

55, 1935

In the Privy Council.

No. 24 of 1935.

**ON APPEAL FROM THE EXCHEQUER COURT
OF CANADA.**

BETWEEN

THE STEAMER " PHILIP T. DODGE " - (*Defendant*) *Appellant*

AND

DOMINION BRIDGE COMPANY LIMITED,
DUFRESNE CONSTRUCTION COMPANY
LIMITED AND LA COMPAGNIE DU PONT
DE GASPE LIMITEE - - - - (*Plaintiffs*) *Respondents.*

RECORD OF PROCEEDINGS.

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ON APPEAL FROM THE EXCHEQUER COURT
OF CANADA.

BETWEEN

THE STEAMER " PHILIP T. DODGE " (Defendant) Appellant

AND

DOMINION BRIDGE COMPANY LIMITED,
DUFRESNE CONSTRUCTION COMPANY
LIMITED AND LA COMPAGNIE DU PONT
DE GASPE LIMITEE - - - - (Plaintiffs) Respondents.

RECORD OF PROCEEDINGS.

No. 1.

Writ of Summons.

IN THE EXCHEQUER COURT OF CANADA.

The Quebec Admiralty District.

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

15456.

Issued from the office of the Deputy District Registrar at Montreal.

No. 58.

No. 1.
Writ of
Summons,
7th Septem-
ber, 1932.

DOMINION BRIDGE COMPANY LIMITED, a body politic and
corporate, having its head office at the City of Montreal,
10 DUFRESNE CONSTRUCTION COMPANY LIMITED, a body
politic and corporate, having its head office at the City of
Montreal, and LA COMPAGNIE DU PONT DE GASPE
LIMITEE, a body politic and corporate, having its head
office in the village of Gaspé - - - - Plaintiffs,

against

THE STEAMER " PHILIP T. DODGE " - - - - Defendant.

Action for \$35,059. damage by collision.

20 GEORGE THE FIFTH, by the Grace of God, of the United Kingdom
of Great Britain and Ireland and of the British Dominions beyond the Seas,
King, Defender of the Faith, Emperor of India.

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

No. 1.
Writ of
Summons,
7th Septem-
ber, 1932—
continued.

To the owners and all others interested in the ship.

GREETING :

We command you that, within one week after the service of this Writ, exclusive of the day of such service, you do cause an appearance to be entered for you in our Exchequer Court of Canada, in the above-named action ; and take notice that in default of your so doing, the said action may proceed, and judgment may be given, in your absence.

Given at the City of Montreal, in Our said Court, under the Seal thereof, this Seventh day of September, 1932.

(Sgd.) OSCAR BELANGER, 10
Deputy District Registrar.

We hereby accept service of the present Writ and undertake to appear on behalf of the Defendant and fyle a Surety Bond for the sum of \$35,000.00 within a delay of two days.

Montreal, September 10th, 1932.

(Sgd.) BEAUREGARD & PHILLIMORE,
Solicitors for Defendant.

1. The Plaintiffs severally and in their several capacities and qualities claim the total sum of \$35,059. against the Steamer " Philip T. Dodge " for damages to the Gaspé Bridge and its appurtenances known as the New Gaspé Bridge situate at Gaspé, P.Q., and which said damages were occasioned by a collision between the said steamer and the said bridge then under construction at Gaspé in the Province of Quebec on or about the 6th day of July, 1932, and for costs, said damages being apportioned severally among the said Plaintiffs in their respective capacities and qualities as follows :—

Dominion Bridge Company Limited as builders of the said bridge - - - - -	\$11,500.	
Dufresne Construction Co. Limited as general contractors for the building of the said bridge - - - - -	5,559.	
La Compagnie du Pont de Gaspé Limitee as owners of the said bridge - - - - -	18,000.	30

2. This writ was issued by Brown, Montgomery & McMichael of the city of Montreal, Solicitors for the Plaintiffs.

3. All documents required to be served upon the said Plaintiffs in the action may be left for them at the office of the said Brown, Montgomery & McMichael, 360 St. James Street.

Montreal, September 7, 1932.

(Sgd.) BROWN MONTGOMERY & McMICHAEL,
Solicitors for Plaintiffs.

No. 2.
Statement of Claim.

EXCHEQUER COURT OF CANADA.
Quebec Admiralty District.

In the
Exchequer
Court
(Quebec
Admiralty
District).

No. 58.

No. 2.
Statement
of Claim,
28th Decem-
ber, 1932.

DOMINION BRIDGE COMPANY LIMITED et al, - - - Plaintiffs
against
STEAMER " PHILIP T. DODGE " - - - Defendant.

10 1. The Dominion Bridge Company Limited, one of the Plaintiffs herein, is a bridge builder and manufacturer of fabricated steel, and on the 13th day of April, 1931, entered into a contract with the Dufresne Construction Company Limited, one of the Plaintiffs herein, for the fabrication, erection and delivery of the structural steelwork and machinery for a highway bridge across the York River at Gaspé, P.Q., which said bridge is known as the New Gaspé Bridge, the whole in accordance with the terms of the said contract, a copy of which is made part hereof and fyled herewith as Exhibit P.1, the original of which will be produced at the proper time and place.

20 2. That on or about the 6th day of July, 1932, when the said bridge was in course of construction and before delivery thereof the Defendant Steamer " Philip T. Dodge," while proceeding for the first time through the opening or gap in the said bridge, came into collision therewith, causing the north bascule, attachments and gear of the said bridge to be wrenched from their foundation and damaged almost beyond repair.

3. That the said Dominion Bridge Company Limited was obliged to repair and replace the said damaged bascule, attachments and gear at its own cost and expense constituting its loss and damages herein.

30 4. That the said Dufresne Construction Company Limited is the general contractor for the building, construction and erection of the said bridge under contract entered into by the said general contractor with the owner of the said bridge, La Cie du Pont de Gaspé, Limitée, one of the Plaintiffs herein, entered into the 27th day of April, 1931, copy of which is fyled with the return hereof and made part hereof as Exhibit P.2, the original of which will be produced at the proper time and place.

40 5. That by the fault and negligence of the said Defendant Steamer " Philip T. Dodge " having damaged the said bridge, as declared in paragraph 2 hereof, the said Dufresne Construction Company Limited has suffered loss and damages by virtue of the delay in the completion of the said bridge consisting of additional wages and overhead expenses and the cost and rentals of equipment and the obligation to pay penalties under the terms of its said contract with La Cie du Pont de Gaspé, Limitée, being Exhibit P.2.

6. That La Cie du Pont de Gaspé, Limitée, the said owner of the said bridge, because of the said damage done by the said Defendant Steamer

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

No. 2.
Statement
of Claim,
28th Decem-
ber, 1932—
continued.

“ Philip T. Dodge ” has suffered loss and damages by being thereby deprived of the use and enjoyment of the said bridge and the income which it would have derived therefrom during the period of additional time required for the repairs of the said damages to the said bridge, which delayed delivery thereof to the said owner.

7. That the building, construction and erection of the said bridge was duly authorized, sanctioned and approved as required by law and the said bridge was built, constructed and erected in accordance with such authority, sanction and approval.

The Plaintiffs further declare :—

10

8. That the said collision with the said bridge was caused by the fault and negligence of those on board the Defendant Steamer “ Philip T. Dodge ” and was occasioned by her improper and negligent navigation, the particulars of which are :—

(a) That the Defendant Steamer was proceeding at an excessive rate of speed.

(b) That she approached the said bridge on a course too close to the north bascule and pier of the said bridge.

(c) That no precautions were taken by those in charge of the said Defendant Steamer to determine or ascertain local conditions as to 20 proper navigation through the opening or gap of the said bridge.

(d) That the said Defendant Steamer was not properly aligned to permit her safely to clear the said bridge and navigate with safety through the opening or gap thereof.

(e) The said Defendant Steamer did not take proper or effective engine or helm action to prevent the occurrence of the said collision.

(f) That a proper and efficient lookout was not kept upon the said Defendant Steamer.

The Plaintiffs claim :—

(1) A declaration that they are severally entitled to the damages 30 proceeded for.

(2) The condemnation of the said Defendant Steamer “ Philip T. Dodge ” and her bail in such damages and for interest and costs.

(3) To have an account taken of such damages by the Registrar with the assistance of merchants.

(4) Such further or other relief as the nature of the case may require.

Montreal, December 28th, 1932.

(Sgd.) BROWN, MONTGOMERY & McMICHAEL,

Solicitors for Plaintiffs. 40

Received copy.

(Sgd.) BEAUREGARD & PHILLIMORE,
Solicitors for Defendant.

No. 3.
Statement of Defence.

Province of Quebec.
District of Montreal.
No. 58.

EXCHEQUER COURT OF CANADA.
QUEBEC ADMIRALTY DISTRICT.

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

No. 3.
Statement
of Defence,
2nd June,
1933.

DOMINION BRIDGE COMPANY LIMITED et al - - - *Plaintiffs*

vs.

S/S " PHILIP T. DODGE " - - - - - *Defendant.*

1. Defendant is ignorant of the allegation contained in Paragraph 1 of
10 *Plaintiffs' Statement of Claim* and states that at all events the Exhibit
therein mentioned speaks for itself;

2. In answer to Paragraph 2 of Plaintiff's Statement of Claim, Defendant
admits that the Steamer " Philip T. Dodge " struck the north bascule of the
bridge but otherwise denies said paragraph;

3. Defendant is ignorant of the allegation contained in Paragraph 3 of
Plaintiffs' Statement of Claim;

4. Defendant is ignorant of the allegation contained in Paragraph 4 of
Plaintiffs' Statement of Claim;

5. Defendant denies Paragraph 5 of *Plaintiffs' Statement of Claim*;

20 6. Defendant denies the allegation contained in Paragraph 6 and claims
that the delivery to the said bridge was not delayed through the accident;

7. Defendant is ignorant of the allegation contained in Paragraph 7;

8. Defendant denies the allegations contained in Paragraph 8 of
Plaintiffs' Statement of Claim.

And Defendant further says :—

9. That the " Philip T. Dodge " is a steel vessel of 5,047 tons gross,
3,691 tons net, registered at St. John, N.B., her length being 400 feet and her
breadth 51 feet 7 inches, and her speed nine and a-half knots;

30 10. That on July 6th, 1932, the said steamer " Philip T. Dodge " was
bound for the wharves of the International Paper Company situated at
Gaspé and in order to reach said wharf had to pass through the draw of the
bridge which was being built by the Dufresne Construction Company and the
Dominion Bridge Company, two of the *Plaintiffs* herein;

11. That the said " Philip T. Dodge " arrived off Gaspé Head around
midnight on July 5th but her Master, being aware that there was a bridge in
construction at Gaspé and that the passage through the draw of that bridge
was dangerous in view of its location and narrowness, decided to lay at
anchor until daybreak;

*In the
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Court
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Admiralty
District).*

No. 3.
Statement
of Defence,
2nd June,
1933—con-
tinued.

12. That at daybreak the Master of the " Philip T. Dodge " decided to proceed, took a Pilot and arrived at Gaspé Roads around 5.50. The weather at the time was clear and fine, there was a very light North West wind which did not affect the vessel, the tide being an hour after high tide and conditions appearing to be perfect to negotiate the passage through the draw of the said bridge, the Master proceeded towards same in order to arrive at destination ;

13. The Chief Officer was stationed at the bow of the vessel and another officer at the poop. The Master took the wheel himself and proceeded at slow speed towards said draw ;

14. That at a distance of about 1,700 feet from the said draw and opposite same on the east side, there is a light placed on the outline of a shoal so that in order to prevent the vessel from going aground the Master had to cause the vessel to describe a circle so as to bring the said " Philip T. Dodge " in a straight line with the draw of the said bridge ; 10

15. That the said " Philip T. Dodge " was safely brought in a straight line with the centre of the said draw and proceeded at slow speed to enter the said draw ;

16. That the said " Philip T. Dodge " had about two-thirds passed the said draw in the centre when suddenly the stern began to sag to the north owing to an unknown undercurrent ; 20

17. That the Master immediately ordered the wheel Hard Aport in order to counteract the effect of such current which was the only safe manœuvre to execute in the circumstances but notwithstanding, the sharp corner flair on the starboard side of the poop came into contact with the lift of the bridge causing damage to both the " Philip T. Dodge " and the bridge.

18. That the said " Philip T. Dodge " did not touch any part of the pier but collided only with part of the bascule of the bridge which was overlapping the edge of the pier ;

19. That the said accident is not due to any fault, negligence or bad navigation of the Steamship Defendant or of those on board her ; 30

20. That the said accident was caused by circumstances of current over which those in control of the " Philip T. Dodge " had no control and which they could not anticipate or guard against and the collision was an inevitable accident for which the Defendant is not responsible ;

21. That said collision is due entirely to the fault and negligence of the Plaintiffs in that :—

(a) They negligently and wrongfully constructed a badly designed bridge which impeded and interfered with the navigation of the Harbour of Gaspé to a greater extent than is necessary for the proper exercise of Plaintiffs' statutory powers ; 40

(b) That said draw, which is only 92 feet wide at its base, is too narrow ;

(c) That the said draw is at an improper place and not in the middle of the channel so that any vessel going into the harbour has to

describe a circle to enter through this draw in order to prevent the vessel from going aground and then is faced on the other side of the draw by the wharves of the Harbour of Gaspé which renders navigation most extricate, dangerous and difficult;

(d) That although the entrance of the draw is 92 feet wide from pier to pier, the lift is overlapping the edge of each pier by 5 feet so that the entrance is restricted to only 80 feet at the top of the lift with the result that although the "Philip T. Dodge" passed clear of the pier, its upper construction was not clear of the lift;

10 (e) That the unnecessary number of short spans and rock fill on the south shore created strong and varying currents which make navigation unusually difficult even at the most favourable times;

(f) That booms should have been placed along the piers on which the bridge rested so as to prevent any vessel from striking such piers in negotiating entrance through said draw and if such floating booms had been placed, the present casualty would have been avoided;

20 (g) That said bridge was wrongfully and illegally erected and is a public nuisance as being an obstruction which impedes the free and convenient navigation through the Harbour of Gaspé and is such that vessels desirous of passing through said draw have to wait until a certain stage of the tide and cannot negotiate said passage without danger if there is wind and/or current.

22. That no blame in respect of the collision is attributable to the "Philip T. Dodge" or to any of those on board;

23. That Plaintiffs' action is ill founded in fact and in law.

24. The Defendant claims:

30 (1) A Declaration that no blame in respect of the collision is attributable to the "Philip T. Dodge" or to any of those on board her;

(2) The condemnation of the Plaintiffs for the costs;

(3) A Declaration that Defendant reserves its rights for such damage which it may have suffered against the Plaintiffs and for such further or other relief as the nature of the case may require.

Montreal, June 2nd, 1933.

(Sgd.) BEAUREGARD & PHILLIMORE,
Solicitors for Defendant.

Received copy

(Sgd.) BROWN, MONTGOMERY & McMICHAEL.
Attorneys for Plaintiffs.

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*In the
Exchequer
Court
(Quebec
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District).*

No. 3.
Statement
of Defence,
2nd June,
1933—con-
tinued.

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

No. 4.

Reply to Statement of Defence.

**EXCHEQUER COURT OF CANADA.
Quebec Admiralty District.**

No. 58.

No. 4.
Reply to
Statement
of Defence,
3rd Novem-
ber, 1933.

DOMINION BRIDGE COMPANY LIMITED ET AL - - - Plaintiffs
Against
STEAMER " PHILIP T. DODGE " - - - Defendant.

1. The Plaintiffs pray acte of the Defendant's admissions contained in paragraphs 2 and 17 of the Defendant's said Statement of Defence but the balance of the said paragraphs is denied. **10**

2. As to each and every of the other statements contained in the other paragraphs of the said Statement of Defence the Plaintiffs deny the same except insofar as they are not at variance with the Plaintiffs' Statement of Claim.

Montreal, November 3, 1933.

(Sgd) **BROWN, MONTGOMERY & McMICHAEL.**
Solicitors for Plaintiffs.

No. 5.
Defendant's
Evidence.
Isaac Joseph
Tait.
Examina-
tion.

No. 5.

Defendant's Evidence.

20

No. 58. **IN THE EXCHEQUER COURT OF CANADA.**
(Quebec Admiralty District.)

PRESENT : Honorable Mr. Justice PHILIPPE DEMERS.
CAPTAIN GRAY, Assessor.

DOMINION BRIDGE COMPANY LIMITED, et al. - - - Plaintiffs
vs.
S. S. PHILIP T. DODGE - - - Defendant.

**DEPOSITION OF ISAAC JOSEPH TAIT, A WITNESS PRODUCED ON BEHALF
OF THE DEFENDANT.**

On this seventeenth day of November, in the year of Our Lord, one thousand nine hundred and thirty-three, personally came and appeared :

ISAAC JOSEPH TAIT,

of the City of Montreal, Consulting Engineer and Marine Surveyor, aged fifty-seven years, a witness produced on behalf of the defendant, who being duly sworn doth depose and say as follows :—

EXAMINED BY MR. LUCIEN BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT.

Q. Mr. Tait, you had some photographs taken of the bridge at Gaspé ?—
A. Yes.

Q. When were they taken?—*A.* It was the day of the Inquiry at Gaspé. I have forgotten the correct date now.

Q. Will you take communication of this photograph which I now file as exhibit D.1, and will you state from where this picture was taken?

A. This was taken as we approached, coming into the anchorage, and before we came to the light at the end of the shoal.

Q. You were on board the "Philip T. Dodge"?—*A.* Yes.

Q. Will you take communication of this other photograph which I file as exhibit D.2, and say from where this photograph was taken?

10 BY MR. MCKENZIE :

Q. Did you take these photographs yourself?—*A.* No, I had a photographer.

BY MR. BEAUREGARD :

Q. You had a photographer with you?—*A.* Yes.

Q. Were the photographs taken by him according to your instructions?—*A.* Yes.

Q. Were you standing by him?—*A.* Yes.

BY MR. MCKENZIE :

20 *Q.* You recognize them?—*A.* Yes. This was taken just as we swung around right at the end of Paddy Shoals.

BY MR. BEAUREGARD :

Q. Where were you standing when this picture was taken?—*A.* This was taken directly in the centre of the bridge. It is a little red light house.

Q. Would you now take communication of this photograph which I file as exhibit D.3, and state where it was taken?—*A.* This was taken from the starboard side of the bridge as we were approaching the draw.

BY THE COURT :

Q. What is the distance between that light and the draw?—*A.* About sixteen hundred feet.

30 MR. BEAUREGARD : According to the chart it would be about between sixteen hundred and seventeen hundred feet.

BY THE COURT :

Q. What is the distance to the Davis wharf?—*A.* About 800 feet.

BY MR. BEAUREGARD :

Q. Would you take communication of this photograph which I now file as exhibit D.4 and tell the Court where it was taken from?—*A.* This was taken from the end of the Davis wharf, looking out.

BY THE COURT :

40 *Q.* Which direction was the current?—*A.* It is about forty-five degrees through the Gap.

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

—
No. 5.
Defendant's
Evidence.

—
Isaac Joseph
Tait.
Examina-
tion—con-
tinued.

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

BY MR. MCKENZIE :

Q. That is taken at an angle? You can see the face of the sailor?—A. Well of course, it had to be slightly at an angle. It is just to get a view of the Gap and the light.

No. 5.
Defendant's
Evidence.

BY MR. BEAUREGARD :

Q. Does Davis wharf extend over the Gap?—A. Yes, if you get a proper line with the face of the piers.

Isaac Joseph
Tait.
Examina-
tion—con-
tinued.

BY THE COURT :

Q. It shows that?—A. Right ahead, the centre of the Gap is practically at the end of the shed.

10

Cross-exa-
mination.

CROSS-EXAMINED BY MR. C. RUSSELL MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFFS.

Q. Since they have described you as a photographer, I have two photographs myself that might probably be added to the collection: would you take communication of the photograph I now show you? Do you recognize the name, Philip T. Dodge?—A. I can see the name on the stern here. I presume that is her.

Q. Will you file that photograph as exhibit P.3?—A. Yes.

Q. Would you take communication of this photograph and tell his Lordship whether you recognize the damage done to the Philip T. Dodge?—A. Yes, that is the starboard side of the poop, of the Dodge after the accident.

20

Q. Will you file that photograph as exhibit P.4?—A. Yes.

MR. MCKENZIE: That shows, my Lord, the point of contact between the ship and the bridge. That is the corner of the poop which came into contact with the bridge.

AND FURTHER DEPONENT SAITH NOT.

(This witness was recalled—see p. 49.)

No. 58. IN THE EXCHEQUER COURT OF CANADA.
(QUEBEC ADMIRALTY DISTRICT.)

PRESENT : Honorable Mr. Justice Phillippe Demers.
Captain Gray, Assessor.

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

DOMINION BRIDGE COMPANY LIMITED et al - - - Plaintiff
vs.

S.S. PHILIP T. DODGE - - - Defendant.

No. 5.
Defendant's
Evidence.

DEPOSITION OF STANLEY ALLISON HUTCHINSON, A WITNESS PRODUCED ON
BEHALF OF THE DEFENDANT.

Stanley A.
Hutchinson.
Examina-
tion.

10 On this seventeenth day of November in the year of Our Lord, one
thousand nine hundred and thirty-three, personally came and appeared

STANLEY ALLISON HUTCHINSON

of Richbucto, New Brunswick, Master Mariner, aged 48 years, a witness
produced on behalf of the Defendant, who being duly sworn doth depose and
say as follows :

EXAMINED BY MR LUCIEN BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT.

- Q. Captain Hutchinson, you hold a Master's certificate?—A. Yes.
- Q. How long have you held a Master's certificate?—A. Since 1906.
- 20 Q. How long have you been at sea altogether?—A. Thirty-six years.
- Q. I understand you hold also a steam and square rigged certificate?—
A. I do.
- Q. Since how long have you been the Master of the Philip T. Dodge?—
A. Are you speaking of at the time of the accident, or at the present time?
- Q. Say, the present time?—A. About twelve and a half years.
- Q. And for those twelve years you have been in constant command of
her?—A. Yes.
- Q. Do you drink?—A. I am absolutely a teetotaller.

30 MR. MCKENZIE : I wish to suggest to my learned friend that that
question has never been raised in any of the pleadings or in anything that
we have alleged.

BY MR. BEAUREGARD :

- Q. In your experience as Master of ships, did you ever have any
accident?—A. None serious enough to have an inquiry over.
- Q. Except this particular one where there was an inquiry held?—A. Yes.
- Q. Did you have any serious accident though?—A. Nothing so very
serious, but in twenty-three years of being a Master you generally get into
little fixes here and there.
- Q. What is the tonnage of the Philip T. Dodge?—A. 3,691 registered,
40 5,047 gross.
- Q. What is her dead weight capacity?—A. 7,800 tons.

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tinued.

