entitled for the collision and sinking of the schooner "Monguagon" in Sandusky harbour on 28th November, 1901.

W. D. McPherson, for appellants.

J. W. Hanna, Windsor, for plaintiffs.

THE LOCAL JUDGE:—Several of the questions argued are not specifically set forth in the notice of appeal.

1. Use of pump. It appears that while the pump was being used for pumping the water out of the sunken schooner "Monguagon," a coupling-pin got into the suction and broke the pump. For this the owner of the pump made a deduction of one day for the time the pump was not available or working. The evidence as to this appears on p. 164, in which Captain Pope gives extracts from his log: "December 1st. We got schooner nearly pumped out, and broke pump. Vessel sank again. 2nd. Took coal off the deck of schooner,