- Q. What is her length?—A. 400 feet over all.
- Q. What is her width?—A. 51 feet 7 inches.
- Q. And she is a steel vessel?—A. Steel, yes.
- Q. A right hand propeller?—A. Yes.
- Q. How does she steer?—A. She is a good steering ship.
- Q. What crew do you carry?—A. Thirty.
- Q. How many officers?—A. Eight all told.
- Q. How many deck officers?—A. Two.
- Q. And how many engineers?—A. Four.
- Q. On the date of this accident on the 6th July, where were you coming 10
from?—A. From Baltimore.
- Q. Were you loaded or in ballast?—A. In ballast.
- Q. What was your draft?—A. 10 feet 9 forward and 14 feet 10 aft.
- Q. I have here in front of me a document which mentions draft forward
9 feet 10?—A. 10 feet 9 may be wrong.
- Q. It is 9 feet 10?—A. Yes.
- Q. When did you arrive at Gaspé?—A. We arrived at Gaspé Head at
midnight.
- Q. How far is Gaspé Head away?—A. 15 miles down the Bay.
- Q. You arrived there at midnight?—A. Yes. 20
- Q. What did you do then?—A. It was the height of the fishing season.
The fishing boats were all in the Bay and I waited there till daylight, so I
would not get mixed up with the fishermen, and to go through the bridge in
daylight.
- Q. Had you any pilot on board?—A. About three o'clock in the morn-
ing the pilot came on board.
- Q. Who was this pilot?—A. Ernest Robert.
- Q. Did you ask for him?—A. No, they met me up there.
- Q. Was he a licensed pilot?—A. A local fisherman.
- Q. Do they have any licensed pilots in Gaspé?—A. Not to my know- 30
ledge.
- Q. So you took him on board?—A. Yes.
- Q. Had you been in Gaspé before?—A. Well, I sailed there five years in
the same trade.
- Q. After the pilot came on board what was done?—A. I got under way
immediately. The log book would show.
- Q. You can refer to your log book if you wish to do so?—A. We stopped
at midnight. At 3 a.m. we put her at full speed and at 3.20 a.m. we picked
up the pilot.
- Q. Did you know at the time that the bridge was in process of being 40
built at Gaspé?—A. Yes.
- Q. By whom had you been told?—A. By the Master of the ship, who
had been there.
- Q. What did you consider would be the best time to pass the draw of
that bridge?—A. Shortly after high water.
- Q. Why?—A. Because you would have the tide. You would be
stemming the tide. You would have better control of your ship.

Q. Had any remark been made by the Master of that ship about this bridge?—A. Well, he gave a description of the bridge.

Q. What was the description that he gave you?—A. He called it a rotten bridge.

Q. Who was the Master of that ship?—A. The Port Alfred was the name of the ship. McLaren was the name of the Master.

Q. What happened afterwards, after you took on the pilot?—A. At 3.26 we went at full speed. It would be daylight then.

10 Q. When did you arrive in sight of the Gaspé Bridge?—A. About 5.41 a.m. the engines were put at standby.

Q. What did you do afterwards?—A. She was put at half speed and she was put at slow speed.

Q. And at what time did you actually pass the draw?—A. 6 o'clock.

Q. What was the speed of the tide at the time?—A. Running out slowly.

Q. According to your tide table, how long after high water was it?—

A. One hour and forty-nine minutes.

Q. One hour and forty-nine minutes after high water?—A. Yes.

Q. What was the wind?—A. Light north west.

Q. Did it affect your vessel?—A. No.

20 Q. Will you explain to the Court what steps you had to take in order to bring your vessel in through the draw?—A. From the time the ship was put at standby, a few minutes after that, she was put at half speed.

Q. Whereabouts would you be when you gave this order to standby?—

A. Roughly, about two-thirds or three quarters of the way across the bay.

Q. At what time did you give the order for half speed?—A. 5.50 a.m. half speed.

30 Q. Would you describe to the Court the course which you have to follow in order to bring your vessel in line with the draw?—A. After half speed, when she slowed down, she was put at slow. That was just outside the outer beacon.

Q. Would you look at this chart which I now file as exhibit D.5, and indicate by an X on the chart this beacon that you refer to?

(WITNESS INDICATES IT WITH THE LETTER X.)

Q. You were coming from the north east?—A. I was coming from the north east.

Q. You would be going south west?—A. I would be going south west from the north west.*

40 Q. Coming from the upper entrance "A" you steer by . . .—A. And Jacques Cartier, and when I got to about the point "B" I steer south west for my direction.

Q. Down to where?—A. At the Paddy Shoal light.

BY MR. MCKENZIE :

Q. Is it only at the Paddy Shoal light that you start your circle?—A. Yes.

Q. About 400 feet south of Paddy Shoal?

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BY MR. BEAUREGARD :

Q. What distance did you pass Paddy Shoal light?—*A.* Not over 300 feet.

Q. Had you been warned by anybody about the Paddy Shoal?—*A.* No. I had been there for five years before.

Q. But that day when you were going in?—*A.* Not at Paddy Shoal. I was warned about the Shoal inside the Paddy Shoal.

Q. By whom?—*A.* The pilot.

BY MR. MCKENZIE :

Q. But you had been there before?—*A.* Yes, for five years. 10

BY MR. BEAUREGARD :

Q. When you were there before, was the bridge there?—*A.* No.

BY MR. MCKENZIE :

Q. That was the first time you had ever seen the bridge?—*A.* Yes.

BY MR. BEAUREGARD :

Q. On previous voyages, where would you pass to enter into Gaspe Bay?—*A.* I passed the way I always passed before.

Q. With reference to the draw, did you pass where the draw is?—*A.* Oh no, south of the draw.

Q. Where were you going?—*A.* To the mill of the International Paper 20 Company.

Q. Is that where the vessels usually passed before?—*A.* Yes.

BY MR. MCKENZIE :

Q. That is not the deepest water?—*A.* No.

Q. I understand the deepest water is right where the Gap is?—*A.* Yes, but there is shallow water outside.

Q. Where the Gap is, that is where the deepest water is?—*A.* Yes, at that place.

Q. I mean across the bridge, the deepest water is at the Gap?—*A.* Yes.

BY MR. BEAUREGARD :

Q. I understand you have prepared a sketch showing the various manœuvres?—*A.* Yes. 30

Q. Will you produce that sketch?—*A.* It is roughly drawn.

BY THE COURT :

Q. Would you draw a line showing the way you should approach the draw? Mark a line on that plan showing the way your ship came to the draw.

MR. BEAUREGARD : I have a little sketch which I intend to produce, my Lord.

HIS LORDSHIP : The witness should draw a line showing where the 40 ship went?

BY MR. BEAUREGARD :

Q. Will you file this sketch as exhibit D.6?—A. Yes. This is a rough plan I drew to help me navigate the ship, roughly drawn to scale as near as I could get it. The scale is 400 feet to the inch. I used the ship's length to measure all the distances.

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BY MR. MCKENZIE :

Q. This is for subsequent voyages?—A. Yes.

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BY CAPTAIN GRAY :

10 Q. Will you describe your position in passing Paddy's Light, and what manœuvres you did with your ship until you arrived at the draw, on the day of the accident?—A. I came in towards the Paddy's Shoal in a south westerly direction, a distance of about 300 feet . . .

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BY MR. BEAUREGARD :

Q. 300 feet from the Paddy Shoal Light, is that what you mean?—A. Yes, towards the draw. I noticed that the draw was not fore and aft of the channel but fair to the north side. To enter this I had to describe a circle to get in alignment.

20 Q. In line with the draw?—A. Yes, to accomplish this I had to head for the north shore gradually making a circle until up to the bridge. That is a difficult manœuvre. In describing this circle you do not know if you are being set one way or the other until you line up fair with the opening. After lining up fair with the opening I observed that directly ahead was a wharf, Davis Wharf. I also noticed that the bascule overhung the opening. I further noticed that it overhung to a dangerous angle.

BY MR. MCKENZIE :

30 Q. That is the north bascule you are speaking of? The southern one was not up.—A. No. Sufficient speed had to be got on the ship for steerage way. When entering the opening the chief officer from the fore-castle head indicated to me that the ship was fair in the center, which I also observed myself.

When two-thirds of the way through, still in the centre, the stern swung to the north for some unknown reason. The chief officer on the fore-castle head shouted and waved a warning; the pilot on the bridge did likewise, also the second officer on the poop.

There was only one thing to do which might avoid disaster, to put the helm hard to port and the action of the propeller wash on the rudder might throw her stern clear of the obstruction. It would not be advisable in such a short distance to go astern, as before any effect of the propeller would act on the ship, she would be against the draw.

40 Q. Which draw?—A. The north pier. Further, by that action you would also throw your ship cross ways of the bridge and your stern.

HIS LORDSHIP : Do you contend they should have gone astern, Mr. McKenzie ?

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MR. MCKENZIE: I think, my Lord, that he should have gone astern.

WITNESS: And your stern would overhang the south pier, in all probability damaging the rudder and the propeller.

BY MR. BEAUREGARD:

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Q. By coming in contact with the southern pier?—A. By coming in contact with the southern pier. The ship would then be in irons crossways of the bridge with an outgoing tide and no possible means of immediate assistance.

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The engines were kept going at the same speed until the instant the ship struck. She caught the bascule and brought it down, at the same time moving ahead until clear of the draw. The difficulty was then not over. Immediately ahead, only one ship's length, we were heading directly for another wharf. 10

Q. One ship's length from where?—A. From the time we were through. It is only 400 feet from the time the ship is through from Davis Wharf.

BY CAPTAIN GRAY:

Q. That means you were one length. . .—A. After passing through.

BY MR. MCKENZIE:

Q. You still had another ship's length 400 feet ahead of you?—A. Yes, immediately on the starboard side towards which the stern must turn to throw the bow clear of the obstruction ahead; the helm was put hard astarboard, and various movements of the engine made. 20

BY CAPTAIN GRAY:

Q. How was the current at the time? What was the direction of the current?—A. On the surface it did not show. There was little time to observe any extraordinary movement of the water. The tide at that time had ebbed one hour and forty-nine minutes, about the most favourable time to go through.

Q. If you noticed no surface current what, in your opinion, caused the stern of your vessel to go to starboard and strike that bascule?—A. During the several times following I made a careful observation of the set of the tide at all times. I found beyond doubt that the tide always set across the draw at an angle of from thirty-five to forty-five degrees. 30

Q. That is on future observation?—A. Yes.

BY THE COURT:

Q. So you contend the current was going in this direction?—A. About thirty-five to forty-five degrees.

BY THE COURT:

Q. From that direction?—A. Yes. 40

BY THE COURT :

Q. The line that I have marked on D.5?—A. Yes. The tide evidently comes down there and sweeps around there and sets over this way.

BY MR. MCKENZIE :

Q. You had your arrow going both ways on this plan of yours?—
A. Yes.

Q. I notice on your own plan you have the arrows going directly out from the centre of the bridge?—A. During trips after that I spent considerable time at all stages of the tide studying the set.

10 BY MR. BEAUREGARD :

Q. Will you explain what you mean by those arrows?—A. If the ship had got in, and there was no other exit except through the draw, I studied the possibilities of getting out with as little damage as possible.

BY MR. MCKENZIE :

Q. You never had any damage later than that?—A. The arrows on this exhibit D.6 indicate my observations.

BY CAPTAIN GRAY :

Q. Shall we call these concrete islands?—A. Yes.

Q. On which the bascule is built?—A. Yes.

20 Q. The current is setting at an angle between those two concrete piers?
A. Yes.

Q. Your vessel is proceeding southerly?—A. Yes.

Q. The action of the current would first take your bow as you pass through there, then your broadside until a certain place higher up—you have to my way of thinking about three parts of your ship with the current pressing on her port bow and bearing her stern over this way?—A. Yes. The momentum of the ship with the right* shaft* forward and the deep draft * sic. aft overcame the set until she got two thirds of the way through.

BY MR. BEAUREGARD :

30 Q. At what speed do you figure your ship was going through when you passed the draw?—A. At a speed most suitable to have control over the ship.

Q. What speed do you think this was that she was going through at the time?—A. A slow speed.

Q. Have you any idea as to what would be your speed over the ground?
—A. About three and a half to four knots.

Q. Who was at the wheel?—A. I was.

40 Q. Why did you take the wheel?—A. I took the wheel when I saw that an exceptional difficult manœuvre had to be made with the least possible chance of a wrong helm movement by the Quarter Master, and with five years previous experience in steering the same ship through two other bridges close together, my feel of the helm would be more instantaneous, than if I had given an order to the Quarter Master, he would be more or less mechanical.

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BY MR. MCKENZIE :

Q. Was the Quarter Master at the wheel?—*A.* I was. That was my reason for taking the wheel.

Q. Did you have a Quarter Master on deck?—*A.* We have seamen who take the Quarter Master's place. That is customary on tramp steamers.

BY MR. BEAUREGARD :

Q. Was there any protection along the piers?—*A.* No.

Q. During all your experience at sea, have you ever passed a bridge where there would be no protection whatsoever?—*A.* No.

Q. What is the protection that you usually find?—*A.* Sometimes dolphins 10 approaching the draw, sometimes floating booms, generally a rubbing belt between the piers, with sufficient space over the piers and the mechanism of the lifts to clear any movement the ship may necessarily make in transit.

Q. Does it happen at times when in passing bridges you will strike the pier or the protection that there may be around the pier?—*A.* Quite frequently you touch it unavoidably, to make a point of landing your ship on the rubbing belt.

Q. Without any damage either to the ship or to the pier?—*A.* No.

Q. In that particular case, if there had been any protection such as fenders or booms, do you think that you would have struck the super- 20 structure?—*A.* Not if there was sufficient width—sufficient width of the fenders.

BY MR. MCKENZIE :

Q. The fenders necessarily will reduce the space to go through?—*A.* Well, even there it would be safer to reduce the space and go through safely.

BY MR. MCKENZIE :

Q. Which you have done on many occasions?—*A.* With many close shaves.

BY MR. BEAUREGARD :

Q. What is the height from the water line up to the point of contact 30 with your bridge?—*A.* Twenty-six feet, two or three inches.

Q. Did you examine the bascules after the collision?—*A.* I did.

* *sic.*

Q. What minimum* is there to operate the bascule from the edge of the pier?

MR. MCKENZIE : These measurements will be established by our own plans.

BY MR. BEAUREGARD :

Q. Was there any protection around this mechanism?—*A.* None what- ever.

Q. What would be the angle that you believe your ship deviated?— 40 *A.* I should say about five degrees.

Q. Have you any idea what would be the overhang of your starboard quarter over the pier at the time of the collision?—A. I should not think more than eighteen inches.

Q. Did your vessel strike the cement pier?—A. Not that we know of.

Q. Was there any mark on your vessel which would indicate that you did strike, or was there any damage done?—A. Not on the ship, or as near as I could observe on the bridge—on the pier.

Q. Not on the cement pier?—A. No.

10 Q. Now, Captain, my opponent in his opening address to the Court referred to the London Bridge. Do you know the London Bridge?—A. I am afraid the London Bridge has no draw. I think he means the Tower Bridge.

Mr. MCKENZIE : I am sorry, it is the Tower Bridge.

BY MR. BEAUREGARD :

Q. Do you know the Tower Bridge?—A. I have passed over it fifty times a year for the last six years.

BY MR. MCKENZIE :

Q. Do you say over or under?—A. Over.

BY MR. BEAUREGARD :

20 Q. What is the width of the draw of the Tower Bridge?—A. The pilot there informed me that it is two hundred and twenty-five or fifty feet.

Q. Is it in the middle of the river?—A. Absolutely.

Q. How is the current running?—A. Fore and aft.

Q. How are those bascules located in relation to the cement base?—A. Several feet in board.

Q. I understand that you went back several times to the draw after this accident?—A. Yes.

BY MR. MCKENZIE :

Q. That is, in your ship?—A. Yes.

30 BY MR. BEAUREGARD :

Q. Did you follow the same procedure in order to pass the bridge going in?—A. Very nearly, but I found that no two times were exactly the same.

Q. Did you always keep passing straight through the center?—A. We would enter straight, or a little on the south side, which I found to be the safest plan.

Q. Did you always pass safely?—A. Yes, with several very close shaves.

Q. And in coming out?—A. I passed through but I have grounded and touched the bilge on two occasions and grounded heavily on another.

Q. That is, coming out?—A. Going out loaded.

40 Q. Is it on this Paddy Shoal?—A. The one that was pointed out to me by the pilot when going in.

Q. That is in between the bridge and the light?—A. Yes.

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BY MR. MCKENZIE :

Q. You will frequently ground when you are loaded?—*A.* Yes.

BY MR. BEAUREGARD :

Q. While you were there, did you see any vessel come in or out?

MR. MCKENZIE : I object to any evidence of this kind.

THE COURT RESERVES THE OBJECTION.

A. Yes.

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BY MR. BEAUREGARD :

Q. On the subsequent occasions that you passed through that draw, did you always feel that you were absolutely safe?—*A.* No, never. 10

Q. What do you mean by never?—*A.* I mean you could expect most anything to happen. Well, if you got through, it was a relief that you were through, that is all, but you never knew until you were through.

BY MR. MCKENZIE :

Q. That is pretty true of any voyage?—*A.* Any voyage I went through that draw?

Q. Going anywhere, is that the answer?—*A.* No.

BY THE COURT :

Q. You mean it was a pretty dangerous place?—*A.* Yes.

BY THE COURT :

Q. That is what you mean?—*A.* Yes. 20

BY MR. BEAUREGARD :

Q. Is it more than ordinary danger?—*A.* More than extraordinary.

Q. More than extraordinary danger?—*A.* Yes.

BY THE COURT :

Q. I would like you to explain what you mean?

BY CAPTAIN GRAY :

Q. Is there any possibility of checking your ship through there?—*A.* No, there is absolutely nothing to check your ship.

Q. No bollards?—*A.* There is no one anywhere near the bridge to fit 30 lines or make them fast.

Q. Would you not think if there were bollards there to check your ship through, it would be safer?—*A.* The element of danger would be still there for this reason, that with the right* of my ship I would strike the overhanging bascules. My bridge is fifty feet high. The bascules are not quite so much, I understand.

* *sic.*

Q. And there is no protection or fender of any description to keep you from touching that wall, or touching the bascule that overhang?—*A.* None whatever. You have to go through under way to keep control and keep to the center as much as possible. 40

Q. No matter what you did, you could not ease your ship through there?—A. No, it would be impossible.

BY MR. BEAUREGARD :

Q. Will you take communication of this blue print which I file as exhibit D.7, and tell me whether the outline of your ship, that you have made on that plan, is made according to scale?—A. The scale given on this blue print is twenty-four feet to the inch, using the same scale as nearly possible accurate, that is my ship going through.

Q. And this was drawn up by you?—A. Yes.

10 Q. Before the bridge was open where did vessels pass?—A. Before it was built?

Q. Before it was built?—A. I always passed in the center, or possibly further to the south side.

CROSS EXAMINED BY MR. C. RUSSELL MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF.

Q. I understand that you had been trading in and out of Gaspé all during the summer of 1932, that is, from July till the latter part of September?—A. About seven weeks I think.

20 Q. And do you happen to recollect how many times you had gone back and forward through that gap?—A. Sixteen times.

Q. Sixteen times in all?—A. Yes.

Q. And the first time you went through the north leaf was up?—A. Yes.

Q. The north leaf of the bascule, and that was the northern leaf which you knocked down?—A. Yes.

Q. The leaf on the southern side was not up?—A. No.

Q. At subsequent times you went through with both bascules up, did you not?—A. Towards the end of the season.

Q. As a matter of fact, you went through there some eight times with both the north bascule and the south bascule erected?—A. No.

30 Q. Would you look up your log book and check that, because I have already checked it Captain, and I find that starting August 20th 1932 you came in, and the last time going out was September 14th, going out both bascules were erected?—A. We do not keep a log of the progress of a bridge in construction.

Q. Whether it happened to be seven times or eight times, there were quite a number of times you recollect that you did go through with the Steamship Philip T. Dodge, when both bascules were erected?—A. Yes.

Q. And all those times that you went through there was no damage done?—A. No.

40 Q. When you are going through, off Paddy Shoal you passed at a distance, you say now, at some three hundred feet. Do you recollect being at the Wreck Inquiry and giving the same testimony with reference to your position off Paddy Shoal?—A. Well, it is something over a year ago that I gave it; I would not want to say that I could say the same thing exactly again.

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continued.*

Q. I just want to tell you what you said at that time, because you have shortened the distance a bit now. At the time of the inquiry you said you had passed Paddy's Shoal at a point some four hundred feet off?—*A.* Some.

Q. Four hundred feet?—*A.* Some, not accurately.

Q. So now you have brought it down to three hundred feet?—*A.* I do not say accurately three hundred.

Q. It might have been four hundred feet?—*A.* It might have been a mean of three hundred and fifty.

Q. Or, it might have been four hundred?—*A.* I do not think so.

Q. However, that is what you said in your prior testimony before the Board of Inquiry?—*A.* I won't contradict what I said before. 10

Q. When you are in a position four hundred feet south of Paddy Shoal, that makes your circle a much more acute affair than if you had been nearer Paddy Shoal; am I correct in that?—*A.* Naturally.

Q. The further south you go from Paddy Shoal, the more difficult the manoeuvre is?—*A.* Yes.

Q. Coming through on the 21st of July (I was on your ship at that time you will recall) do you remember how far south you were of Paddy Shoal?—*A.* Approximately.

Q. About fifty feet?—*A.* More than that. 20

Q. How far off would you say?—*A.* Somewhere around a hundred feet I should say, not less.

Q. Do you remember testimony being given to the effect that you were about fifty feet off?—*A.* No, I do not.

Q. I will be able to show you where the evidence is, to the effect that you passed some fifty feet off?—*A.* Some fifty feet.

Q. You would agree to that?—*A.* Yes.

BY MR. BEAUREGARD :

Q. You mean as well as you can remember now?—*A.* Yes.

HIS LORDSHIP : What date are you referring to? 30

MR. MCKENZIE : On the 21st July 1932, my Lord.

BY MR. MCKENZIE :

Q. At fifty feet off you have plenty of water there, have you not?—*A.* I have never been that handy.

Q. There is no question that at about fifty feet off you have plenty of water for your ship? Look at the chart and see if you can tell me?—*A.* It is on too small a scale.

Q. The nearer then you get to Paddy Shoal, the easier it is to enter the gap?—*A.* Not too near.

Q. But the nearer you get the easier it is?—*A.* No. 40

Q. Surely that must be so, in coming at a direct line to the gap the less manoeuvring you have to do, the easier it is to navigate?—*A.* No.

Q. You do not agree with that?—*A.* No.

Q. Then, what is your explanation? Won't you say you were handy, you were fifty feet or less . . . ?—*A.* You have to starboard your port

helm. It is not the bow that swings if you are too handy to Paddy Shoal, on starboarding your helm, your rudder, the propeller stern would possibly bring it on the shoal.

Q. When you starboard your helm you come around to port much easier when you have a right handed propeller, don't you?—A. Yes.

Q. That is so?—A. Yes.

Q. You find that you can bring your bow around to port much easier than you can bring your bow around to starboard when you have a right handed propeller?—A. Certainly.

10 Q. And you have a right handed propeller on your boat?—A. Yes.

Q. In your subsequent voyages, coming into the gap, you went much closer to Paddy Shoal than you did on the 6th of July?—A. Yes.

Q. That is so?—A. Yes.

Q. When you start on this course from south of Paddy Shoal, going through the bridge and through the gap, you expect just as soon as you get clear of the gap and the bridge, to bring her around to port; am I right in that?—A. Yes.

Q. You like to bring her around to port as quickly as you can, because it is over on the port side where the wharf is?—A. Yes.

20 Q. That is so?—A. With safety.

BY THE COURT :

Q. Your landing place was south ?

MR. MCKENZIE : To the south over on the port side.

BY MR. MCKENZIE :

Q. When you were going through, there was no bascule on the southern side, but there was a bascule on the north side?—A. Yes.

Q. Why did you not go nearer to the south side?—A. I came through in the center, the most natural place to go.

30 Q. You know that there is not any current in the Gaspé Basin except that which is created by tide?—A. And freshets sometimes.

Q. But not in July.—A. Possibly not so much.

Q. You had been there before, and you knew that there was a tide?—A. The tide did not enter so much into it. If there was no obstruction you just sailed in and out at all hours.

Q. You knew there was a tide before?—A. Oh yes.

Q. And consequently current?—A. Explain the difference.

Q. When you have tide coming into the Gaspé Basin, when it changes, you must have the current going out, do you not?—A. Tide in and out.

Q. Tide in and out, and consequently current? Am I right?—A. Yes.

40 Q. I am right about that?—A. Yes.

Q. You had known then that this tide and current had been going on since the world was created; you knew that you might expect some current going out at an hour and forty minutes after flood tide?—A. I hoped so.

Q. You expected that?—A. Yes, I hoped so.

Q. Now, you get two-thirds of the way through, and you are going four knots an hour?—A. Approximately.

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Q. Approximately four knots an hour when the poop suddenly hits the north bascule?—A. Yes.

Q. Although you have had the effect of the current on your port bow for some considerable time?—A. I don't know.

Q. But you do say there is a current there, and that is your explanation, is it not?—A. Yes.

Q. And the current only affected the stern, but did not affect the bow?—A. Apparently.

Q. When you got to that point of two-thirds of the way through the bridge at that time, you could anticipate going over to port; am I right as to that?—A. After I get through. 10

Q. Just as quickly as you can?—A. Yes.

Q. Do you stand your watch at the wheel?—A. On the occasion I did.

Q. Do you do this regularly?—A. Oh, I often do it.

Q. And you found that you, instead of giving instructions, could handle the ship better by yourself?—A. Yes, under ordinary conditions.

Q. You have a wheel house?—A. Yes.

Q. You were in the wheel house?—A. Yes.

Q. Where was your Chadburn or telegraph?—A. On the bridge.

Q. Outside the wheel house?—A. Yes. 20

Q. You could not reach that from where you were?—A. I did not want to.

Q. Well then, going through at four knots an hour, when you hit the northern bascule, you had something like, at least, forty feet on your southern side, had you not, before you came to the southern pier?—A. Yes.

Q. Forty feet?—A. Yes, at the point of contact.

Q. There were forty feet of free water on the southern side—on the port quarter there are about forty feet now, with those forty feet, why did you not reverse your engines?—A. It would not have had as good an effect as what I did. 30

Q. If you reversed your engines, the reverse would be making it from right to left; would not that pull her off?—A. If we stayed there long enough.

Q. How long would it take?—A. About twenty to twenty-five seconds before she would be going full astern.

Q. Twenty-five seconds?—A. Roughly.

Q. Do you know that one of your engineers brings that down to six or seven seconds?—A. No.

Q. Do you wish me to read this evidence?—A. I think I can agree to what you say though. 40

Q. I will read to you from page 250 of the evidence taken at the Wreck Inquiry. Mr. Beauregard asked you:

“Q. How many seconds does it take when you get an order from the telegraph for, say, full speed astern—how long does it take to operate the engines there to see that the engines are actually going full speed astern.

THE COURT : From slow, Mr. Beauregard ?

BY MR. BEAUREGARD : K.C.

Q. From slow ?—A. From slow speed to full speed ?

Q. From slow speed ahead to full speed astern ?—A. Oh, it would take around six or seven seconds if the engine is moving, from slow.

Q. You have got to stop ?—A. No, you don't require to stop—just put the reversing gear right over.

10 Q. Did you ever make any test to actually see how many seconds it would take ?—A. No, I haven't made the test, but I can tell you approximately.

Q. But when it comes to a question of seconds it is very difficult I am sure to say within a few seconds ?—A. I could tell you within a few seconds."

And then again :

" Q. How long does it take to change the revolutions ?—A. From slow ?

Q. Yes, from slow to full astern ?—A. That would take around six to seven seconds, as long as the engine was moving."

20 BY CAPTAIN GRAY :

Q. That is from slow ahead ?

MR. MCKENZIE : From slow ahead to full astern.

BY MR. MCKENZIE :

Q. Your Second Engineer says it would take from six to seven seconds ?—A. I agree with him.

Q. Well then Captain, if you were steering yourself, it appears to me most remarkable if you came ahead under those circumstances, to get to the telegraph and execute an order of that kind ?—A. I had a man standing by the telegraph.

30 Q. Who was he ?—A. A man I took from the wheel.

Q. In going through, at the time I went through with you on the 21st of July, you were at the wheel ?—A. No, nor never since, not with that bridge.

Q. You follow the usual practice now, do you not, of not being at the wheel yourself ?—A. Well yes. I can explain it quite easily.

BY MR. BEAUREGARD :

Q. Explain it ?

HIS LORDSHIP : It has been explained.

40 WITNESS : I can also explain about the propeller, and going astern. I agree with the second engineer that it would take six or eight, or ten seconds to reverse, but it would take quite a number of revolutions going at full speed astern, possibly some number of seconds before it would have any effect of turning the ship from the danger, whereas with the engines going ahead

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and putting the helm over instantly, at that instant, even before the helm was put hard over you would be commencing to receive the benefit of throwing your ship clear by putting your helm hard aport.

BY MR. MCKENZIE :

Q. Just develop that a little further. You say the reason you did not reverse your engines was, that your port quarter would come in contact with the southern pier, and that the overhang of your stern would be over the southern pier. That is pretty quick action?—A. That was the second reason. The first reason was that by reversing, it would have no effect on the ship until she struck, and the second reason is, that even doing the damage when she struck, she would do more damage by backing into the other pier. 10

Q. Surely you could stop reversing in the time which was at your disposal?—A. That would be after the damage was done.

Q. You have forty feet on your port quarter there, free water and no bascule on the southern side?

MR. BEAUREGARD : That would be after the collision.

MR. MCKENZIE : No, immediately before the collision.

MR. BEAUREGARD : If it was before, they would have struck it at forty feet, as they did. 20

WITNESS : I still agree with what I say.

BY MR. MCKENZIE :

Q. What was your answer?—A. The safest thing was to get her going and try to avoid the danger by the use of the helm on which the propeller had instant effect.

Q. But, as a matter of fact, you say the helm action which you took to bring her bow around to starboard, had no effect?—A. It was her stern I wanted to keep off.

HIS LORDSHIP : The witness said he did what he could but it had no effect on account of the current which turned his boat. He said he did what he could to avoid it. 30

BY MR. MCKENZIE :

Q. And you were going through the gap at a speed of four knots per hour?—A. Yes, at that time.

Q. As far as helm action is concerned, do you agree with the testimony of your pilot in going through the gap?—A. The pilot has not had as much experience as I have had.

Q. Will you answer that question?

MR. BEAUREGARD : What does the pilot say.

MR. MCKENZIE : As far as helm action is concerned I just want to know if they agree on that? 40

BY MR. MCKENZIE :

Q. As far as helm action, in going through the gap, do you agree with the pilot ?

MR. BEAUREGARD ; The pilot is not here.

MR. MCKENZIE : Will you have your pilot here ?

MR. BEAUREGARD : I will have him here on the 27th.

MR. MCKENZIE : That is quite all right, I am very glad you will have your pilot here.

BY MR. MCKENZIE :

10 Q. The first time in coming through here, did you stop from the time you left Paddy Shoal, on July 6th ?—A. Until when ?

Q. Right up to the time you hit the bascule ?—A. We stopped on the instant of hitting it, so we would have the effect of the propeller and rudder, and up to the last instant.

Q. You did not stop between the time you left Paddy Shoal to the time your engines were slowed ?—A. Well, I wished to keep control of the ship.

Q. What explanation have you to offer that in going through on these subsequent times you had not hit the bascule on either side ?—A. No, I did not hit it.

20 Q. You did not hit it, but what is the explanation ?—A. The explanation is, the study I have made of this exceptional set of the tide in the approach to the draw, and after passing the draw that up to the time I stopped we had no accident, but during that time, in fourteen or sixteen trips there were several—

Q. I am not interested in that.

MR. BEAUREGARD : Let the witness complete his answer.

BY MR. MCKENZIE :

Q. You are bringing in other ships ?—A. My own ship.

30 Q. Your own ship, that is all right. I am sorry.—A. On three occasions we were very dangerously near the north pier. On two occasions if there had been any ships at Carter's Wharf we would have raked them with our stern after we got through. On one occasion we lost absolute control of the ship in passing through. On three occasions after passing through, outward bound, the ship took the bottom, and on one of these occasions almost stopped with the engines going at full speed and the rudder not answering. It was only so many times—

MR. MCKENZIE : I think, my Lord, this witness must be controlled. I do not want him to go on a fishing expedition.

HIS LORDSHIP : It is your own fault. You put this question.

40 WITNESS : It was only so many times nearer another accident.

BY MR. MCKENZIE :

Q. At these various times you always avoided an accident ?—A. Fortunately.

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Q. Do you remember the explanation you gave at the Wreck Enquiry as to why you did not hit during the subsequent times?—A. No, I do not recollect.

Q. You do not recollect that?—A. No.

Q. I will read to you from page 188, your testimony given at the Wreck Enquiry.

“BY THE COURT:

Q. Likewise your statement that you were going four miles before?—A. Yes, that may be three and a half and it may be four.

Q. And you might have come a little faster that time you came in before?—A. Yes, but I don't think so.

Q. A little more daring that time, and now that you have struck the bridge your daring ceased?—A. No, I know more about it now.

Q. Therefore you went slow?—A. I took more precautions.”

A. With the engine.

Q. Just a minute; you do not dispute that was the explanation you gave at that time?—A. No.

Q. You took more precautions on your subsequent voyages?—A. With the knowledge that I gained after. 10

Q. So far as the steering quality of your ship was concerned, what was wrong with your rudder?—A. Nothing. 20

Q. Shortly after that you put in a new rudder, did you not?—A. No, not shortly after.

Q. When was it?—A. We never put on a new rudder.

Q. What did you do with your rudder?—A. We put on a new rudder stop.

Q. What was wrong with it?—A. There was a flaw in the casting.

Q. There was something wrong with your rudder?—A. Nothing to interfere with the handling of the rudder. We had crossed the Atlantic several times before. 30

Q. There were no bridges there, Captain?—A. No, thank goodness.

Re-exa-
mination.

RE-EXAMINED BY MR. BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT.

Q. During the subsequent times that you passed this bridge, did you always pass at the same state of the tide?—A. I found upon very close observation that the tide tables varied as much as forty-three minutes in the turn of the tide, without any apparent reason, in the bay; possibly the effects of distant winds.

Q. At what state of the tide would you try to pass if you could?—A. 40
A. Very much the same as the first time I came in.

Q. And at what state did you pass at the other times?—A. Always about the same state as the first time, the safest for the ship.

BY CAPTAIN GRAY:

Q. I would like to ask you this: in your opinion, as a ship master negotiating that bridge, do you consider it is safer to steam at a reasonable

speed through that bridge and depend on the steering qualities of your ship to navigate it?—*A.* Slow speed is not always the safest. We made a test. I think the chief engineer can supply the figures that were prepared, that that was the only thing to do with any degree of avoiding a disaster.

Q. And then, if you slowed your speed would there be possibility of losing command of your ship?—*A.* Yes.

Q. There is that possibility?—*A.* Yes.

Q. So your contention is, having been through there after, that the only way to navigate your ship, is to keep the ship steaming and to depend on your steering?—*A.* Absolutely.

BY MR. MCKENZIE :

Q. I notice from your log book that your speed has changed from a little better than seven and up to nine knots?—*A.* Yes.

Q. From seven to nine?—*A.* Yes.

Q. Captain, in making your tide and current observations at the gap, you did not use any scientific instruments?—*A.* No.

Q. Just your own observations?—*A.* Yes, by throwing things in the water.

BY MR. BEAUREGARD :

Q. How soon after you noticed that your stern was sheering towards the north abutment did the collision happen?—*A.* I would say about eight or ten seconds.

Q. During your various trips that you made last summer to Gaspé, did you lose any time by having to wait for a proper time to pass the bridge?—*A.* Yes, we lost two days, nineteen hours and fifty-nine minutes, besides on an average of two hundred cords a trip, short cargo.

Q. I don't know whether I asked you this question or not this morning. Is it possible to pass that draw at any stage of the tide?—*A.* We never tried the tide running full, but I do not think so.

Q. And if there is any wind?—*A.* It would be impossible.

BY MR. MCKENZIE :

Q. With reference to short cargo, you mean you did not have enough water?—*A.* No. I mean as to loading lumber, pulp wood and lumber, you generally load until the ship takes a list.

Q. But as far as water is concerned, there is plenty of water there?—*A.* Yes.

Q. You were ashore, as a matter of fact, when you were at your own pier?—*A.* Yes.

BY MR. BEAUREGARD :

Q. You would not take the risk of having any list?—*A.* No.

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IN THE EXCHEQUER COURT OF CANADA.
(Quebec Admiralty District.)

PRESENT : Honourable Mr. Justice PHILIPPE DEMERS.

CAPTAIN GRAY, Assessor.

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DOMINION BRIDGE COMPANY, et al. - - - - - *Plaintiffs*

vs.

L. H. Dicks.
Examina-
tion.

S.S. PHILIP T. DODGE - - - - - *Defendant.*

DEPOSITION OF LOUIS HERBERT DICKS, A WITNESS PRODUCED ON BEHALF
OF THE DEFENDANT. 10

On this seventeenth day of November, in the year of our Lord, One thousand nine hundred and thirty-three personally came and appeared :

LOUIS HERBERT DICKS,

of the City of Halifax, Nova Scotia, Chief Officer, a witness produced on behalf of the Defendant, who being duly sworn doth depose and say as follows :

EXAMINED BY MR. LUCIEN BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT.

Q. I understand you were the Chief Officer on board the Philip T. Dodge on the 6th July 1932 ?—*A.* Yes. 20

Q. Do you hold any Master's certificate ?—*A.* Yes, Master's Deep Sea certificate.

Q. How long have you been on board the Philip T. Dodge ?—*A.* The full time ?

Q. Yes ?—*A.* Seven years.

Q. How does the vessel steer ?—*A.* She steers very good.

Q. Where were you at the time of the accident ?—*A.* On the forecastle head.

Q. How long had you been on the forecastle head ?—*A.* About ten or fifteen minutes. 30

Q. Did you notice at what distance the Philip T. Dodge passed the beacon light just outside of the bridge ?—*A.* I could guess, about two hundred feet, or two hundred and fifteen feet.

Q. What were your duties on the forecastle head ?—*A.* The duties were then entering the bridge—entering the gap in the bridge.

Q. Well now, you were watching the vessel approaching the gap ?—*A.* Yes.

Q. With the view, I suppose, of giving indications to the Master as you were approaching ?—*A.* As we were approaching, yes.

Q. How was the vessel when she did enter into the draw—when she began to enter into the draw?—A. When she began to enter the draw, a little bit on the port side on the south abutment.

Q. What distance would her bow be from the bridge at that time?—

A. About fifty feet.

Q. Before entering?—A. Before entering.

Q. Was anything done?—A. Yes, she was brought in the center.

Q. Did you call to the Master?—A. Yes, and indicated with my hand.

Q. You indicated with your hand?—A. Which side to go.

10 Q. Was your indication called?—A. Yes. She was immediately then put into center.

Q. When the ship actually began to negotiate the entrance to the draw, how was she?—A. In the center?

Q. How was the vessel? Was she in a vertical line or parallel line with the draw?—A. In a parallel line with the abutment?

Q. Yes, I mean to say was she straight?—A. She was straight as far as I know.

Q. Did you look to see whether she was straight?—A. No—between the two abutments.

20 Q. And she was straight?—A. Straight.

BY MR. MCKENZIE :

Q. But you say you did not look?—A. No, not to notice if the ship was in a line with the abutments.

BY MR. BEAUREGARD :

Q. Will you repeat that again?—A. I did not notice if the ship was in a line with the center of the abutments, only in the center of the gap.

Q. What happened afterwards?—A. After we entered the draw?

Q. Yes?—A. We sailed on through about two thirds of the way.

30 Q. And as you were proceeding, up to that time, was the vessel still in the middle of the draw?—A. Yes, pretty near as I noticed, in the centre of the draw.

Q. What happened then?—A. Her stern began to sag towards the north abutment.

Q. Did you notice it immediately?—A. Yes.

Q. And did you do anything?—A. Yes.

Q. What did you do?—A. I shouted to the Captain as he was going towards the north pier, and also indicated to him with my hand that she was going towards the north pier.

40 Q. Was anything further done that you know of?—A. No. The only thing I noticed was, the Captain put the wheel hard aport.

Q. Did you see him do that?—A. I saw him do that.

Q. You saw him doing it?—A. Yes.

Q. And how soon after did the collision happen?—A. Well, within a few seconds after that

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Q. In your estimation, at what speed were you going passing through the draw?—*A.* We were going about three to four knots.

Q. Did you consider at the time it was too fast?—*A.* No, I did not consider at the time it was too fast, because there is a way that we keep on the vessel to steer.

Q. If you had been going slower, do you think it would have been better?—*A.* Oh, I could not tell you that.

Q. I understand that you went through this gap on several subsequent voyages?—*A.* On several voyages after.

Q. At what speed were you proceeding on those subsequent voyages compared with the speed you were proceeding at on the 6th July?—*A.* As far as I could judge about the same speed—about the same speed. 10

Q. When the vessel was entering the draw and you say that she appeared to be in the center, did you signal to the Captain on the bridge?—*A.* Yes, I signalled that she was in the center.

Q. Did you shout to him?—*A.* I shouted to him and directed with my hand.

Q. Do you know whether the vessel touched the cement pier of the bridge?—*A.* No, I cannot say.

Q. Was there any indication on your ship which would show that she did strike the pier?—*A.* No, there was not. 20

Q. There was no damage at all?—*A.* No.

Q. What is it that caused the stern to sheer?—*A.* In my judgment it was current.

Cross-exa-
mination.

CROSS-EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF.

Q. I suppose you have nothing to do with the control of the ship in so far as speed is concerned?—*A.* No.

Q. That is the Captain's duty entirely?—*A.* That is entirely up to the Captain. 30

Q. Do you remember giving testimony before the Wreck Commissioner at Gaspé?—*A.* Yes.

Q. You said at that time the speed of the ship was four knots going slow. I will read to you from page 222, the evidence given at the Wreck Inquiry :

“ BY THE COURT :

Q. You say the slow speed is four knots?—*A.* Yes.”

There was no question of three knots at that time?—*A.* No, I did not say three knots. I said three to four knots.

Q. But at the time of the Inquiry, immediately after, you said the speed was four knots. You do not wish to change that evidence?—*A.* No. 40

AND FURTHER DEPONENT SAITH NOT.

No. 58.

IN THE EXCHEQUER COURT OF CANADA.
(Quebec Admiralty District.)

PRESENT : Honorable Mr. Justice PHILIPPE DEMERS.
CAPTAIN GRAY, Assessor.

DOMINION BRIDGE COMPANY LIMITED, et al. - - - *Plaintiffs*

vs.

S.S. PHILIP T. DODGE - - - - - *Defendant.*

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R. Dunn,
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tion.

10 DEPOSITION OF RONALD DUNN, A WITNESS PRODUCED ON BEHALF OF THE
DEFENDANT.

On this seventeenth day of November, in the year of Our Lord, one thousand nine hundred and thirty-three, personally came and appeared :

RONALD DUNN,

of Somerset, England, Second Officer of the Steamship Philip T. Dodge, a witness produced on behalf of the Defendant, who being duly sworn doth depose and say as follows :

EXAMINED BY MR. LUCIEN BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT.

20 Q. Mr. Dunn, were you the Second Officer on board the Philip T. Dodge on the 6th July?—A. Yes.

Q. How long have you been on the Philip T. Dodge?—A. Eight years this month.

Q. How does that vessel steer?—A. She is a good steering ship.

Q. Where were you at the time of the collision?—A. On the poop.

Q. How long had you been there?—A. Twelve or fifteen minutes, I guess.

Q. Did you notice when your vessel passed the beacon light?—A. Yes.

Q. In your estimation, at what distance did you consider the vessel passed the beacon light?—A. Oh, about half, or over half a ship's length.

30 Q. Did you watch the vessel from that time until she passed through the draw?—A. Yes.

Q. Was it your duty to do so?—A. Yes.

Q. Did you notice how the vessel was when she entered into the draw?—A. Fair in the center.

Q. Was the vessel in line with the center of the draw?—A. Yes.

Q. She was?—A. Yes.

Q. Perfectly straight?—A. Perfectly straight, parallel to the draw.

Q. What speed do you consider you were making at the time?—A. About three and a-half to four knots.

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R. Dunn.
Examina-
tion—con-
tinued.

Q. What happened after the vessel passed through that draw?—
A. When the main mast was about to pass the draw the ship's stern went right in on the bridge.

Q. What did you do?—*A.* I motioned to the bridge and shouted "Hard aport."

Q. Do you know whether the order was executed?—*A.* Yes, because I was standing on the runway where the rod goes through, and I had to use my foot to get out of the way of it.

Q. So you actually saw by the movement of the chain rod that the helm was put hard aport?—*A.* Yes. 10

Q. How soon after you felt that the stern of the vessel was drifting towards the pier did the collision happen?—*A.* Less than ten seconds. I guess—well, about ten seconds, perhaps less.

Q. What part of your vessel touched the bridge?—*A.* The break of the poop, on the deck, off the bridge.

Q. Did the vessel touch the cement pier?—*A.* It did not have a chance to.

Q. When you shouted to the Master to put the helm hard aport, it did not occur to you to tell him to put the engines full speed astern?—*A.* There would not have been any time in my opinion. It would not have done any good. 20

Q. Did you make any observations afterwards to see if there was any set of the current at the draw?—*A.* Yes. I was with the Captain on one occasion and I saw when he sounded the set of the current across the abutment on the south side.

Q. What was the speed of the current? Was it to the south or to the north?—*A.* To the starboard side, to the north.

Q. On subsequent occasions you did pass through this draw?—*A.* Yes.

Q. Could you tell the Court whether you were proceeding on those subsequent occasions at a greater or slower speed?—*A.* At the same speed 30 as far as I could judge.

Q. And how close did you pass to the beacon?—*A.* About half a ship's length as far as I could judge.

Q. Will you file as exhibit D.8 an extract from the Chief Officer's log of July 6th, and as exhibit D.9 an extract from the Chief Officer's log of August 2nd?—*A.* Yes.

Q. Will you file as exhibit D.10 extract of the Chief Engineer's log of July 6th?—*A.* Yes.

Q. Will you file as exhibit D.11 the extract of the Chief Engineer's log of August 2nd?—*A.* Yes. 40

Cross-exa-
mination.

CROSS-EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF.

Q. Do you remember having given evidence at the Wreck Enquiry?—
A. I remember something of it. It is a long time ago.

Q. I will read to you from page 241 of your evidence given at the Wreck Enquiry :

“ Q. What do you claim your ship was going yesterday—what speed was she going?—A. I should say about four knots.”
There is no question of three and a-half knots. It was four knots ?

MR. BEAUREGARD : That was on the 3rd of August.

MR. MCKENZIE : And he says he was going at the same speed.

BY MR. MCKENZIE :

Q. So that would be four knots?—A. Yes.

10 BY CAPTAIN GRAY :

Q. You said in your evidence just now that when you saw the vessel's stern canting towards the north buttress of the bridge, you were standing on the channels, somewhere near the steering rods and her helm being put hard to port?—A. I was standing on the channels leaning over the rail watching her going close, and after I had given a motion to the bridge, I had to move my foot to allow the buffers and chains to go past my foot.

Q. That was a hard aport helm?—A. Yes.

Q. Which way do you mean by hard aport?—A. The old way.

Q. That is, canting to starboard?—A. Yes.

20 Q. So that you saw the wheel being put over, or the chains passing through the channel?—A. I saw the chain which is the same thing.

Q. To cant her bow to starboard?—A. Yes.

Q. To allow the starboard to go away from the concrete pier?—A. To throw her quarter off.

Q. You did not know then, but you know since that there are two ships' lengths from the buttress to Davis wharf?—A. Yes.

Q. I would like you to tell me if you can, if you thought there was sufficient room in eight hundred feet, if the ship had obeyed her hard aport helm, to clear that Davis wharf, that is, your ship section going through the
30 lock, hard aport helm, assuming it acted—assuming the current was on your port bow as described in the evidence, could your ship have cleared Davis wharf?—A. I don't think so. If she had answered, she would have hit the bridge.

Q. She would have hit the wharf which would be ahead of her?—A. Yes.

Q. What are the lengths of the piers through the draw?—A. Forty feet.

Q. Forty feet from one end to the other?—A. Yes.

BY MR. MCKENZIE :

Q. On your subsequent trips through you were much closer to Paddy Shoal than when you went through on the 21st July?—A. Sometimes we
40 were a bit closer.

Q. Considerably closer?—A. Possibly—a little closer.

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IN THE EXCHEQUER COURT OF CANADA.
(Quebec Admiralty District.)

PRESENT : Honourable Mr. Justice PHILLIPPE DEMERS.
CAPTAIN GRAY, Assessor.

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DOMINION BRIDGE COMPANY LIMITED, et al. - - - *Plaintiffs*

A. O.
Aitkenhead.
Examina-
tion.

S.S. PHILIP T. DODGE - - - - - *Defendant.*

DEPOSITION OF ARTHUR OWEN AITKENHEAD, A WITNESS PRODUCED ON
BEHALF OF THE DEFENDANT. 10

On this seventeenth day of November, in the year of Our Lord, one thousand nine hundred and thirty-three, personally came and appeared :

ARTHUR OWEN AITKENHEAD,

of Newcastle, England, Chief Engineer, a witness produced on behalf of the Defendant, who being duly sworn doth depose and say as follows :

EXAMINED BY MR. LUCIEN BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT.

Q. Mr. Aitkenhead, you were the Chief Engineer of the Philip T. Dodge on the 6th July?—A. Yes.

Q. You hold a certificate as Chief Engineer?—A. Yes. 20

Q. Where were you when the Philip T. Dodge passed through the gap of the Gaspé bridge?—A. I don't know what position the ship was in. I was down below.

Q. You were down below?—A. Yes.

Q. At that time did you feel the impact down below?—A. I felt a slight lurch.

Q. At the time of the impact, how were your engines?—A. The engines were at the moment stopped.

Q. How long had they been stopped?—A. I should say a matter of two or three seconds. 30

Q. And before that?—A. Before that they were going slow ahead.

Q. At how many revolutions?—A. Thirty-four.

Q. At slow speed, what are your revolutions?—A. It is thirty-four revolutions.

Q. At slow speed?—A. Yes.

Q. At half speed?—A. At half speed they run about forty-seven.

Q. And at full speed?—A. Full speed, anything from sixty to seventy.

A light ship may be a little more.

Q. What is her speed in the water at full speed?—A. Full speed, she will do about eight, approximately. It depends on the weather. 40

Q. Have you any "dead slow" on your telegraph?—A. On the telegraph, no, but whenever I want a dead slow from the bridge, if we are already at slow, they ring the telegraph again to emphasize it, and that is the recognized thing down below.

Q. How long will it take to reverse the engines from slow ahead to full speed astern?—A. It takes about ten seconds to pull the gear over, and then for the engines to accelerate you want another fifteen seconds on top of that.

Q. What do you mean by having the engines accelerated?—A. You have got to run the gear over first, and for the engines to operate it to full
10 speed, pull it to the full revolutions.

Q. Is it a guess that you are giving to the Court now?—A. No, I tested that out down below.

CROSS-EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF.

Q. You do not agree with your brother officer in the engine room as to the time that takes?—A. This is the actual time. Probably if I had been asked before for the actual time to pull the gear over I might have given you a less time.

Q. Do you mean to tell me that it takes almost half a minute to get
20 your engines from slow ahead to full speed astern?—A. Yes, that is, to do the revolutions.

Q. But to get her to full speed astern, so far as the engine is concerned it would take about ten seconds?—A. No, to turn the gear over it would take ten seconds, to have the engines accelerate at the full revolutions.

Q. I do not understand this acceleration you speak of. What I want you to tell me is, from the time that you get the order on the Chadburn, or the telegraph, how long it takes to put that engine in full speed astern from slow ahead?—A. To put the engine to full astern it takes about twenty-five
30 seconds.

Q. Twenty-five seconds?—A. Twenty-five seconds to get the full revolutions.

Q. What do you mean by full revolutions?—A. About sixty or seventy revolutions.

Q. To get her started back?—A. She will work up from slow upwards in about ten seconds afterwards.

Q. Well then, from the time that you get the first movement in reverse, how long would that take?—A. The first movement in reverse would be just over ten seconds, that is, actual time.

BY THE COURT :

Q. If I understand well, in ten or twelve seconds you cease to go ahead?
40 —A. No, the engines are going slow ahead to start with. In the engine room the operator at the controls has got his hand to the telegraph. The ship is going slow ahead. He hears the telegraph ring. We have a man at the telegraph, but he must turn around and look at the telegraph to check up

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what the man tells him. That takes a couple of seconds. He has then got to run his reversing gear over; that takes another six to seven seconds, and he has orders to stop from slow to full. There is another couple of seconds there, and before the engines are actually doing the full it takes another fifteen seconds on top of that to accelerate.

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BY MR. MCKENZIE :

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Q. You do not have to stop your engines from slow to reverse? You do not stop your engines?—*A.* Not always, but we have to open up to go from slow to full.

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mination—
continued.

Q. But in this instance here you are going ahead slow, and then you reverse your engines, you do not have to stop, do you; it is all one operation?—*A.* You have to pull the reversing gear which is a separate handle, then, you have to open the intermediate stop valve.

Q. It is not necessary for you to stop your engine?—*A.* No, it is not necessary.

Q. Your engines go immediately astern?—*A.* When you pull the gear over and open a special valve the engines have to stop when the gear is running over.

Q. I want you to go through this with me from the time you get the order full astern, and when I say, full astern, you have got it on the Chadburn. Tell me how long it will take, and tell me when you are through? 20

MR. BEAUREGARD : If you will allow me, Mr. McKenzie the witness said he tested it. You may ask him whether he tested it with his watch, etc. I do not think this would be a fair test because, when he made the test it was made with his watch in his hands, and now to make a test not having his watch in his hands he would not be able to say exactly.

HIS LORDSHIP : He said he made the experiment with his watch, and he does not pretend to know without a watch.

MR. MCKENZIE : I am just asking him to go through the thing mentally.

BY MR. MCKENZIE :

30

Q. Did you have a watch?—*A.* I had the controls. Mr. Tait had the watch. He was taking the time.

BY MR. BEAUREGARD :

Q. Mr. Tait was taking the time with his watch?—*A.* Mr. Tait was taking the time with his watch, and I was on the controls. I was actually testing it.

BY MR. MCKENZIE :

Q. The "dead slow" was never given in this instance?—*A.* The "dead slow" was not given there, no.

AND FURTHER DEPONENT SAITH NOT.

40

No. 58.

IN THE EXCHEQUER COURT OF CANADA.
(Quebec Admiralty District.)

PRESENT: Honorable Mr. Justice PHILLIPPE DEMERS.
CAPTAIN GRAY, Assessor.

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S.S. PHILIP T. DODGE - - - - - *Defendant.*

G. Park.
Examina-
tion.

10 DEPOSITION OF GEORGE PARK, A WITNESS PRODUCED ON BEHALF OF THE
DEFENDANT.

On this seventeenth day of November, in the year of Our Lord, one thousand nine hundred and thirty-three, personally came and appeared:

GEORGE PARK,

of the city of Montreal, Second Engineer, a witness produced on behalf of the Defendant, who being duly sworn doth depose and say as follows:

EXAMINED BY MR. BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT.

Q. Mr. Park, you were the Second Engineer of the Philip T. Dodge on the 6th July?—A. Yes.

20 Q. Were you on duty at the time?—A. Yes, I was down below.

Q. In approaching Gaspe Bridge, will you tell the Court the various orders you received from the Bridge?—A. I could not tell you without looking at the log book.

Q. I will show you the log book. You made the entries in the log?—
A. Yes.

Q. How long does it take to reverse the engines from slow speed ahead to full speed astern?—A. The last time you asked me, I said eight seconds, but I was just talking by judgment. I have tested it since then. It takes ten seconds. I have tested it by watch since then, and it takes ten seconds.

30 Q. To have the engines accelerated to full speed astern?—A. It takes the gear ten seconds, and to get into full swing twenty-five to thirty seconds.

Q. You corroborate the evidence given by Mr. Aitkenhead?—A. No, I am going by judgment, by the time it took me myself afterwards.

Q. You timed it yourself afterwards?—A. Yes.

CROSS-EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF.

Cross-exa-
mination

40 Q. So you wish to change the evidence you gave at the Wreck Enquiry?
—A. No, I do not wish to change it at all. I never took the time before, but since then, when they told me it took ten seconds, I timed it to see if it was ten seconds.

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mination—
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Q. At that time you said :

“ A. No. I haven't made the test, but I can tell you approxi-
mately.”

A. Six to seven seconds.

Q. You say six to seven seconds?—A. Six or seven.

Q. And you said further that the operation is practically instantaneous?

A. The reversing gear, not the engine, the reversing gear.

Q. The question was asked you by the Court at page 254 :

“ Q. There is scarcely an interval of time—it is the same handle
that operated?—A. It is practically instantaneous.”

10

A. Well, but you have to pick up.

Q. That is a matter whether you had enough speed at the time to bring
it up to the entire full revolutions?—A. The engine changes from ahead and
then you have to pick up your full revolutions afterwards.

Q. Just at this point, will you tell me from the time that the propeller
is going ahead to the time that it is going in reverse?—A. I would say about
thirty seconds to get full speed.

Q. Answering my first question, to full speed, from the time it is going
slow speed ahead to the time that it begins to turn the opposite way . . . ?
—A. To slow astern?

20

Q. Yes, that is what you mean by six or seven seconds?—A. No. I was
talking of the reversing gear, but you never asked me any more.

Q. You say, this reversing gear is practically instantaneous?—A. Ten
seconds. I never timed it before until after you took me up, I found it took
ten seconds.

Q. Does it take ten seconds from the time that your ship is going
forward, your engines are forward, and the time that it takes you to get your
propeller turning the opposite way in reverse?—A. Your reversing gear
goes around, goes half way then, you get half around at five seconds, and
three quarters of the way is going to give reverse—you start to reverse.

30

Q. I will ask you the question again : from the time that you get your
signal, your engines are still going slow ahead?—A. Slow ahead, yes.

Q. You get your signal. How long does it take before the propeller is
going in reverse—how many seconds?—A. Just ten seconds before it starts
to move, that is, it starts to move astern.

Q. You can get that in ten seconds?—A. Yes. That is in picking up,
of course.

Q. It has to pick up as soon as you put on steam?—A. It takes some
time to pick up.

AND FURTHER DEPONENT SAITH NOT.

40

No. 58.

IN THE EXCHEQUER COURT OF CANADA.
(Quebec Admiralty District.)

PRESENT : Honorable Mr. Justice PHILIPPE DEMERS.
CAPTAIN GRAY, Assessor.

DOMINION BRIDGE COMPANY LIMITED et al. - - - *Plaintiffs*
vs.

S.S. PHILIP T. DODGE - - - - - *Defendant.*

10 DEPOSITION OF JAMES C. WALKER, A WITNESS PRODUCED ON BEHALF OF
THE DEFENDANT.

On this seventeenth day of November, in the year of Our Lord, one thousand nine hundred and thirty-three, personally came and appeared :

JAMES C. WALKER,

of Argyle, Scotland, Ship Master, a witness produced on behalf of the Defendant, who being duly sworn doth depose and say as follows :

EXAMINED BY MR. LUCIEN BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT.

Q. What ship are you the master of?—A. The “Blairspray.”

20 Q. I understand you are in the Harbour only for a few days and then
you are going to the other side?—A. Yes.

Q. Did you happen to have occasion to go to Gaspé with your vessel last summer?—A. Yes, I was ordered to Gaspé.

Q. Where?—A. Into the International Wharf, in the Basin.

Q. Inside the Gaspé Bridge?—A. Inside.

Q. What is the length of your ship?

MR. MCKENZIE, K.C., OF COUNSEL FOR PLAINTIFF OBJECTS TO THIS QUESTION AS ILLEGAL AND IRRELEVANT, THE COURT MAINTAINS THE OBJECTION.

30 Q. While you were in Gaspé, did you make an examination or investi-
gation with regard to the current?—A. I did.

Q. What did you do?—A. I put one of the ship's life-boats into the water on Sunday morning the 20th of August. I had the Chief Officer, the Chief Engineer and four apprentices with me to examine the current.

MR. MCKENZIE : As far as this testimony is concerned, my Lord, we must know if the conditions were the same as they were on the 6th of July.

HIS LORDSHIP : I cannot decide that now.

BY MR. BEAUREGARD :

Q. And what did you do?—A. We took the life-boat, and to begin with, it was dead calm. There was not a breath of wind, and we stopped the

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life-boat exactly in the fairway between the first pier and the bridge, but I may say, two hundred feet from the bridge, stopped the boat dead to test the current inside the bridge, and I found that the life-boat drifted to the north side altogether. It did not go near the opening at all—near the fairway opening right through at all.

Q. What time was that?—*A.* It was between half past ten and eleven o'clock on the Sunday, the 20th.

Q. What stage of the tide was it?—*A.* It would be about three or four hours flood, high water approximately, one thirty in the afternoon.

MR. MCKENZIE: I object to this testimony and ask that it be stricken out. That is not the same condition of the tide that existed on the 6th of July. 10

THE COURT RESERVES THE OBJECTION.

BY MR. BEAUREGARD.

Q. Did you make any other tests?—*A.* Yes, I watched the current practically daily.

Q. How many days were you there?—*A.* We were there three days. I was ashore every day to watch the current because it was important that I should get into the berth, and I refused to go.

Q. Why?—*A.* Because I considered it was not safe. That is why I refused to go. 20

BY THE COURT:

Q. To go where?—*A.* In through the bridge, to pass through the bridge.

BY MR. BEAUREGARD.

Q. Did you have the opportunity of examining the current at the beginning of ebb tide?—*A.* I watched it daily. I could not just say ebb tide or flood tide, but we watched it daily when we were ashore, because I was expecting orders every moment, and every day we went to shore we had a look at it.

Q. And did you always find the same current?—*A.* It was always running to the north. 30

Cross-examination.

CROSS-EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF.

Q. For whom were you doing that examination?—*A.* For myself, because I was bound in there by charter.

Q. How is it you have come here to give this testimony?—*A.* It is most important to me.

Q. But how is it you present it to this Court at this time? Who asked you to come here and give this testimony?

MR. BEAUREGARD: If my learned friend wants to know, I might explain that Mr. Tait was in Gaspé last summer and was on board his ship, if I understand and he is the man who came and told me, and his ship happens to be here to-day so I thought I should bring him before the Court. 40

BY MR. BEAUREGARD :

Q. Do you know Captain Hutchinson of the Philip T. Dodge?—A. No. This is the first time I have met the gentleman.

Q. You have never met him before?—A. No, I did not.

BY CAPTAIN GRAY :

Q. That current you are speaking of was always the one thing?—A. Yes.

Q. Up and over?—A. Up and over, on the top. I could not say exactly.

Q. You took it on as long as your time table told you, and always found the current situated to the north?—A. Yes, to the north side.

Q. That is across the basin with the draw?—A. Well, about an angle of forty-five degrees.

Q. Did you ever bring the boat into that draw?—A. No, I would not attempt it.

Q. Instead of the current setting diagonally or on an angle across the draw of the bridge, do you think, or do you not think, that when the tide came into that draw of the bridge that it would not flow straight through? Do you see my point?—A. Yes.

Q. The piers are there?—A. I understand.

Q. The current is running this way, going into the basin, would not the tide turn automatically straight into that draw?—A. Possibly underneath, but on the top I am of the opinion that there is no current there.

Q. Assuming that—assuming then the current strikes the north wall of that concrete pier, flows through that north wall, would it not return when it reached the far end?—A. You mean the flood tide?

Q. Do you see my point?—A. As I say, all the time the current was down on the surface, and of course, we have no means of testing it underneath.

Q. The current is settling diagonally across the inside of the bridge, that is, from the basin?—A. Yes.

Q. Going from the basin?—A. Yes.

Q. And strikes diagonally across those two concrete piers?—A. Yes.

Q. It runs between the draw of the bridge. You say it is bearing on that point all the time?—A. Yes.

Q. When it reaches the bridge end of that concrete pier will the action of the surface water not be that way?—A. Yes, outside the bridge.

Q. That is what I am trying to get at?—A. Outside the bridge it will.

BY MR. MCKENZIE :

Q. That would throw your stern away from the pier?—A. This is not near the pier at all. It is away inside that the Captain is talking about, and on the shore.

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BY MR. BEAUREGARD :

Q. Had you been to Gaspé before?—*A.* My first time, but I have never been in the Harbor, except with the life-boat, the small boat and that was to examine the place.

Q. In the previous year you had never been to Gaspé?—*A.* No.

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BY MR. MCKENZIE :

Q. You had no scientific instruments in order to make these tests you speak of?—*A.* I had my eyes to see.

J.C. Walker.
Cross-examination—
continued.

Q. That was all you had?—*A.* Yes.

AND FURTHER DEPONENT SAITH NOT.

10

F. E. Eden.
Examination.

DEPOSITION OF FRANCIS E. EDEN, A WITNESS EXAMINED ON BEHALF OF THE DEFENDANT.

On the twenty-seventh day of November, in the year of Our Lord One thousand nine hundred and thirty-three, personally came and appeared.

FRANCIS E. EDEN

of the town of Gaspé, in the Province of Quebec, Harbour Master, a witness produced and examined on behalf of the Defendant, who, being duly sworn, deposes as follows :

EXAMINED BY MR. BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT.

20

Q. You are Harbour Master at Gaspé?—*A.* I have been Harbour Master for forty-four years last April.

Q. Will you tell his Lordship and the Assessor whether the current sets in any direction at the gap, inside the bay?—*A.* The current in the whole harbour—from up in the upper harbour—has an incline. It comes down against Gaspé Harbour Point, and it has an incline to the northward when the tide is running out—it runs to the north.

Q. They had to build an approach in order to build the bridge?—*A.* Yes.

Q. Will you look at the photograph I now hand you, which shows the approach, and will you tell me whether this was built for the purpose of the bridge? 30

MR. MCKENZIE : I object to testimony of this character. The witness is not a member of either of the contracting firms.

MR. BEAUREGARD : But, he knows where this bridge was built, and he knows whether this approach was there before the bridge was built.

HIS LORDSHIP : Ask him that.

BY MR. BEAUREGARD, CONTINUING :

Q. Will you look at the photograph, and say whether you recognize it?—*A.* Yes, I do.

Q. We are now speaking of the photograph which has been filed as exhibit D.12?—A. Yes.

Q. Will you tell his Lordship and the Assessor whether the approach to the bridge existed before the bridge was built?—A. That approach was not built. It was shoal water out there.

10 Q. Did the fact that this approach was put up have any effect on the current?—A. When the river is up in the Spring, when the tide is up, and the water first starts out, it will make a little more current run over towards the north. It will make more current run over, because formerly the current used to come out right around the Point. It was more shoal there, and it would run out right around where the black and white lighthouse was.

Q. Do you remember Captain Walker, of the Bearsbay talking to you in Gaspé?—A. Yes.

Q. In regard to what?—A. He wanted to know if I would tell him it was perfectly safe for him to go through, and he said if I did not tell him it was perfectly safe to go through . . .

MR. MCKENZIE : If this is to be evidence in regard to some other ship going through, I object to it.

THE OBJECTION IS MAINTAINED BY THE COURT.

20 MR. BEAUREGARD : I have no other questions to ask the witness.

CROSS-EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF.

*In the
Exchequer
Court
(Quebec
Admiralty
District).
—
No. 5.
Defendant's
Evidence.
—
F. E. Eden.
Examina-
tion—con-
tinued.*

Cross-exa-
mination.

Q. There is no particular difference between the tide as it was before the bridge was built, and the tide as it is since the bridge has been built?

BY THE COURT :

Q. The current is the same?—A. The current is the same.

BY MR. MCKENZIE, CONTINUING :

Q. And, the tide is the same?—A. Yes.

30 —A. And, the only current you get in the Bay there is caused by the tide?
—A. No, the current in the spring is from the river.

Q. But, in the summer time?—A. It is always inclined out, when the tide is low, because there is quite a start.

Q. In the summer time it is caused by the tide, not the current of the river?—A. The tide, not the current of the river. The current of the river is very little, but there is always a stronger current running out than there is in.

BY MR. BEAUREGARD :

40 Q. Do you remember whether before the bridge was built vessels passed where the draw is to-day, or farther up?—A. They were passing farther out from there. Years ago there were schooners beating in and out, and they would go right in, but the regular course was from Davis Wharf to the lighthouse out straight, which brought them about 30 or 40 feet farther than it is now.

BY MR. MCKENZIE :

Q. A difference of about thirty feet?—A. About that.

No. 5. Defendant's Evidence. Q. You made no scientific study of the currents, with scientific instruments, I suppose?—A. No, not the currents, but I have sounded that harbour for twenty years. Twenty-five years ago there was no lighthouse there.

F. E. Eden.
Cross-examination—
continued.

AND FURTHER DEPONENT SAITH NOT.

E. Roberts.
Examination.

No. 58.

IN THE EXCHEQUER COURT OF CANADA.
(Quebec Admiralty District.)

10

Canada.

Province of Quebec.

PRESENT : His Lordship Mr. Justice P. DEMERS ; and
CAPTAIN J. O. GRAY, Assessor.

DOMINION BRIDGE COMPANY, LIMITED, et al. - - - Plaintiffs

vs.

STEAMER PHILIP T. DODGE - - - Defendant.

DEPOSITION OF ERNEST ROBERTS, A WITNESS EXAMINED ON BEHALF OF
THE DEFENDANT.

On this twenty-seventh day of November, in the year of Our Lord, one thousand nine hundred and thirty-three, personally came and appeared : 20

ERNEST ROBERTS,

of the Town of Gaspé, in the Province of Quebec, Fisherman, a witness produced and examined on behalf of the Defendant, who, being duly sworn, deposes as follows :

EXAMINED BY MR. BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT.

Q. You were on board the Philip T. Dodge at the time of the casualty in question?—A. Yes.

Q. Where did you go on board the ship?—A. I joined the ship outside the Gaspé light. 30

Q. Were you the pilot on board the ship?—A. I was pilot on board, yes.

Q. Had you piloted boats frequently?—A. Yes, for twenty-five years.

Q. I understand you have no licence?—A. No, we are not branch pilots : we are fishermen.

Q. Do you remember when you approached the Gaspé Bridge?—A. Yes.

Q. Who was at the wheel?—A. The Captain.

Q. Where were you?—A. I was on the bridge.
 Q. Was there any one at the telegraph?—A. One man.
 Q. Was there any one on the bow of the vessel?—A. The first mate.
 Q. And, on the poop?—A. The second mate.
 Q. Was the speed of the vessel reduced before approaching the bridge?

A. "Slow."

Q. Do you remember passing a buoy—the Paddy Shoal Buoy?—A. Yes.

Q. How close did you pass to that buoy?—A. About two hundred feet.

Q. How were the engines going when you passed the buoy?—A. Slow.

10 Q. What did the Master do after you passed the buoy? Or, what did you do to pass the bridge?—A. We were going slow all the time.

Q. Could you go straight into the gap?—A. We were going straight in the centre, as fair as we would go in the centre. The first mate was forward, with his hands up, and the second mate had his hands up.

Q. And, you were going straight fair in the centre?—A. Yes.

Q. What happened afterwards?—A. We struck the gate.

Q. Did the Master touch the wheel before the vessel struck?—A. He touched the wheel—"steady."

20 Q. How was the wheel at the time you were passing?—A. The wheel was steady.

Q. Did he keep the wheel always "steady"?—A. All the time "steady."

Q. Was anything done by the Master just before the vessel struck?—A. Her stern kind of swung.

Q. Sheered?—A. Sheered. It might be the tide, or the current. The current always goes from the north side.

Q. Did you notice when the stern of the vessel sheered?—A. The second mate made a signal.

Q. What did the Master do? Did he do anything with the wheel?—

30 A. Yes, he kept her steady all the time.

Q. When the stern began to sheer?—A. He fetched her up a little—one turn—just to fetch her up a little bit.

BY MR. MCKENZIE :

Q. Which way?—A. Not to swing. Not to swing across the bridge, or her stern would go too much.

BY MR. BEAUREGARD, CONTINUING :

Q. And, it was to correct that?—A. Yes, to correct it.

MR. BEAUREGARD : I have no further questions.

CROSS-EXAMINED BY MR. MCKENZIE, K.C.,
 OF COUNSEL FOR PLAINTIFF.

40

Q. Do you remember being present as a witness at the Wreck Enquiry held in Gaspé?—A. I might have been.

Q. Do you remember being present as a witness?—A. —

*In the
 Exchequer
 Court
 (Quebec
 Admiralty
 District).*

No. 5.
 Defendant's
 Evidence.

E. Roberts.
 Examination—*continued.*

Cross-examination.

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

BY MR. BEAUREGARD :

Q. You were a witness at Gaspé?—*A.* Yes.

BY MR. MCKENZIE, CONTINUING :

Q. Do you remember telling the Court at that time what you saw, and what you did?—*A.* I do not remember that.

No. 5.
Defendant's
Evidence.

Q. Do you remember you gave testimony at that enquiry?—*A.* I forget sometimes. It is a long time ago.

Q. You just told my friend, Mr. Beauregard, the ship came in with the helm "steady" right through the gap?—*A.* Yes.

E. Roberts.
Cross-exa-
mination—
continued.

Q. There was no time the helm was hard-aport?—*A.* No, we were steady. The Captain had the wheel, and it was steady. 10

Q. Right through the gap?—*A.* Yes.

Q. He held it "steady" right through the gap?—*A.* Yes.

Q. And there was no hard-aport?—*A.* No.

Q. You are sure of that?—*A.* Yes.

Q. And there was no hard-astarboard?—*A.* No.

Q. You are sure of that?—*A.* Yes.

Q. At page 195 of the testimony you gave before the Wreck Commissioner, you spoke of giving a hard aport helm. Your evidence was :

"*Q.* Did you give the order hard aport?—*A.* Hard aport. 20

Q. When?—*A.* Inside the light there.

Q. Did you give it any farther on?—*A.* Right through the gap.

Q. Right through the gap you kept hard aport?—*A.* Yes."

Do you remember that?—*A.* I do not remember that.

Q. You do not remember saying you gave hard aport?—*A.* No, I do not remember that.

Q. You did not say it?—*A.* No.

Q. Your evidence is you went through the gap steady?—*A.* Steady, yes.

Q. Just a slight turn, but no hard aport or no hard astarboard?—*A.* No.

Q. When you were going through you wanted to bring her around to port, did you not?—*A.* No. 30

Q. Where did you want to bring her?—*A.* If we had fetched her around we would have taken the whole bridge away.

Q. You were just waiting to get out to where the wharf was, at the International Pier?—*A.* That is all right.

Q. So, just as soon as you could turn you were going to bring her around to port?—*A.* Yes.

Q. So you cannot remember now whether she was going through steady, or whether you gave hard aport?—*A.* She was going steady.

Q. Right through the gap?—*A.* Yes. 40

Q. So, when the Captain says he gave hard aport, he is wrong? We have it in testimony that the Captain gave hard aport when she was about two-thirds of the way through.

MR. BEAUREGARD : When the stern of the vessel began to sheer.

WITNESS : That was the time.

BY MR. MCKENZIE, CONTINUING :

Q. Did he give her hard aport then?—A. No.

Q. Did he give her hard aport at any time?—A. Yes.

Q. When?—A. At the time she struck.

Q. Was she steady all the way through then?—A. Steady right through.

Q. You were in complete charge of the ship?—A. No, the Captain took charge.

Q. Where?—A. He took charge out at the red light.

10 Q. Did you not take the wheel?—A. No, he took the wheel. He said, "I will fix her course."

Q. That is not the usual practice, is it—for the Captain to take the wheel?—A. It was not my fault.

Q. But you had not seen that done before?—A. Very often the captain takes the wheel.

Q. Not on the Dodge?—A. Not on the Dodge, but on other ships they take the wheel.

AND FURTHER DEPONENT SAITH NOT.

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

—
No. 5.
Defendant's
Evidence.

—
E. Roberts.
Cross-examination—
continued.

DEPOSITION OF ISAAC J. TAIT, A WITNESS EXAMINED ON BEHALF OF DEFENDANT.

I. J. Tait.
Examination.

20 On this twenty-seventh day of November, in the year of Our Lord One thousand nine hundred and thirty-three, personally came and appeared,

ISAAC J. TAIT,

of the City and District of Montreal, already sworn, who, being called as a witness on behalf of the Defendant, deposes as follows :

EXAMINED BY MR. BEAUREGARD, K.C.,

OF COUNSEL FOR DEFENDANT.

Q. You have already been sworn in this case?—A. Yes.

Q. The Chief Engineer of the Philip T. Dodge stated that tests were made with you with regard to the time it would require to reverse the engines.

30 Will you explain the tests that were made?—A. We took the actual time aboard the ship itself. We measured the time taken to reverse the engines.

The first movement necessary must be the telegraph. No one would ever move the engines until that is finished. That takes three seconds.

The actual reversing of the reversing gear takes six seconds.

Then it takes another second to open the stop valve—more if it is going fast.

Altogether ten seconds.

40 That is actual movement. That does not say the engines are going at any speed. In trying the ship out afterwards I found it took another ten seconds before she made five revolutions astern. She had only five revolutions in ten seconds.

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

*No. 5.
Defendant's
Evidence.*

*I. J. Tait.
Examina-
tion—con-
tinued.*

To put the rudder from centre hard over to port, or starboard, took exactly five seconds.

Q. You were in Gaspé at the time of the enquiry?—*A.* Yes.

Q. Did you try to ascertain the direction of the current at the draw?—

A. I did, in a rough way, in conjunction with the captain.

Q. How did you do it?—*A.* By putting various pieces of wood in the water, and checking the time and the drift.

We found that, roughly, the current was going at 45 degrees practically across the gap, at a speed of about 1.1/2 knots at the time.

Q. You examined the Philip T. Dodge?—*A.* Yes.

10

Q. Will you tell His Lordship and the Assessor whether there is anything out of the ordinary about the construction of the Philip T. Dodge, particularly about the way she is built at the stern?—*A.* No nothing particular. There are many ships with their sterns built like that.

Q. You are a marine surveyor, I understand?—*A.* Yes.

Q. And, a marine engineer?—*A.* Yes.

Q. What is the difference from the flare of the stern up to the water line? How many feet, or how many inches, will the flare extend over the water line when the vessel is in ballast?

WITNESS: You mean, in line with the poop?

20

COUNSEL: Yes.

A. I did not check that, but I imagine it would be at least about ten feet. That is from the water line when she is light, right out to the poop.

BY CAPTAIN GRAY:

Q. The overhang of the poop?—*A.* Yes.

Q. Under the counter?—*A.* Yes. From her actual water line to that point.

BY MR. BEAUREGARD, CONTINUING:

Q. Do you know what is the height of the navigating bridge?—*A.* I think the Captain gave that as 52 feet. I did not measure it.

30

Q. Exhibit P-3 shows the vessel going out of the gap. Would she be deeply loaded there, or light?—*A.* She is loaded going out. As much as they dared put on her.

BY MR. MCKENZIE:

Q. But, she was light when she came in?—*A.* Yes. When that photograph was taken she was fully loaded.

Q. How do you know that?—*A.* I know it by looking at the photograph. She is not full draft, but she is loaded deep.

Q. Did I understand you to say it takes three seconds to move a Chadburn and get a report down to the engine?—*A.* And a reply. They put it over on the bridge, and then the engineer has to do the same thing.

40

Q. And, the longer you do that sort of thing, moving it back and forth, naturally the longer it will take?—*A.* You could take more seconds, if you wanted to do so, but you cannot do it faster than three seconds.

- Q. If you moved it over with one movement, from "slow ahead" to "full astern," it would be just one movement?—A. Yes.
- Q. You have the engineer standing by?—A. Yes.
- Q. And he would practically have his hands on the Chadburn?—A. Yes.
- Q. The second engineer said it was an instantaneous movement.—
A. It is instantaneous. As soon as the handle moves on the bridge the pointer begins to move. It is instantaneous, in that sense.
- Q. As soon as you move it on the bridge it moves in the engine room?—
A. It begins to move.
- 10 Q. If it is an instantaneous process, and you move it over, it surely does not take three seconds?—A. When you get an order like that, especially an emergency order, you always give a double ring, and that was what was done on that occasion, and the timing was carried out exactly as it was done.
- Q. The captain was in the wheelhouse, and was doing the steering, and he would have to go out to move the telegraph?—A. No, he had a man standing by.
- Q. The Captain would have to give the order?—A. Yes.
- Q. To this man standing by?—A. Yes.
- 20 Q. If the Captain wanted to give the signal himself, he would have to go outside the wheel-house?—A. Yes.
- Q. And, if he did that it would take considerably longer?—A. Yes, if he had done it himself.
- Q. This overlap or flare you spoke of was at quite an angle, and it could overlap the cement of the pier?—A. Quite right. Practically any ship will do the same.
- Q. But not if she is straight?—A. She has an overhang whether she is straight or not.
- Q. If she is straight in the opening she will not overhang, or she will
30 not hit anything? Am I right in that?—A. No, no ship could.
- Q. There is not sufficient overhang of the bascule to hit the side of the ship?—A. The only place it might hit would be the bridge. The bridge is higher than the line of the bascule.
- Q. Would you say that from the photograph to which you have been referred?—A. She is loaded ship there. Light ship the bridge is fifty feet above the water.
- Q. I think you will see on the photograph exhibit P-3, there is no chance of hitting?—A. Not when she is loaded, but there is a grave chance when she is light. You see, her bridge is fifty-two feet above the water line.
- 40 Q. How could the bridge possibly hit, if it is in on either side?—A. If I remember correctly it was stated that if you took the line of the pier when the bascule stood up it would hit the bascule 38 feet above the water line approximately.
- Q. How could it possibly hit the bridge?—A. She is loaded there. When she is light the bridge is fifty-two feet above the water.
- Q. If anything is going to be hit it will be the side of the ship, not the bridge?—A. The bridge is the side of the ship.

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

*No. 5.
Defendant's
Evidence.*

*I. J. Tait.
Examina-
tion—con-
tinued.*

*In the
Exchequer
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No. 5.
Defendant's
Evidence.

I. J. Tait.
Examina-
tion—con-
tinued.

Q. The Captain said the bridge tumbles home?—A. Yes.

Q. Then you are not quite right about the bridge?—A. I am not certain about it.

MR. MCKENZIE : I have no further questions.

MR. BEAUREGARD : We have not examined the wheelsman of the Philip T. Dodge, because he is not on board the vessel this year, and we could not find him. His testimony is in the record before the Wreck Commissioner, and I would be prepared to offer a transcript of his evidence to form part of the record in this case unless my learned friend objects to it.

MR. MCKENZIE : I certainly would object to it, because I have no opportunity of cross-examining the witness. 10

MR. BEAUREGARD : My learned friend was present when the wheelsman was examined, and cross-examined him then.

HIS LORDSHIP : At the same time, you cannot file testimony taken before the Wreck Commissioner's Court unless Mr. McKenzie consents that it should be done.

MR. MCKENZIE : And, I cannot consent to it. I have no opportunity of cross-examining the witness.

AND FURTHER DEPONENT SAITH NOT.

No. 6;
Plaintiffs'
Evidence.

Fred Newell.
Examina-
tion.

No. 6.
Plaintiffs' Evidence.

20

No. 58.

CANADA.

IN THE EXCHEQUER COURT
OF CANADA,

PROVINCE OF QUEBEC.

Quebec Admiralty District.

PRESENT : His Lordship Mr. Justice P. DEMERS ; and
CAPTAIN J. O. GRAY, Assessor.

DOMINION BRIDGE COMPANY, LTD., et al - - - - - *Plaintiffs*

— vs —

STEAMER PHILIP T. DODGE - - - - - *Defendant.* 30

DEPOSITION OF FRED NEWELL, A WITNESS EXAMINED ON BEHALF OF THE
PLAINTIFFS.

On this twenty-seventh day of November, in the year of Our Lord One thousand nine hundred and thirty-three, personally came and appeared

FRED NEWELL,

of the City and District of Montreal, Assistant Chief Engineer, Dominion Bridge Company, Limited, a witness produced and examined on behalf of the Plaintiff, who, being duly sworn, deposes as follows :

EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF :

Q. Will you take communication of the contract which has been filed as Plaintiffs' exhibit P-1, and will you tell His Lordship and the Assessor whether that was the contract under which the bridge in question was built ?
—A. That is the contract under which the bridge was built. A contract between the Dominion Bridge Company the Dufresne Construction Company.

(It is agreed between Counsel that a copy of the above document will
10 be filed, to serve in lieu of the original.

Exhibit P-2 is admitted as a true copy of the original.

Certified copy of the letters patent of the plaintiff company is filed as exhibit P-5.

Copy of Statutes of the Province of Quebec, XX George V. 1930, Chap. 4. entitled " An Act Respecting the Construction of a Bridge over the Gaspé Bay," is filed as exhibit P-6.

Copy of Quebec Official Gazette, is filed as exhibit P-7.

Two notarial copies of contracts with the Provincial Government are filed as exhibits P-8 and P-9.)

20 MR. MCKENZIE : I have no other question to ask the witness.

MR. BEAUREGARD : I have no cross-examination.

AND FURTHER DEPONENT SAITH NOT.

DEPOSITION OF KENNETH CAMERON, A WITNESS EXAMINED ON BEHALF
OF THE PLAINTIFFS.

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

No. 6.
Plaintiffs'
Evidence.

Fred Newell,
Examina-
tion—con-
tinued.

Kenneth
Cameron.
Examina-
tion.

On this twenty-seventh day of November, in the year of Our Lord One thousand nine hundred and thirty-three, personally came and appeared

KENNETH CAMERON,

of the City of Ottawa, in the Province of Ontario, Chief Engineer Department of Public Works, a witness produced and examined on behalf of the
30 Plaintiffs, who, being duly sworn, deposes as follows :

EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFFS :

Q. You are Chief Engineer of the Department of Public Works ?—

A. I am.

Q. And, you have occupied that position for a number of years ?—

A. Yes.

Q. Were you Chief Engineer of the Department in 1930 and 1931 ?—

A. Yes, I was.

Q. Did you have occasion to examine the plans of the Gaspé Bridge,
40 which is the subject matter of this action ?—A. In so far as the plan related to the location of the bridge, and the clearances of the bridge.

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

*No. 6.
Plaintiffs'
Evidence.*

*Kenneth
Cameron,
Examina-
tion—con-
tinued.*

Q. And, with reference to the requirements under the Navigable Waters Protection Act?—A. Yes.

Q. Have you those plans with you?—A. Yes, I have.

Q. The plan you now show me is dated October, 1930?—A. Yes.

Q. I notice it bears a certificate of registration, Gaspé Register, dated January 26th, 1931?—A. Yes.

Q. That was in accordance with the Navigable Waters Protection Act?

A. Yes. There are two sheets of plans.

Q. Was this plan submitted to the Governor General in Council?—

A. Yes. 10

Q. I notice it bears "P.C.No. 525." That is the Order in Council?—

A. That is the number of the Order in Council.

Q. Approving the plan?—A. Approving the plan.

Q. It is dated March 6th, 1931?—A. Yes.

MR. MCKENZIE: I would ask to have this plan filed as exhibit P-10.

WITNESS: It is part of the Departmental Records of course.

MR. MCKENZIE: We have a copy of it. The only difference between the original and the copy is that the copy does not bear the certificate of registration at Percé, where the plans were deposited.

BY MR. MCKENZIE, CONTINUING: 20

Q. Will you file, as exhibit P-10, a copy of the plan, to serve in lieu of the original?—A. Yes.

BY THE COURT:

Q. The copy does not bear the certificate of the Registrar?—A. No.

Q. You have seen the copy?—A. Yes.

Q. And, as I understand it, the only difference between the original and the copy is that the copy does not bear the certificate of the Registrar?—A. Yes. The copy is printed off the original.

BY MR. MCKENZIE, CONTINUING:

Q. There was a subsequent plan which was filed with your Department?—A. Yes. 30

Q. The plan you now show me is a plan dated October 23rd, 1931, and bears "P.C. No. 861," dated April 21st, 1932. That would be the number of the Order in Council, and the date of the Order in Council?—A. Yes.

Q. That plan was also approved by Order in Council?—A. Yes.

Q. And, that was the plan that was submitted to the Governor General in Council for approval?—A. Yes.

Q. And, it was approved in Privy Council Order in Council No. 861?—A. Yes.

Q. You approved this plan yourself?—A. I recommended the approval. 40

Q. This plan also bears the certificate of the Registrar, having been registered at Percé?—A. Yes.

MR. MCKENZIE: I would ask to file a copy of this plan, to serve in lieu of the original.

BY THE COURT :

Q. The copy does not bear the certificate of the Registrar?—A. No sir.

Q. Is that the only difference between the original and the copy?—

A. That is the only difference.

(COPY FILED AS EXHIBIT P-11.)*

No. 6.
Plaintiffs'
Evidence.

BY MR. MCKENZIE, CONTINUING :

Q. The plans you have filed are the plans which were approved by the Governor General in Council?—A. Yes.

Q. And recommended for approval by you?—A. Yes.

10 MR. MCKENZIE: I have no further questions.

Kenneth
Cameron.
Examina-
tion—con-
tinued.

CROSS-EXAMINED BY MR. BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT.

Cross-exa-
mination.

Q. Will you tell His Lordship and the Assessor what was the difference in the two plans? In other words, what was the difference between the plans that were first submitted, and the second plans?—A. The company submitted the second plan because they wanted to swing the bridge out. The company asked for permission to change one end of it about fifty feet, the other end being the same,—just to pivot it as you would the spoke of a wheel.

* Same as
P-7.

20 Q. 50 feet in what direction?—A. Towards the west.

Q. Would that bring the bridge nearer Carter Bridge than it was before? Do you know a bridge in that vicinity called the Carter Bridge?—

A. Carter Wharf. That is up the York River.

BY THE COURT :

Q. Was there any change in the draw?—A. No.

Q. On the land side?—A. No change.

Q. It has no effect on the draw?—A. It changed the location of the piers about twenty feet.

BY MR. MCKENZIE :

30 Q. Farther into the Bay?—A. Yes.

BY THE COURT :

Q. But the draw was not changed?—A. No.

BY MR. BEAUREGARD, CONTINUING :

Q. That means the approach of the bridge on the Gaspé side would be about fifty feet more towards the west?—A. Up the Harbour, towards the west.

BY THE COURT :

Q. Not towards the entrance to the Bay?—A. No.

BY CAPTAIN GRAY :

40 Q. The distance between those two centres is 108 feet?—A. Yes.

Q. And, the width is 18 feet?—A. Yes. That makes it 90 feet between the two walls.

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

*No. 6.
Plaintiffs'
Evidence.*

*Kenneth
Cameron.
Cross-exa-
mination—
continued.*

BY THE COURT :

Q. They were farther from the entrance to the Bay ?

CAPTAIN GRAY : Yes.

BY THE COURT :

Q. And, that was the only change ?—A. Yes.

BY MR. MCKENZIE :

Q. No change at all in the construction ?—A. No.

BY THE COURT :

Q. Just the piers pushed a little farther over ?—A. Yes.

BY MR. BEAUREGARD :

Q. I understood you to say it was on your recommendation that those plans were approved, under the Navigable Waters Protection Act ?—A. Yes.

Q. Are you a navigator ?—A. No.

MR. MCKENZIE : I do not think I have raised that issue. I submit my learned friend should not ask Mr. Cameron any question on navigation. We have Captain Gray as Assessor.

BY MR. BEAUREGARD, CONTINUING :

Q. Those were the only plans ever submitted to you ?—A. Yes.

Q. Were the specifications attached to the plans ?—A. No. We did not take any responsibility for the structural suitability.

Q. So, the plans were all you saw ?—A. Yes.

BY THE COURT :

Q. You were concerned only with the location ?—A. Yes.

BY MR. BEAUREGARD, CONTINUING :

Q. But, at the same time, did you have a plan showing the location of Carter's Wharf and of the buoys there were in the vicinity ?—A. Not other than the ordinary navigation chart.

Q. Do you know whether Carter's Wharf extended to or overlapped the draw or gap of the bridge ?—A. At the time I do not think I did.

MR. MCKENZIE : Of course, the plans speak for themselves.

MR. BEAUREGARD : But, there is no reference to that on the plans.

BY THE COURT :

Q. You had the plans ?—A. Yes.

Q. And you saw what was on the plans ?—A. Yes.

BY MR. BEAUREGARD, CONTINUING :

Q. Did you go to Gaspé ?—A. No, I have not been to Gaspé.

MR. BEAUREGARD : I have no further questions.

AND FURTHER DEPONENT SAITH NOT.

DEPOSITION OF ALASTAIR J. CRERAR, A WITNESS EXAMINED ON BEHALF
OF THE PLAINTIFF.

On this twenty-seventh day of November, in the year of Our Lord One thousand nine hundred and thirty-three, personally came and appeared,

ALASTAIR J. CRERAR,

of the City of Ottawa, in the Province of Ontario, Solicitor Department of Public Works Canada, a witness produced and examined on behalf of the Plaintiff, who, being duly sworn, deposes as follows :

*In the
Exchequer
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(Quebec
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EXAMINED BY MR. MCKENZIE, K.C.,

10 OF COUNSEL FOR PLAINTIFF :

Alastair J.
Crerar.
Examina-
tion.

Q. You are familiar with the procedure that was followed in the approval of the plans in this case?—A. I am, since 1930.

Q. Have you copies of the Orders in Council which approved the various plans which have been filed?—A. I have.

Q. Will you please file them, and tell us the numbers?—A. The first one is P.C. No. 525, dated March 6th, 1931, which approved the original plans. I file this as exhibit P-12.

The second is P.C. No. 100, dated February 23rd, 1932. I file this as exhibit P-13.

20 Q. These are certified copies?—A. These are originals, signed by the Clerk of the Privy Council.

I also have a certified copy (certified by the Secretary of the Department of Public Works) of P.C. No. 861, approved April 21st, 1932. I file this as exhibit P-14.

Q. Have you copies of the various notices that were published in accordance with the Navigable Waters Protection Act?—A. They are on the file.

30 Q. In so far as the publication of notices is concerned, all the requirements under the Navigable Waters Protection Act were followed?—A. They were.

MR. MCKENZIE : I have no further questions.

MR. BEAUREGARD : I have no cross-examination.

BY CAPTAIN GRAY :

Q. Do you know if there was anything in the Notices to Mariners with regard to the dangers of approaching that bridge?—A. I do not know it.

40 Q. You never heard any mention of it being published as a notice to Mariners? You know there is a leaflet published by the Department of Marine covering anything that transpired out of the ordinary—the movement of a buoy, or the shifting of a light, for instance? Did the Department of Marine ever publish anything saying this bridge was dangerous to approach?—A. I cannot speak for the Department of Marine. It is not my Department.

AND FURTHER DEPONENT SAITH NOT.

*In the
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DEPOSITION OF ALEXANDER GRANT, A WITNESS EXAMINED ON BEHALF
OF THE PLAINTIFF.

On this twenty-seventh day of November, in the year of Our Lord One thousand nine hundred and thirty-three, personally came and appeared

ALEXANDER GRANT,

of the City and District of Montreal, Resident Engineer, Dominion Bridge Company, Limited, a witness produced and examined on behalf of the Plaintiff, who, being duly sworn, deposes as follows :

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—
Alexander
Grant.
Examina-
tion.

EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF :

10

Q. I understand you were in charge of the construction of the Bridge at Gaspé in 1932?—*A.* I was.

Q. You are Resident Engineer for the Dominion Bridge Company?—*A.* Yes.

Q. Have you taken communication of the plans which have been filed by Mr. Cameron?—*A.* I have.

Q. Will you tell His Lordship and the Assessor whether the Gaspé Bridge was built in accordance with the specifications, and in accordance with the plans, as approved?—*A.* It was. With the second approval.

Q. I understand you kept a record of the movements of the Philip T. Dodge in and out of the Bridge during the season 1932?—*A.* Yes. 20

Q. Will you take communication of the record I show you, and tell me whether it is yours?—*A.* Yes, it is.

Q. Will you file it as exhibit P-15?—*A.* Yes.

MR. MCKENZIE : This record shows the positions of the bascules as the ship went in and out during the season 1932.

BY MR. MCKENZIE, CONTINUING :

Q. With reference to the point of contact between the bascule and the poop of the Dodge on the starboard side, how far up was it on the bridge?—*A.* Approximately 26 feet. It was very badly damaged around there. You 30 could not tell exactly.

BY THE COURT :

Q. Would that be 26 feet from the water line?—*A.* From the water line, yes.

BY MR. MCKENZIE, CONTINUING :

Q. If you dropped a plumb line from the point of contact on the leaf of the bascule, where would that plumb line hit below?—*A.* Slightly less than seven inches in from the outward face of the pier.

Q. That is, it would strike inside the face of the pier on the northern side?—*A.* By about eight inches.

40

Q. Presuming the Dodge came in straight, would it be possible for her to hit any part of the superstructure of the bridge?—*A.* No, not with it fully open, as it was on July 6th.

MR. MCKENZIE: I have no further questions.

CROSS-EXAMINED BY MR. BEAUREGARD, K.C.,
OF COUNSEL FOR THE DEFENDANT:

Q. What is the height of the cement pier from the water line?

WITNESS: You mean, on July 6th?

COUNSEL: Tell me at low tide, and at high tide.

10 *A.* The top of the pier was elevation 101. Low tide comes slightly under 91 feet, and high tide comes up to 98.

Q. What would be the height of the pier over the water line at low tide?—*A.* Ten feet. That is at extreme low. On the day of the accident it would be seven or eight feet.

Q. In your evidence before the Wreck Commissioner you were asked the following questions, and you gave the following answers:

“*Q.* What is the difference in the height? What is the height of it?—*A.* The height of the wall is about six feet out of the water.”

WITNESS: At high, or low tide?

20 COUNSEL: I do not know. You did not say whether it was high, or low tide; and that is what I am asking you.

A. Of course, it varies with the extent of the tide.

Q. At page 153 of your evidence, taken before the Wreck Commissioner, you were asked the following questions, and you gave the following answers:

“*Q.* The height of the pier from the water level, at high water, is 6 feet?—*A.* No, not from high water. The water approximately at that time.

30 *Q.* What would be the height at high water?—*A.* From very high water, three feet.

Q. Only three feet?—*A.* Yes.”

WITNESS: That is correct, from high water. Extreme high water in the spring.

Q. What is the difference between extreme high water and the ordinary high water?—*A.* A foot or a foot and a half.

Q. So, if we add a foot and a half to the three feet, the height of that pier was $4\frac{1}{2}$ feet, assuming it was high tide when the Philip T. Dodge passed?—*A.* Yes, but the high tide on July 6th, was not the full high tide. The water was at about elevation 93 on the day of the accident.

40 *Q.* I am adding the one and a half feet to the three feet—the difference which you say exists between extreme high water and ordinary high water?—*A.* But, the tide does not come up to extreme high, or anything like it, normally. The high tide when the pier was struck was at about elevation 93.

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mination.

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Q. And, when you stated the height of the water at that time was approximately six feet, that would be about right?—*A.* Yes.

Q. When the two bascules are up would they overlap the edge of the pier?—*A.* Yes.

Q. By how many feet?—*A.* I think it is five feet.

Q. Five feet on each side?—*A.* Yes, that is what it is.

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MR. MCKENZIE: I do not think this is pertinent evidence, because at the time of this casualty there was only one bascule up, and I did not question the witness in direct testimony in regard to the other bascule, because it was not there. 10

*Alexander
Grant.
Cross-exa-
mination—
continued.*

MR. BEAUREGARD: But my learned friend has filed the plans, and I have the right to question the witness on the plans.

BY MR. BEAUREGARD, CONTINUING:

Q. There would be some piece of machinery necessary to raise and lower the bascule?—*A.* Absolutely.

Q. Where would that machinery be located on the north bascule?—*A.* At elevation 101, which was the top of the pier at the time of the accident—at the height of the pier as far as it was built at the time of the accident.

Q. What is the distance between the top of the cement pier and the trunnion pin?—*A.* Slightly under seven feet. 20

Q. Apart from this bascule, which you said overlapped the cement wall by five feet at the top, how far away from the edge of the pier is all the machinery located?—*A.* The nearest piece is five inches.

Q. And, what is that piece of machinery?—*A.* It is the main crown gear on centre line of the bridge.

Q. I understand there was no protection to that machinery at the time?—*A.* No.

Q. Is there any today?—*A.* No.

Q. How was that bascule fixed at the time of the accident?

WITNESS: In what way? 30

COUNSEL: Was it fixed permanently?

A. No, it had been erected the previous week, and had not been riveted.

Q. How was it held in position?—*A.* It was guyed back to the fixed span from the top of the bascule, and pulled against the timbers on the bridge.

*Re-exa-
mination.*

BY MR. MCKENZIE:

Q. The bascule was in a permanent position, but was not permanently riveted?—*A.* That is correct. It was in its position.

Q. There is no question of that?—*A.* No.

Q. And, the only things that would go through the top of the bascules 40 would be the masts?—*A.* The masts.

MR. BEAUREGARD: Depending, of course, on the height of the vessel.

BY MR. MCKENZIE, CONTINUING :

Q. How high is the top of the bascule? The photographs show it very clearly, I think.—*A.* 69 feet above the surface of the water.

Q. The photograph, exhibit P-3, is a clear representation of the position of the bascule, is it not?—*A.* Very.

Q. So, there is no possibility of anything coming in contact with the bascule at a height of sixty-nine feet?—*A.* No.

Q. It is quite an impossibility?—*A.* Yes.

No. 6.
Plaintiffs'
Evidence.

Alexander
Grant.
Re-exa-
mination—
continued.

AND FURTHER DEPONENT SAITH NOT.

10 DEPOSITION OF J. EDWARD BERTRAND, A WITNESS EXAMINED ON BEHALF OF THE PLAINTIFF.

J. Edward
Bertrand.
Examina-
tion.

On this twenty-seventh day of November, in the year of Our Lord One thousand nine hundred and thirty-three, personally came and appeared

J. EDWARD BERTRAND

of the City and District of Montreal, Vice-President Gaspé Bridge Company, Limited, a witness produced and examined on behalf of the Plaintiff, who, being duly sworn, deposes as follows :

EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF :

20 *Q.* Is your company the owner of the bridge in question in this Action?
—*A.* Yes.

MR. MCKENZIE : I have no other question.

MR. BEAUREGARD : No cross-examination.

AND FURTHER DEPONENT SAITH NOT.

DEPOSITION OF J. ADOLPHE DANSEREAU, A WITNESS EXAMINED ON BEHALF OF THE PLAINTIFF.

J. Adolphe
Dansereau.
Examina-
tion.

On this twenty-seventh day of November, in the year of Our Lord One thousand nine hundred and thirty-three, personally came and appeared

J. ADOLPHE DANSEREAU,

30 of the City and District of Montreal, Civil Engineer, a witness produced and examined on behalf of the Plaintiff, who, being duly sworn, deposes as follows :

EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF :

Q. Were you in Gaspé in 1932?—*A.* Yes.

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J. Adolphe
Dansereau.
Examina-
tion—con-
tinued.

William P.
Brown.
Examina-
tion.

Q. What were you doing there?—*A.* I was representing the Dufresne Construction Company on the works.

Q. Have you taken communication of the plans filed by Mr. Cameron?
—*A.* Yes.

Q. Will you tell his Lordship and the Assessor whether the bridge was built in accordance with those plans?—*A.* Yes, it was built in accordance with those plans.

MR. MCKENZIE: I have no other questions.

MR. BEAUREGARD: I have no cross-examination.

AND FURTHER DEPONENT SAITH NOT.

10

DEPOSITION OF WILLIAM P. BROWN, A WITNESS EXAMINED ON BEHALF OF THE PLAINTIFF.

On this twenty-seventh day of November, in the year of Our Lord One thousand nine hundred and thirty-three, personally came and appeared

WILLIAM P. BROWN,

of the City of Lachine, in the District of Montreal, no occupation at present, who, being duly sworn, deposes as follows:

EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF:

Q. Where were you on July 6th, 1932?—*A.* I was in my room at the 20 Morin Hotel.

Q. Where?—*A.* In Gaspé.

Q. On the morning of July 6th, 1932?—*A.* Yes.

Q. Did you notice anything out of the ordinary that morning?—*A.* Yes.

Q. What was it?—*A.* I was in bed, and I heard a boat whistle. I mentioned it to my room-mate, Mr. Robertson. His bed was close to the window. He looked out, and said he saw nothing coming in. I told him she whistled farther out. We were there for a short while, and he looked out again, and said he saw the boat coming through the gap.

Q. What boat was that?—*A.* The Philip T. Dodge.

30

Q. Did you see her?—*A.* I saw her. After he told me I got up, and looked out the window with him, and we saw her coming through.

Q. Could you see her clearly?—*A.* Very clearly, from my room.

Q. Was she about to enter the gap, or was she farther out, or where was she?—*A.* When I saw her she was heading in the gap. The bow was in.

Q. Can you give us any idea of how fast she was going when she was going into the gap?

MR. BEAUREGARD: Before this question is answered, I think the witness should be asked whether he was in a position to see.

40

MR. MCKENZIE : He said he was.

BY MR. MCKENZIE, CONTINUING :

Q. Can you give us any idea of how fast she was going when she was going into the gap?—A. From what I saw from my room I would say eight miles an hour.

Q. How did you arrive at that estimate? Did you have a watch?—A. No, I had no watch. We only had our pyjamas on at the time. But, from seeing other boats moving, and objects moving, I figured eight miles an hour.

10 Q. Was she going faster than you could walk?—A. Oh, much so.

Q. How fast can you walk?—A. Well, I am perhaps rather short, but I guess I could walk four miles an hour.

Q. And she was going considerably faster than that?—A. Yes.

Q. How did her speed compare with other speeds you have seen her moving at?—A. Of course, later on when she came in, she came in much slower. That was the day I took the card out, and any future time I saw her coming in, she was going much slower—I figured much slower—about half the speed.

MR. MCKENZIE : I have no further questions.

20 CROSS-EXAMINED BY MR. BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT :

Q. Where was Mr. Robertson when he called your attention to this vessel?—A. He just put his head out, and he could see the bridge.

Q. Was he in bed?—A. He stuck his head up and said “ She is coming.”

Q. About how far would you be from the bridge?—A. I am not strong on figuring distance, but I should say perhaps eight hundred feet from the span.

Q. Is the hotel on the main street of Gaspé?—A. Yes, and we had a back room upstairs, facing the river.

30 Q. Are there any sheds in between the hotel and the river?—A. No, the hotel is on a hill.

Q. How were you located with regard to the bridge? Were you just opposite the bridge, or at an angle?—A. At a slight angle.

Q. Referring to your testimony given before the Wreck Commissioner, I find this :

“ Q. From your room would there be anything to obstruct your view?—A. Yes, there are lots of sheds.

Q. You lost sight of her pretty quick?—A. Yes.”

40 WITNESS : That was after the boat has passed and gone through, and had gone up to turn to come back.

BY MR. MCKENZIE :

Q. That is, down through the gap?—A. Yes. She goes up about a quarter of a mile, and turns, and comes back to the dock. My answer to

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tion—con-
tinued.*

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mination—
continued.

that question was when they asked me if I followed the progress of the boat, and how far up she went. I remember answering that.

BY MR. BEAUREGARD, CONTINUING :

Q. When you came to the window, was the vessel in the draw?—A. Yes sir. Just the bow. Say, perhaps, less than one-quarter. The bow was in.

Q. She had passed less than one quarter?—A. She was coming in. The bow was entering.

Q. At page 301 of your evidence before the Wreck Commissioner you were asked :

“ Q. You said you saw the boat at the gap before the crash ? ” 10
and you answered :

“ Yes, the end entering.”

You were also asked :

“ It was partly entered ? ”

And you answered :

“ Yes.”

A. Yes, that is what I said.

Q. And, at page 303 you were asked :

“ Q. At the time there were no such signals ? ”

And you answered :

“ No, but signals. ” 20

“ Q. You saw those signals before the crash ? ”

“ A. I heard them yell, ‘ Bow,’ ‘ Stern,’ and ‘ three-quarters ’
and so on.”

A. The crew were on the deck there. They were stationed on the deck, and they yelled to the Captain “ Clear in the centre,” “ clear in the bow.” I could not hear just what they were saying, but they were yelling.

AND FURTHER DEPONENT SAITH NOT.

William R.
Robertson,
Examina-
tion.

DEPOSITION OF WILLIAM R. ROBERTSON, A WITNESS EXAMINED ON BEHALF
OF THE PLAINTIFF. 30

On this twenty-seventh day of November, in the year of Our Lord One thousand nine hundred and thirty-three, personally came and appeared

WILLIAM R. ROBERTSON,

of the Town of Lachine, in the district of Montreal, Assistant Foreman, Dominion Bridge Company, a witness produced and examined on behalf of the Plaintiff, who, being duly sworn, deposes as follows :

EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF :

Q. Where were you on July 6th, 1932?—A. I was in Gaspé.

Q. Do you remember with whom you were early in the morning?—
A. I was with Mr. Brown. I was rooming with Mr. Brown.

Q. Mr. Brown is the gentleman who has just given testimony?—A. Yes.

Q. Did anything unusual happen that morning?—A. He said he heard a whistle, and that there was a boat coming in.

Q. Did you see that boat?—A. I got up and went to the toilet, and I could not see any boat.

Q. Did you see her later?—A. I came back from the toilet, and I saw the boat then.

10 Q. Were you looking out the window?—A. I just happened to look out the window. My bed was alongside the window.

Q. Did you have a clear view of the boat?—A. Yes.

Q. What boat was it?—A. The Philip T. Dodge.

Q. Can you give us any estimate of the speed at which she was approaching the bridge?—A. In my estimation she was going between seven and eight miles an hour.

Q. Where was she when you saw her, with respect to the bridge?—
A. She was approaching the gap of the bridge.

Q. You saw her a little before she got into the gap?—A. Yes.

20 Q. How did you arrive at your estimate of the speed? Did you have a watch or any means of arriving at a conclusion on the speed?—A. No, I had no watch.

Q. How fast do you think you could walk?—A. I would walk six miles an hour.

Q. Have you walked that fast?—A. Yes, I have.

Q. Was the Philip T. Dodge going as fast as that?—A. She was going faster than I could walk.

Q. Faster than you would like to walk?—A. Yes.

Q. Was she in such a position that you could see her clearly?—A. Yes.

30 Q. Did you see her right up to the time she struck in the gap?—A. Yes.

MR. MCKENZIE: I have no further questions.

CROSS-EXAMINED BY MR. BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT:

Q. I find you gave the following testimony before the Wreck Commissioner's enquiry:

“She was going just as fast as I would want to walk.”

Is that right, or do you want to change it now?—A. No, I do not want to change it.

40 Q. So, in your estimation, the vessel was going . . .?—A. (Interrupting): Faster than I could walk.

Q. And, you estimate she was going at eight miles an hour?—A. Between seven and eight miles an hour.

Q. When you saw her you were actually in your bed?—A. No sir.

Q. Where were you?—A. I got up when Mr. Brown said he heard the boat coming in. I looked out the window, and said: “No, there is no boat

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Robertson.
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continued.*

coming in. There must be one going out." Then I went to the toilet, and went back again.

Q. Mr. Brown told us a few minutes ago that you were in your bed, and just happened to raise you head, and saw the boat coming. That is not correct?—*A.* I saw her when I came back from the toilet.

Q. I want to make it perfectly clear; Did you see the Philip T. Dodge before you were in your bed, after you went to the toilet?—*A.* No.

Q. So, you were in your bed when you first saw her?—*A.* I just lay down on the bed. My bed was right alongside the window. The window was right at the head of my bed, and I lay down on the bed, and turned 10 my head and saw the boat.

Q. Was she in the gap then?—*A.* No, she was not. She was just entering the gap.

Q. Did Mr. Brown look immediately?—*A.* He was over on the other side of the room. He had to get out of his bed and come over to the window. I was still sitting on the side of the bed.

BY MR. MCKENZIE :

Q. How did the speed of the Philip T. Dodge on the morning of July 6th, compare with other speeds you saw her moving at when she was coming in? Did you see her coming on any other occasion?—*A.* Yes. 20

Q. At what speed would she be moving on those other occasions?—*A.* It looked to me to be about half the speed.

Q. The subsequent speeds were about half?—*A.* Yes.

BY CAPTAIN GRAY :

Q. You said you saw her very clearly as she came on towards the draw of the bridge?—*A.* Yes.

Q. Did you see the upper works of the ship, or the water line?—*A.* Yes.

Q. Did you see any broken water in front of her stem? Did you see any wave in front of her stem as she came along?—*A.* I did not notice that. I was watching the leaf falling. 30

Q. Do you think if there had been broken water in front of her stem you would have noticed it? You said she was going about eight miles an hour?—*A.* I was looking at the leaf falling. I was not paying any attention at all then to the water. I was looking at the leaf falling down.

BY MR. BEAUREGARD :

Q. You were working for the Dominion Bridge Company at the time?—*A.* Yes.

Q. And so was Mr. Brown?—*A.* Yes.

AND FURTHER DEPONENT SAITH NOT.

DEPOSITION OF JOHN ST. CROIX, A WITNESS EXAMINED ON BEHALF OF
PLAINTIFF.

On this twenty-seventh day of November in the year of Our Lord One thousand nine hundred and thirty-three, personally came and appeared

JOHN ST. CROIX,

of the Town of Gaspé, in the Province of Quebec, Bridge operator, a witness produced and examined on behalf of the Plaintiff, who, being duly sworn, deposes as follows :

EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF :

10

Q. What were you doing on July 6th, 1932?—*A.* I was watchman for the Dominion Bridge Company.

Q. Do you remember anything in particular happening on the morning of July 6th, 1932?—*A.* Yes. The Dodge hit the north side lift.

Q. Can you give us any idea of the speed of the Dodge coming in that morning?—*A.* To the best of my knowledge she was going about six or seven miles an hour.

Q. Did you see her immediately before she entered the gap?—*A.* Yes.

20 *Q.* And, going through?—*A.* She was going through. She was going about six or seven miles an hour.

Q. Did you have a clear view of the Dodge as she was passing through the gap?—*A.* Yes. I was standing on No. 1 pier, exactly 173 feet from there.

Q. From where?—*A.* From the side of the Dodge. On the south side.

Q. And, you had an unobstructed view? You could see clearly?—*A.* I could see everything. I had nothing ahead of me.

Q. The Dodge is a pretty big ship?—*A.* Yes.

Q. And, you could see her right from her bow to her stern?—*A.* Yes.

30 *Q.* I understand she is 400 feet long?—*A.* I cannot say exactly as to that.

CROSS-EXAMINED BY MR. BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT :

Cross-examination.

Q. Where were you when you first saw the Philip T. Dodge?—*A.* I first saw the Philip T. Dodge between ten and fifteen minutes before she hit. I was on the north pier—the pier she took the lift off.

Q. Where were you on the pier? Were you on the pier itself, or were you up on the ladder?—*A.* I went up on the end of the lift, to take my lanterns down.

40 *Q.* You had lanterns up at the top of the lift?—*A.* Yes.

Q. And, you were up there to take them down?—*A.* Yes.

Q. That was when you first saw her?—*A.* Yes.

Q. What did you do afterwards?—*A.* I went across the bay.

Q. You had to get into your row boat to go across the bay?—*A.* Yes.

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continued.*

Q. Where was the Philip T. Dodge when you first saw her?—*A.* I should say she was about a quarter of a mile below the red light.

Q. You crossed the bay in your row boat?—*A.* Yes.

Q. Where did you go?—*A.* I landed right ashore, on the second span, and walked right out on the first span to No. 1 pier, on the south shore.

Q. You did not climb up on the bridge?—*A.* No, I just got off at the end of the dump.

Q. What do you call the dump?—*A.* Where they had the fill—the rocks, and the steel work.

Q. Where was the Philip T. Dodge when you got to the dump?— *A.* She was just past the red light. Just about passing the red light. 10

Q. Then you got out of your boat and went on the bridge?—*A.* I was on the bridge when she passed the red light.

BY MR. MCKENZIE :

Q. How far up had she passed?—*A.* She was just about passed—just about abreast, perhaps a little ahead. I could not say exactly. I did not take much notice. She was in line with the red light.

BY MR. BEAUREGARD, CONTINUING :

Q. In your examination before the Wreck Commissioner (page 261) you gave the following testimony : 20

“ *Q.* How long had you been watching there? You were at that spot on the south side or south pier until the ship had passed?—*A.* Yes sir. I left this side. The ship was about 100 yards, I should say, below the red light when I left this side to go across, and when I got over there, she was just passing the red light.”

Is that correct?—*A.* Yes.

Q. So, during the time you crossed to the other side the vessel covered about 100 yards?—*A.* I could not tell you exactly the length. It only took me a couple of minutes to go across. I only had about three hundred feet to go across. 30

Q. Did you not say in your examination in chief it took you ten minutes to cross the river?—*A.* It would not take me that long.

Q. Do you remember having said that?—*A.* No, I do not remember saying that.

Q. I read from your evidence before the Wreck Commissioner (page 287)—

MR. MCKENZIE: May I call my learned friend's attention to the fact that my evidence in chief was directly on the speed of the ship as she approached the bridge. My learned friend is now proceeding to question the witness on something which has not been raised in my direct examination. 40

BY MR. BEAUREGARD, CONTINUING :

Q. At page 287 of your evidence before the Wreck Commissioner, you gave the following testimony :

“ *Q.* On that particular day, on the 6th day of July, did you notice the tide was running any stronger than it had been?—*A.* No.

When I went across it was about a quarter to six. It took me about ten minutes to leave this side and go across, and when I was up there it was about ten minutes."

Do you remember saying that?—*A.* I cannot remember that, no.

Q. In your evidence before the Wreck Commissioner you also said that when you first saw the Philip T. Dodge you were up on the ladder, taking off the lantern, and this question was asked you :

"*Q.* Where was the Philip T. Dodge when you first saw her?—

A. I would say about a quarter of a mile below the red light."

10 Is that right?—*A.* About that, I could not say for sure. I just guessed. It is a sight view guess, that is all.

Q. Did you notice how the Philip T. Dodge was approaching the gap? Was she coming straight for the middle?—*A.* Yes.

Q. Where were you when you saw the vessel passing the red light?—*A.* When she was about passing the red light I must have been pretty near on the spot.

Q. Just to refresh your memory on the point, you were asked at the enquiry :

20 " *Q.* When you saw her passing the red light were you still in your boat or had you gone out?—*A.* I was getting off the boat."

Would that be correct?—*A.* I cannot tell you for sure.

Q. If you said that at the enquiry, do you think it was correct?—*A.* If it was taken down, it must be.

Q. You say you walked out one span after getting off the boat?—*A.* There was only one span.

Q. You walked one span?—*A.* Yes.

Q. Was there any floor on that span?—*A.* No. Four inch beams, that is all.

30 *Q.* So, you had to walk from one beam to the other?—*A.* Just to walk them lengthwise.

Q. On the beam?—*A.* Yes.

BY THE COURT :

Q. There was a walk right along?—*A.* We just had the beams.

BY MR. BEAUREGARD, CONTINUING :

Q. Did you say a few minutes ago that you were about 125 feet from the Dodge when she passed through the gap?—*A.* No sir, I told you 173 feet.

Q. May I refer you to the evidence you gave before the Wreck Commissioner, page 274. You were asked :

40 " *Q.* How far away was the side of the ship from you when she passed through the gap?—*A.* 326 feet."

Which statement is correct?—

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MR. MCKENZIE : He was also asked, " Could you hear anybody talking on the ship ? " And he said, " Yes."

BY MR. BEAUREGARD, CONTINUING :

Q. You were asked what the distance was, and you said 326 feet?—
A. 173 feet.

Q. At page 275 of your evidence before the Wreck Commissioner, you were asked the following question and you gave the following answer :

" Q. If you were 326 feet, you were on the second span, on the other end?—A. Yes."

Is that correct?—A. It was 173 feet.

10

MR. MCKENZIE : The answer was from where the jack-knife is to-day.

MR. BEAUREGARD : The question was : " If you were 326 feet, you were on the second span, on the other end." And the answer was : " Yes."

WITNESS : Which side ? The north side, or the south side ?

MR. BEAUREGARD : You were on the south side. You had crossed over, and you said you were 326 feet on the second span. Now I want to know whether you were on the first span, or the second span?—A. I was on the first span, and on this end.

Q. Were you 326 feet or 173 feet?—A. It is 173 feet. I was on the end of the first span.

20

BY MR. MCKENZIE :

Q. Can you give us any idea of how the speed of the Philip T. Dodge on July 6th, compared with speeds coming in subsequently?—A. I should say she was going about half on her subsequent dates.

BY MR. BEAUREGARD :

Q. From the moment you saw the Philip T. Dodge, did she slow up her speed?—A. She slowed when she passed the light.

Q. And, if I remember correctly, you stated in your evidence before the Wreck Commissioner that afterwards she increased her speed?—A. Yes, the minute she had lined up for the gap.

30

Q. She increased her speed?—A. Yes.

AND FURTHER DEPONENT SAITH NOT.

DEPOSITION OF NARCISSE FOURNIER, A WITNESS EXAMINED ON BEHALF
OF PLAINTIFF.

On this twenty-seventh day of November, in the year of Our Lord One thousand nine hundred and thirty-three, personally came and appeared,

NARCISSE FOURNIER,

of the Town of Gaspé, in the Province of Quebec, labourer, a witness produced and examined on behalf of the Plaintiff, who, being duly sworn, deposes as follows :

EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF.

10

Q. Do you remember the morning of July 6th, 1932?—A. Yes.

Q. Do you remember where you were that morning?—A. Yes sir.

Q. Did anything particular happen that morning, that you recall?—
A. Yes.

Q. Will you tell us what it was, and what you saw?—A. That morning I was standing looking at the steamer coming in.

BY MR. BEAUREGARD :

Q. Where were you?—A. In the house.

20 Two young fellows—my two brothers-in-law—came along and told me that the Steamer Dodge was coming in. We just stood there watching her coming in. I found she was coming in pretty fast. I said to them : “ Look at her coming in. The first boat coming in through the gap—the biggest boat coming in through to Gaspé—and they should be afraid to come in, but look how fast she is coming in.” I had hardly finished the words when she hit the span.

BY MR. MCKENZIE, CONTINUING :

Q. Could you see her clearly coming in?—A. Yes.

Q. You had a clear view of the vessel?—A. Yes.

30 Q. About how fast would you say she was going?—A. I measured it the other day, and it was about 200 yards.

Q. From where you were when you saw her?—A. Yes.

Q. That would be from where you were to the gap?—A. Yes.

Q. Can you give us your idea of the speed?—A. My idea was she was going about six to six and a half miles.

Q. Six to six and a half miles an hour?—A. Yes.

Q. How would that speed compare with her speed on subsequent movements in?—A. For me, she was going half more.

Q. On subsequent occasions she would be going about half the speed she was going at on July 6th, the day of the casualty?—A. Yes.

40 MR. MCKENZIE : I have no further questions.

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CROSS-EXAMINED BY MR. BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT.

Q. Where is your house?—*A.* The front of my house is built on land, and the back is on the wharf. It is right on the wharf.

Q. In the water?—*A.* Yes.

Q. So you were quite close to the Philip T. Dodge?—*A.* I was about 200 yards.

Q. And, you could see the Philip T. Dodge only for 200 yards from the window where you were standing?—*A.* Yes.

Q. You could not see her away out? You could only see her for 200 yards?—*A.* I could see her away out, but from where I was to the steamer was 200 yards. I measured from the house to the gap the other day. I walked it, and measured it, and it is about 200 yards. 10

Q. That was the first ship that went into the gap?—*A.* I do not remember exactly. It was the first big one.

Q. And, I suppose you were interested in seeing her going in?—*A.* Yes.

Q. Why were you anxious to see her going in?—*A.* Because she was the first big one that was going in, and I wanted to see how she was going to pass.

Q. Did you think there was any danger?—*A.* Because we heard before the gap was up, there were a lot of people saying—— 20

HIS LORDSHIP: You must not tell us what anybody else may have said. You have stated she was the first ship that went in there?—*A.* The first large ship.

BY MR. BEAUREGARD, CONTINUING:

Q. Was she the first ship that went through the gap?—*A.* I could not tell you that. She was the first big one.

Q. You had started to tell us about something you had heard?—*A.* I heard some people say they were anxious to see the first big boat coming in, and they were anxious to see how she would get in. 30

Q. Why were they anxious?—*A.* To see her going through.

Q. Did they anticipate any danger?

MR. MCKENZIE: Of course, that would be inference, and hearsay.

WITNESS: I did not hear there was any danger before she passed.

BY MR. BEAUREGARD, CONTINUING:

Q. Is it not a fact that every time a vessel went through that gap there was always a big crowd to watch her go through?—*A.* Sometimes there are some people there.

BY MR. MCKENZIE:

Q. There is not much work to be done in Gaspé?—*A.* No, there is not much work to do. 40

BY MR. BEAUREGARD, CONTINUING:

Q. When you say she was moving at the rate of five or six miles an hour, you do not mean you figured she was actually going five or six miles an hour?

—A. I cannot say whether it was five, or six, or seven miles, but it was about that.

Q. When you fixed that speed, you would not pretend it was absolutely correct? You might be mistaken?—A. It would be about that. Of course I cannot swear she was going that exactly.

Q. She might have been going six miles an hour, or she might have been going less than five miles an hour?—A. Less than five miles, I do not think so.

Q. It depends on the size of the ship?—A. Take the Government boat, for instance: she is a pretty big boat, and she used to go in pretty fast before the bridge was there. I saw her going in quite often.

AND FURTHER DEPONENT SAITH NOT.

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DEPOSITION OF JOHN LANGLAIS, A WITNESS EXAMINED ON BEHALF OF THE PLAINTIFF.

John
Langlais.
Examina-
tion.

On this twenty-seventh day of November, in the year of Our Lord One thousand nine hundred and thirty-three, personally came and appeared,

JOHN LANGLAIS,

of the Town of Gaspé, in the Province of Quebec, laborer, a witness produced and examined on behalf of the Plaintiff, who, being duly sworn, deposes as follows:

EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF.

Q. I understand you came here from Gaspé this morning?—A. Yes.

Q. Have you been living in Gaspé for some considerable time?—A. I was born there.

Q. Do you remember being in Gaspé on July 6th, 1932?—A. Yes, I was there.

Q. Do you remember anything in particular that happened on the morning of July 6th, 1932, with reference to any ship coming in or going out?—

30 A. Yes.

Q. Who was with you at the time?—A. Mr. Fournier.

Q. The gentleman who has just given testimony?—A. Yes.

Q. Will you tell us what happened out of the ordinary that morning? What did you see?—A. I saw the steamer Dodge.

Q. Where did you see her?—A. I saw her passing through the bridge, and striking on one of the spans, and knocking it down.

Q. Did you see her before she got into the span, or just as she got in?—A. I saw her just before.

Q. Did you see her going through the span?—A. Yes, I saw her going through.

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mination.

Q. Can you give us an idea of her speed going through the span, and approaching it?—A. To my idea she was going about from six to seven miles.

Q. Six to seven miles an hour?—A. Yes.

Q. Did you ever see her going through at any other time?—A. I saw her the next trip after that.

Q. How did her speed on the next trip compare with her speed on the occasion she struck the bridge?—A. About half the speed.

Q. On the subsequent trips, she was going much slower through the gap?—A. About half the speed. 10

MR. MCKENZIE : I have no further questions.

CROSS-EXAMINED BY MR. BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT.

Q. Do you live with Mr. Fournier?—A. No sir, I live ten miles from him.

Q. You were visiting him that morning?—A. I went down there to load the Dodge.

Q. Had you been watching the Dodge for some time coming?—A. I watched her that morning because she was the first big steamer going through the gap. 20

Q. And, you were anxious to see how she would pass through?—A. Yes.

Q. I suppose there was quite a lot of talk in Gaspé about a big ship going through the gap?—A. We did not talk very much about it, but we were anxious to see the ship going through all the same.

Q. To be sure she would not knock it down?—A. Yes.

AND FURTHER DEPONENT SAITH NOT.

No. 7.

Plaintiffs' Evidence in Rebuttal.

DEPOSITION OF JOSEPH G. CHENEVERT, A WITNESS PRODUCED ON BEHALF OF PLAINTIFF IN REBUTTAL.

On this twenty-seventh day of November, in the year of Our Lord One thousand nine hundred and thirty-three, personally came and appeared,

JOSEPH G. CHENEVERT,

of the City and District of Montreal, Civil Engineer, a witness produced and examined on behalf of Plaintiff in Rebuttal, who, being duly sworn, deposes
10 as follows :

EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF.

Q. You are a civil engineer by profession?—A. Yes.

Q. From what University did you graduate?—A. The University of Montreal.

Q. Have you made any particular study of hydraulics?—A. Yes.

Q. In connection with this case have you made any study of the currents and tides at Gaspé?—A. I have.

Q. This casualty happened on July 6th, 1932. There was a certain
20 tide at the time. Can you tell the Court at what date subsequently to that there was the same tide?—A. From the tide tables published by the Canadian Hydrographic Service one can find the exact hour of any tide at Gaspé. After enquiry to ascertain on what date a tide identical with that of July 6th, 1932, would occur, it was found an identical tide would occur on November 2nd, 1932.

Q. Did you make an investigation of the tide at Gaspé on November 2nd, 1932?—A. Yes sir.

Q. I take it everything you may say with reference to the tide on
30 November 2nd, 1932, refers with equal precision to July 6th, 1932?—
A. Precisely.

Q. Because the tide was the same?—A. Yes.

As a matter of fact, it was slightly higher on July 6th. It was 5·6 feet, and on November 2nd, it was 5·68 feet.

Q. Would you regard that as a material difference?—A. No.

Q. Will you tell His Lordship and the Assessor what examination you made with reference to the current, its speed and its direction in going through the gap, bearing in mind particularly the hour at which the ship went through on July 6th, 1932?—A. On July 6th, 1932, high tide occurred at 4.11 in the morning, and the accident happened around six o'clock, which
40 would mean it would be about an hour and three-quarters after high tide. I made my observations at the same time on November 2nd, so that the conditions would be identical—starting about an hour and a half after high tide, and going through until the observations were completed.

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Q. Paragraph 16 of the Defence says that the Philip T. Dodge was about two-thirds past the draw in the centre, when suddenly the stern began to sag to the north, owing to an unknown undercurrent. Will you tell his Lordship and the Assessor whether or not there is a current running to the north at the gap?—*A.* From all the observations I have made, I can say the direction of the current in passing through the gap of the bascule bridge in Gaspé is parallel to the piers of the draw, or the gap. That means the current goes straight through. There is no undercurrent drawing diagonally against the north pier.

The average velocity recorded was about one mile per hour.

Q. That is the outgoing current?—*A.* Yes. During the ebb tide.

Q. How did you arrive at your calculations of speed and direction?—

A. I made a series of observations of the direction and velocities of the current with a special instrument known as an electric current meter.

Q. Have you the instrument with you?—*A.* Yes, I have.

Q. Will you please tell us how it operates, and explain what you did with it?—*A.* The instrument consists of a wheel, with conical cups, which revolves. The flow of the current gives an impulse to the wheel, and the number of turns are recorded through telephone receiver on the operator's ears.

The instrument is suspended on a cable, with a lead for the electric current, and a tape to record exactly the depth at which the records are made. There is a float attached to it at the bottom, so that the instrument will remain vertically and horizontally in the water, and goes down to the depth required.

The vanes you see on the instrument permit the instrument to be always in a line with the current—that is in the same direction as the current. If the current varies in direction, the vanes will immediately turn the instrument, so that the instrument will record exactly the true velocity of the water, and show the direction of the current.

BY THE COURT.

Q. How is the depth shown?—*A.* I have not the cable with me, but it is only a cable with an electric wire.

There is a battery attached to it, and there is an electric wire attached with the cable. There is also a tape attached with the cable, so that you can tell if the instrument is one foot, or five feet, or 40 feet from the surface of the water.

Q. Just by the length of the line?—*A.* Yes.

Q. There is no mechanical recording of the depth?—*A.* It is an exact tape, and the heavy weight keeps the instrument always down.

BY MR. MCKENZIE, CONTINUING :

Q. It has a heavy lead weight?—*A.* Yes.

Q. Weighing approximately how much?—*A.* I should say about ten pounds.

Q. How do you describe this instrument?—A. It is an electric current meter.

Q. Will you tell his Lordship and the Assessor if the method you have described is the scientific method of measuring current, and its direction?—

A. Yes, it is.

Q. Recognized by your profession?—A. Yes.

Q. You told us you made observations in the locality where this casualty happened?—A. Yes.

10 Q. Approximately how many observations did you make?—A. About 150.

Q. Would I be summarizing correctly by saying that from your observations with this instrument, you found the current going straight through the gap in the bridge?—A. Yes sir.

Q. Did you make any other observations, in the way of taking any instrument up above the bridge and letting it go down into the gap?—A. Yes.

20 I also used a special submarine float, consisting of a pole 16 feet long, of a uniform diameter of about five inches, loaded at the base, so that the pole would be submerged about 14 feet in the water. That was the draft of the Philip T. Dodge. That float would react and would take the direction of all the current for a depth of 14 feet in the water, and would not be affected by any wind on the surface, or by any surface current. It would be the exact resultant of the current in 14 feet depth.

I put that float above the bridge—that is west—during ebbside, and let it drift through the gap of the bridge to a point below the bridge, over a distance of 460 feet. I put it in the centre, and it drifted straight through the centre of the gap. There was no side current affecting the float. In passing the gap it passed between the two piers parallel to the piers, straight through the gap.

30 Q. Did you find any place where the current could be said to be coming up at an angle of 35 degrees against the northern pier?—A. No, not at the gap.

BY THE COURT :

Q. Above the gap?—A. It was possible to see the instrument in the water at the gap to a depth of 14 feet. The tail vanes on the instrument could easily be seen in the clear water, so that all directions were recorded, and it was always found to be parallel to the piers.

40 At a point about 180 feet above the bridge the direction was slightly inclined to the north, and from examination of the marine maps showing the depth of the water in the basin, it is easily seen this should be the normal flow of the river above the bridge.

At the gap it was straight, and below the gap it was straight.

An examination of the plan of the Department of Marine shows it exactly, if your Lordship would like to see the plan.

MR. BEAUREGARD : I understand the chart was issued before the Bridge was constructed.

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tion—con-
tinued.

WITNESS : It shows the bottom of the river.

BY THE COURT :

Q. The bottom of the river has not changed?—A. Nothing was changed there.

Your Lordship will see Gaspé Bay, and the harbour. This part that is enlarged is the Gaspé Harbour.

Your Lordship will see Carter's Wharf, and you will see the figures indicating the depth of the water at any given point in the basin. For instance, you can see at one point it is 54 feet; at another, 33 feet; at another 54 feet; at another 37 feet—and so on.

At a point above the bridge the direction was recorded as slightly inclined to the north, but below the gap, a distance of 300 feet, the current was absolutely parallel to the pier.

BY MR. MCKENZIE, CONTINUING :

Q. The Captain said in his testimony there was a current at an angle of 35 degrees coming up against the port bow at the gap. What have you to say with reference to that statement?

WITNESS : You mean a current coming on the side?

COUNSEL : On the left hand side of the ship.

WITNESS : And, striking the bow?

COUNSEL : Yes.—A. Any current striking the bow there would have a tendency to shift the bow to the right hand side.

Q. That would bring it to the north?—A. Yes.

Q. The point I was questioning you upon was with reference to the statement of the Captain. He said there was a current coming in at the gap at an angle of 35 degrees.

HIS LORDSHIP : And the witness has said that inclined current was above.

MR. MCKENZIE : As I understood Mr. Chenevert's testimony, there is no angle to the current—it is perfectly straight on the gap.

HIS LORDSHIP : The degree of inclination spoken of by the Captain is indicated above the gap.

MR. MCKENZIE : My thought was to get Mr. Chenevert's idea of the angle.

BY MR. MCKENZIE, CONTINUING :

Q. What is the angle above?—A. From the observations I made, it is about 10 or 15 degrees.

Q. And, that is away above the gap?—A. Yes.

Q. Will you take communication of exhibit D.6, and refer particularly to the arrow which you will see pointing at the opening of the gap. That was supposed to represent the direction of the tide. Can this be said to be a correct diagram?—A. Not at the gap. It shows the current as going

straight through against the north pier. That is not according to the observations I made. The only inclination is a small inclination above the bridge, and the float was set about 250 feet above the gap, and it went straight through. It was not even affected by that small inclination.

10 *Q.* Is there any sudden current anywhere in the channel, which would account for a sudden movement of the ship?—*A.* No. I made observations on the direction of the current, on the north side of the gap, from the bascule bridge to the next pier to ascertain if there was any current in a diagonal direction farther on, and I was unable to find any. Close to the bridge, even at the other piers, the current was going straight through parallel to the piers.

Q. You have spoken of the current. Will you say if that current was entirely caused by the tide?—*A.* It is practically all caused by the tide. There is a small river above, but it does not amount to much.

20 *Q.* It was suggested by the defence that the construction of this bridge across the river caused the current to flow faster. What have you to say to that?—*A.* According to the section of the basin at that point before the construction of the bridge and after the construction of the bridge, the reduction of the section at the very point where the bridge is built is only about eight per cent. That means that if the current was flowing at one mile per hour before the construction of the Bridge, after the construction of the bridge it would be 1.08 miles per hour—8/100ths of a mile more. It would be impossible to observe the difference unless you had a precise instrument. A boat passing through the river at that part would increase the velocity of the current on either side by about 2½ per cent. Let me put it this way: the displacement of the section of the boat would cut the section of the river by about 2½ per cent—just the section of the boat going through the river.

30 *Q.* Are there any further observations you made in regard to which you would care to testify?—*A.* No, I do not think so.

MR. MCKENZIE: I have no further questions.

CROSS-EXAMINED BY MR. BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT:

Q. I understand you are a hydraulic engineer?—*A.* I am a civil engineer.

Q. You are not a hydraulic engineer?—*A.* No, but I have made a special study of and given special consideration to hydraulic works, such as filtration plants, distribution systems for water, and so on, water intakes in rivers, and gauging and soundings of rivers, and general construction.

40 *Q.* Have you had occasion to examine the directions of currents and the velocity of currents quite frequently in the course of your experience?—*A.* Of course, observations of this kind are not made every day, but I have observed currents before. I have had occasion to observe the currents in the Back River, for instance.

Q. With this instrument?—*A.* Yes.

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

—
No. 7.
Plaintiffs'
Evidence in
Rebuttal.

—
J. G.
Chenevert.
Examina-
tion—con-
tinued.

Cross-exa-
mination.

*In the
Exchequer
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*No. 7.
Plaintiffs'
Evidence in
Rebuttal.*

*J. G.
Chenevert.
Cross-exa-
mination—
continued.*

Q. Have you had occasion to do this quite frequently?—*A.* As I say, those observations are only made in special instances.

Q. So, it does not happen frequently that you are called upon to make observations of this kind?—*A.* Once in a while.

Q. Had you made any such observations in tidal waters before?—*A.* No, not in tidal waters, but there is no difference in the velocity recorded of the water whether it is due to the tide or due to the normal flow of the river.

Q. Is it to your knowledge that at times the current does vary in tidal waters? In other words, that the current may vary at certain times, although it would be at the same hour of the tide? 10

WITNESS : You mean the direction of the current?

COUNSEL : The velocity of the current, and at times the direction of the current?—*A.* It is understood the velocity of the current would vary, depending on the time of the tide. If it is just at the start, after the high tide, or close to the low tide, the current would vary. Of course, it passes through all velocities from the highest to zero.

Q. I quite appreciate the fact that the current will necessarily vary from the beginning of the tide to high tide; but, say, an observation is taken an hour after high tide, and another observation is taken at the same hour of another tide, the result may or may not be the same? 20

HIS LORDSHIP : With the same tide?

MR. BEAUREGARD : The same hour of the tide.

WITNESS : That is why I took my observations not only on one day, or at one hour. I have taken 150 different observations during the different tides, and on different dates.

Q. How many days were you in Gaspé?—*A.* I was in Gaspé on the 6th, 7th and 8th of October, and the 2nd and 3rd of November, and every time I recorded the direction of the water, and the direction was always the same.

Q. Did you make your observations on those various dates at one hour and forty five minutes after high tide?—*A.* As I told the Court, I started about an hour and a half after high tide, and went through until the observations were completed. 30

Q. I am asking you whether you made the same observations every day you were there, at the same time, or was this done only on November 2nd?—*A.* Every day, and at the same time. Starting, for instance an hour and a half after high tide. Of course, to make the observations requires about an hour or an hour and a half, or two hours sometimes. You understand it takes some time to make observations at different depths in the river, or in the basin, and at different points. 40

Q. You say all the times were taken from the tide tables?—*A.* Yes.

Q. Is it to your knowledge that the tide does not occur at exactly the hour as given in those tide tables?—*A.* Sometimes there is a slight variation.

Q. What would you call a slight variation? How many minutes, or how many hours?—*A.* It would not be a matter of hours. There might be a few minutes difference.

Q. How many minutes, would you say?—A. There might be fifteen minutes difference, but that is all.

Q. Could there be half an hour?—A. I do not believe so.

Q. I ask you, because the Master of the ship told us in his evidence that at times he found there was a variation of thirty minutes in the tide.

WITNESS : Where ?

COUNSEL : At Gaspé. At the same point.

WITNESS : Depending on the hour given in the tide table ?

COUNSEL : Yes.

10 WITNESS : The tide table is figured for Gaspé basin, which is referred to the tide at Father Point. This is figured exactly, and it is made by the Government from observations they carry out. You have to add, for instance, 50 minutes more, or 51 minutes more.

Q. I understand it is referred to Father Point, but the Master told us that at times it occurred that according to the tide table high tide should be at a certain hour, and it was half an hour later?—A. It all depends on how he was able to check it. Surely he could not do it on a boat. The exact minute of the tide means more than looking from a ship.

20 Q. How long did it take you to make those observations?—A. On November 2nd, I started at 6.55 p.m. and I was through at 8.55 p.m.

Q. How many observations did you take between 6.55 p.m. and 8.55 p.m. on November 2nd?—A. Thirty-one.

Q. At various spots?—A. Yes, at various depths.

Q. That would be in the gap?—A. Yes.

Q. And, outside the gap?—A. Yes.

Q. And, above the gap?—A. Yes.

Q. At what depth were those observations taken?—A. Every five feet depth.

Q. Starting from the water line?—A. Yes.

30 Q. The first observation would be five feet down?—A. Yes.

Some observations were made one foot from the surface.

Q. Could you make such observations with your instruments at one foot from the surface?—A. Yes. The ones made on November 2nd, were made at five, ten, fifteen, and twenty feet down; and some were down to forty feet.

Q. What was the depth at which you made your observations on October 6th, 7th and 8th?—A. I took some at one foot, some at five, some at ten, some at fifteen, and some at twenty feet; and the others at five, ten, fifteen and twenty feet.

40 MR. BEAUREGARD : I have no further questions.

RE EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF :

Q. You have referred to a tide table—A. Yes.

Q. Will you file it as exhibit D-16?—A. Yes.

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*No. 7.
Plaintiffs'
Evidence in
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*J. G.
Chenevert.
Cross-exa-
mination—
continued.*

*Re-exa-
mination.*

*In the
Exchequer
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*No. 7.
Plaintiffs'
Evidence in
Rebuttal.*

*J. G.
Chenevert.
Re-exa-
mination—
continued.*

Q. And, will you file a photograph showing the Davis Wharf, marked by the letter "X", as exhibit D-17?—*A.* Yes.

In regard to the time, I may say I took the exact high water when I started the observations, and I took the height of the water when I was through with the observations, to see exactly at what rate the water was going down through the time the observations were being carried out. On November 2nd, the water was lowered by 4·7 feet during the time I was taking the observations, which means for a full tide at the rate of about 5·6 feet.

Q. There is just one other question I wanted to ask you, in conclusion. Can any accurate conclusion be arrived at by throwing chips or other 10 objects into the water, and following their speed and direction?

MR. BEAUREGARD: I submit that is a matter for the Court and Assessor to determine.

WITNESS: It is impossible to draw any conclusions from chips or objects of that kind thrown in the water. Their re-action would depend on the surface current, and the wind, and other elements.

AND FURTHER DEPONENT SAITH NOT,

DEPOSITION OF STANISLAS A. BEAULNE

A WITNESS EXAMINED ON BEHALF OF PLAINTIFF IN REBUTTAL.

On this twenty-seventh day of November, in the year of our Lord 20 One thousand nine hundred and thirty-three, personally came and appeared

STANISLAS A. BEAULNE,

of the City and District of Montreal, Civil engineer, a witness produced and examined on behalf of the Plaintiff in rebuttal, who, being duly sworn, deposes as follows:

EXAMINED BY *MR. MCKENZIE, K.C.*,
OF COUNSEL FOR PLAINTIFF:

Q. I understand you are a consulting engineer?—*A.* Yes.

Q. You are senior member of the firm of Beaulne & Leonard?—*A.* Yes.

Q. Were you the consulting engineers for the building of the Gaspé 30 Bridge?—*A.* Yes.

Q. You prepared the plans?—*A.* Yes.

Q. And they were the plans which were ultimately submitted to the Government for approval?—*A.* Yes.

Q. And which have been filed in this case by Mr. Cameron?—*A.* Yes.

Q. It has been suggested that this was a negligently and wrongfully constructed and badly designed bridge.

MR. BEAUREGARD: From the point of view of navigation.

MR. MCKENZIE: I read from the defence, and the point I am coming to is whether or not the precautions and guards, etc., my learned friend has 40 introduced in the evidence should have been taken in this instance.

*S. A.
Beaulne.
Examina-
tion.*

BY MR. MCKENZIE, CONTINUING :

Q. You did not hear the evidence this morning?—*A.* No.

Q. It has been suggested that some guards, or guys, or other protection, should have formed a part of this bridge. What have you to say to his Lordship and the Assessor with reference to that criticism of the bridge?—*A.* In building bascule bridges, I have never seen any guards built in front of the piers. If it had been the practice, we would have been called upon by the Department to do it, but it has not been the practice.

I have built many bascule bridges, and I never protected the piers with cribs in front of the piers. The reason is very simple: It is because the structure is sticking up into the air when the bridge is open for navigation purposes.

It is done in swing bridges, but that is because when the bridge is open it sticks in the line of the ship.

Q. A swing bridge would go out over the water?—*A.* Over the water in the line of the ship going through.

Q. It would be parallel with the ship?—*A.* Parallel with the ship.

In the case of bascule bridges, the structure sticks into the air, so if a ship is going through the channel properly it cannot hit the structure.

Q. In order to hit, you must have something over lapping the cement pier?—*A.* Something in the nature of a strake, or something of the kind, to catch the superstructure of the ship, because the steel structure of the bascule bridge is set up back to the line of the pier, to such a height that any ship cannot hit the structure if it is going through straight.

Q. The crib work to which you refer is crib work which runs at right angles to the bridge, and which forms a protection to the part that turns on the swing of the bridge. Am I right?—*A.* Yes.

Q. If it were a swing bridge, and the end were projecting, it would be more dangerous?—*A.* Yes.

Q. I think you told us you do not know of any bridge in Canada on which they had this protection we have spoken of? I mean, of course, any bascule bridge?—*A.* I never saw any in my experience.

Q. And, for how many years have you been building bridges?—*A.* Twenty five or thirty years.

MR. MCKENZIE: I have no further questions to ask the witness.

CROSS EXAMINED BY MR. BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT :

Q. I suppose you know in this instance the hull of the vessel did not touch the piers—at least the evidence is to that effect.—*A.* Yes. Probably it was above the pier.

Q. The point of contact was twenty six feet above the pier?

WITNESS: That is, from the water?

COUNSEL: Yes.

A. So I understand.

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Exchequer
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No. 7.
Plaintiffs'
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—
S. A.
Beaulne.
Examina-
tion—con-
tinued.

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mination.

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No. 7.
Plaintiffs'
Evidence in
Rebuttal.

S. A.
Beaulne.
Cross-exa-
mination—
continued.

Q. If there had been beams which would have prevented the hull of the vessel from going near the cement pier, do you not think this casualty would have been avoided?—*A.* I do not think so. Even if you have cribs, if your ship turns too quickly it will hit the structure just the same. I do not think a crib would protect the structure. It might protect the pier itself but not the superstructure.

Q. I am speaking of wooden beams which would prevent the vessel from going near the cement pier. If she went in, she would be stopped by those beams, which would narrow the opening of the bridge?—*A.* It is not the practice, even on swing bridges to narrow the opening. Even when we build cribs for swing bridges we do not narrow the opening with the cribs. 10

Q. I am not speaking of the practice. I am speaking of this particular case. If there had been beams, which narrowed the opening, would they not have been a protection, preventing ships from going too near the superstructure, which, in this instance, was struck by the Philip T. Dodge?—*A.* Evidently, if you narrow the opening sufficiently so that even if the ship is swinging she would be kept far enough away from the structure. But, you will have to build a more expensive bridge, and in my opinion, it is not necessary to do so.

Q. You are aware the "Philip T. Dodge" struck that bridge, and you are aware that other ships also struck it?—*A.* I do not believe this boat could have struck the superstructure if it had turned in time. 20

BY MR. MCKENZIE :

Q. It turned too quickly?—*A.* It turned before it had passed the superstructure.

BY MR. BEAUREGARD, CONTINUING :

Q. If the superstructure had been still farther back from the pier, so that the stern (which, of necessity would be overlapping) could not touch it, there would not have been any accident?—*A.* Even if the boat hits the pier, the superstructure is built back far enough so that the boat cannot hit the superstructure even if it hits the pier. 30

Q. That is not the evidence in this case.

BY THE COURT :

Q. You mean, if it goes straight?—*A.* Of course.

Q. While going straight it might touch the side, but if it does not turn it will not hurt the superstructure?—*A.* The superstructure is built back of the face of the pier, to a height where if the ship goes through the opening it cannot strike the superstructure.

BY MR. BEAUREGARD, CONTINUING :

Q. As you probably know, when a vessel is light, the bridge of the vessel is much higher than the poop deck and the bow deck?—*A.* Yes. 40

Q. There is a difference of quite a number of feet?—*A.* Yes.

Q. At what height would the bascule overlap the edge of the pier? I think the evidence is 36 feet. I am speaking of the part of the bascule

that would overlap the edge of the cement wall. From the top of the bascule down to the water is 67 feet, and the top of the bascule overlaps the edge of the cement wall by five feet. What I would like to know is the point where a plumb line would strike the edge of the pier if it were dropped?

HIS LORDSHIP: It has been established that a line dropped from 26 feet would be eight inches inside.

MR. MCKENZIE: The evidence was that the bridge tumbled in.

CAPTAIN GREY: Two lines show less than that.

HIS LORDSHIP: It was the stern that struck.

10 BY MR. BEAUREGARD, CONTINUING:

Q. Do you know the height?—A. No, I would have to see the plans. I presume it would be certainly over forty feet before it comes in line with the face of the pier.

Q. Will you please look at the plan, and, if necessary, correct your answer. Because, my information is it was about 35 feet.

HIS LORDSHIP: That is, to be in line.

WITNESS: There is nothing on the plan you show me to indicate that.

BY MR. BEAUREGARD, CONTINUING:

20 Q. In any event, you cannot say?—A. If you have still eight inches at 25 feet from the water, and if you carry the same inclination, you will go somewhere pretty close to forty feet above the water.

Q. You cannot say definitely?—A. No, I would have to work it out.

MR. BEAUREGARD: I have no further questions.

AND FURTHER DEPONENT SAITH NOT.

DEPOSITION OF FRED SHEARWOOD

A WITNESS EXAMINED ON BEHALF OF THE PLAINTIFF IN REBUTTAL.

On this twenty-seventh day of November in the year of Our Lord One thousand nine hundred and thirty-three, personally came and appeared,

FRED SHEARWOOD,

30 of the City and District of Montreal, Chief Engineer, Dominion Bridge Company Limited, a witness produced and examined on behalf of Plaintiff in rebuttal, who, being duly sworn, deposes as follows:

EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF.

Q. How long have you been associated with the Dominion Bridge Company?—A. Forty-six years.

Q. Have you built many bridges in that time?—A. Quite a number.

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

No. 7.
Plaintiffs'
Evidence in
Rebuttal.

S. A.
Beaulne.
Cross-exa-
mination—
continued.

F. Shear-
wood.
Examina-
tion.

*In the
Exchequer
Court
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Q. You have heard the testimony just given by Mr. Beaulne?—
A. Yes.

Q. Are you prepared to confirm what he said?—*A.* Yes.

MR. MCKENZIE : I have no further questions.

CROSS-EXAMINED BY MR. BEAUREGARD, K.C.,
OF COUNSEL FOR DEFENDANT.

Q. You say you have built a great many bridges?—*A.* Yes.

Q. Do you remember having built any bridge to be used for ocean-going vessels, where the gap would be only 92 feet wide? I am not talking of canals, of course?—*A.* I think the St. Louis Dock, Quebec, is less.

Q. Did you build it?—*A.* Yes.

Q. That is a dock. It is not a bridge?—*A.* It is a bridge over the entrance to the dock.

Q. What kind of a bridge is it?—*A.* It is a bascule. One bascule, and one draw.

Q. Do you know the width of the bascule?—*A.* I do not know exactly, but I think the opening would not be any more than 90 feet.

Q. There is a lock gate there?—*A.* I am not certain.

Q. If there was a lock gate, it would be quite different?—*A.* The ships pass in there.

Q. They have to lock to pass through that bridge?—*A.* I am not sure.

Q. Do you know whether vessels have to use tugs to pass through that bridge at Quebec?—*A.* No, I do not.

AND FURTHER DEPONENT SAITH NOT.

No. 7.
Plaintiffs'
Evidence in
Rebuttal.

F. Shear-
wood.
Cross-exa-
mination.

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Fred Newell.
Examina-
tion.

DEPOSITION OF FRED NEWELL,

A WITNESS EXAMINED ON BEHALF OF PLAINTIFF IN REBUTTAL.

On this twenty-seventh day of November, in the year of Our Lord One thousand nine hundred and thirty-three, personally came and appeared

FRED NEWELL,

of the City and District of Montreal, Assistant Chief Engineer, Dominion 30
Bridge Company, Limited, who having already been duly sworn, and now
called as a witness on behalf of the Plaintiff in rebuttal, deposes as follows :

EXAMINED BY MR. MCKENZIE, K.C.,
OF COUNSEL FOR PLAINTIFF :

Q. You heard the testimony just given by Mr. Beauine and Mr. Shearwood?—*A.* I did.

Q. Are you prepared to confirm what they said?—*A.* Absolutely, in every respect.

MR. MCKENZIE : I have no other questions.

MR. BEAUREGARD : I have no cross-examination.

AND FURTHER DEPONENT SAITH NOT.

*In the
Exchequer
Court
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*No. 7
continued.*

No. 8.

Reasons for Judgment—Demers, J.

*No. 8.
Reasons for
Judgment.
Demers, J.
3rd January,
1934.*

Canada
Province of Quebec.

EXCHEQUER COURT OF CANADA.
Quebec Admiralty District.

Montreal the 3rd day of January, 1934.

Present : Hon. Mr. Justice PHILIPPE DEMERS, Local Judge in
Admiralty.

10

Assisted by Capt. J. O. GREY, Assessor.

No. 58.

DOMINION BRIDGE COMPANY LIMITED, ET AL - - - *Plaintiffs*

vs.

STEAMER " PHILIP T. DODGE " - - - - - *Defendant.*

The Dominion Bridge Company Limited was erecting a bridge across the York River at Gaspé, P.Q., in virtue of a contract with the Dufresne Construction Company Limited, one of the Plaintiffs.

20 On the 6th of July, 1932, when the said bridge was in course of construction and before delivery thereof, the Defendant, Steamer " PHILIP T. DODGE," while proceeding for the first time through the opening or gap in the said bridge, came into collision therewith, causing the north bascule, attachments and gear of the said bridge to be wrenched from their foundations and damaged almost beyond repair.

*In the
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No. 8
Reasons for
Judgment.
Demers, J.
3rd Janu-
ary, 1934—
continued.

The Plaintiffs contend that these damages were caused by the fault and negligence of those on board the Defendant Steamer, and by their improper and negligent navigation, and they, in particular, allege :

that the Defendant steamer was proceeding at an excessive rate of speed ;

that no precautions were taken by those in charge of said steamer to determine or ascertain local conditions as to proper navigation through the opening of said bridge ;

that the said steamer did not take proper or effective engine or helm action to prevent the occurrence of the said collision.

The Defendant pleads, in substance, that the said bridge is wrongfully constructed and designed ; that it interferes with the navigation of the Harbour of Gaspé more than is necessary for the proper exercise of Plaintiffs' statutory powers ; that the said bridge was wrongfully and illegally erected and is a public nuisance ; and by a second Plea, alleges that no blame for the collision can be attributed to the Defendant or to any of those on board of her.

On the first point, it appears that this bridge was erected by a company incorporated by the Provincial Statute of Quebec, 20 George V, Ch. 4. Navigation being in the province of the Federal Government, it was properly stated in the Statute that the " construction plans " of the said bridge and of its approaches, after their approval by the Federal Government, " shall be submitted to the Minister of Public Works and Labour and approved by him."

This construction could not be made without the approval of the Governor-in-Council of Canada.

The Federal Government having the control of navigation, I consider that its approbation of the plan of a bridge settles the point as to the proper construction of this bridge.

The Defendant, in her contention to the contrary, relies on the case of the s.s. " Eurana " and on the decision of the Privy Council, reported in 1931, A.C., page 300 and 308 ; but in that case, the charter authorizing the building of those works granted by the Federal Government, stated that the permission to build was granted, provided it would not obstruct navigation. The question decided by the Privy Council was that Statute was governing the case, and the Privy Council, page 309 of the Reports, insisted that it was interference with navigation amounting to a public nuisance for which the Defendant had no authority.

I am, therefore, of opinion that this case does not apply and that in the present case, the Federal authority was the proper authority to decide as to the form of construction of these works.

I come down to the second point—was there any negligence to be imputed to the Defendant ?

On this point, I agree entirely with the finding of the Assessor. As it was the first time that this ship had passed through this bridge, she should have taken great precaution. She had no experienced Pilot. The fact is that the Captain himself took care of the wheel.

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The Master, seeing these new works, should have stopped his ship and made himself acquainted with every condition before entering the gap. If he had ascertained these conditions beforehand, he would not have navigated with such speed.

*In the
Exchequer
Court
(Quebec
Admiralty
District).*

I am of the opinion that he entered the gap in the middle, but for fear of striking Davies Wharf, eight hundred feet ahead, he put his helm to Starboard, and also to counteract the effect of the current to Northward.

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Reasons for
Judgment.
Demers, J.
3rd January, 1934—
continued.

The current, striking the bow of a ship to the Northward, could not push the stern to the Northward, but to the Southward.

10 For these reasons, I arrive at the conclusion that Plaintiffs are severally entitled to the damages prayed for; that the Defendant Steamer " PHILIP T. DODGE " and her Bail should be condemned to the damages claimed, with interest and costs, which damages should be assessed by the Deputy Registrar of this Court, with the assistance of merchants.

(Sgd.) PHILIPPE DEMERS,
Local Judge in Admiralty.

No. 9.
Decree.

No. 9.
Decree.

EXCHEQUER COURT OF CANADA,

20 Quebec Admiralty District...

Canada.
Province of Quebec.

No. 58.

DOMINION BRIDGE COMPANY ET AL - - - - - *Plaintiffs*

versus

STEAMER " PHILIP T. DODGE " - - - - - *Defendant.*

30 The Judge having heard the Plaintiffs and Defendant represented by their solicitors and having been assisted by J. O. Grey as Nautical Assessor, pronounced that Plaintiffs are severally entitled to damages prayed for; that the Defendant Steamer " Philip T. Dodge " and her Bail should be condemned to the damages claimed, with interest and costs, which damages should be assessed by the Deputy Registrar of this Court, with the assistance of merchants.

(Sgd.) OSCAR BELANGER,
Deputy District Registrar.

*In the
Exchequer
Court.*

No. 10.

Reasons for Judgment—Maclean J.

No. 10.
Reasons for
Judgment.
Maclean J.,
20th June,
1934.

IN THE EXCHEQUER COURT OF CANADA.

On Appeal from the Quebec Admiralty District.

THE STEAMER " PHILIP T. DODGE " - - - - - *Appellant
(Defendant)*

and

DOMINION BRIDGE COMPANY, LIMITED, DUFRESNE
CONSTRUCTION COMPANY LIMITED, and LA COMPAGNIE
DU PONT DE GASPE LIMITEE - - - - - *Respondents 10
(Plaintiffs)*

MACLEAN, J.

Judgment rendered June 20th 1934.

This is an appeal from a judgment of Demers, L.J.A., for the Quebec Admiralty District, in which he held the plaintiffs severally entitled to the damages claimed. The cause was heard by the learned trial judge with an experienced assessor.

The important facts, and the chief contentions of the respective parties are to be found in the following excerpt from the reasons for judgment of the learned trial judge. 20

“ The Dominion Bridge Company Limited was erecting a bridge across the York River at Gaspé, P.Q., in virtue of a contract with the Dufresne Construction Company Limited, one of the Plaintiffs.

On the 6th of July, 1932, when the said bridge was in course of construction and before delivery thereof, the Defendant, Steamer “ Philip T. Dodge”, while proceeding for the first time through the opening or gap in the said bridge, came into collision therewith, causing the north bascule, attachments and gear of the said bridge to be wrenched from their foundations and damaged almost beyond repair. 30

Plaintiffs contend that these damages were caused by the fault and negligence of those on board the Defendant Steamer, and by their improper and negligent navigation, and they, in particular, allege;

that the Defendant steamer was proceeding at an excessive rate of speed;

that no precautions were taken by those in charge of the said steamer to determine or ascertain local conditions as to proper navigation through the opening of said bridge;

that the said steamer did not take proper or effective engine 40
or helm action to prevent the occurrence of the said collision.

The Defendant pleads, in substance, that the said bridge is wrongfully constructed and designed; that it interferes with the

navigation of the Harbour of Gaspé more than is necessary for the proper exercise of Plaintiff's statutory powers; that the said bridge was wrongfully and illegally erected and is a public nuisance; and by a second Plea, alleges that no blame for the collision can be attributed to the Defendant or to any of those on board of her."

*In the
Exchequer
Court.*

No. 10.
Reasons for
Judgment.
Maclean J.,
20th June,
1934—con-
tinued.

The appellant steamship "Philip T. Dodge," hereinafter to be referred to as the "Dodge," is a steel ship of slightly over 5,000 gross tons, her length being 400 feet, her breadth being 57 feet 7 inches, and her speed nine and a half knots. On the occasion in question she was bound for a
10 wharf or pier belonging to the International Paper Company, situated at the head of Gaspé Harbour, and in order to reach this wharf she was obliged to pass through the draw of a bascule bridge being erected by the first-named respondent (plaintiff). The bridge was, as I understand it, about completed, except, that the south leaf of the bascule span had not yet been put in place when the accident in question here occurred; the north bascule however was then in place and in a fully elevated position. The distance between the two piers upon which the bascules rested was 90 feet, so that if the Dodge when passing through the draw was directly in the centre thereof, there would be a free space of 20 feet on each side of her. Directly
20 in front of the draw or opening in the bridge, in proceeding up the Harbour of Gaspé, and at a distance of 800 feet in front of the draw, was a wharf known as Davies wharf, so that when the Dodge had fully passed through the draw she would be but 400 feet distant from the Davies wharf, and which of course she had to avoid; the wharf to which she was bound was on her port side after passing through the bridge. She had passed through the draw to the extent of two-thirds of her length, when the overhang of the poop on the starboard side came in contact with the north bascule, which was seven inches inside the face of the pier on which it rested, with serious damage to this leaf of the bascule.

30 On this aspect of the case the learned trial judge remarked:—

"I come down to the second point—was there any negligence to be imputed to the Defendant?"

On this point, I agree entirely with the finding of the Assessor. As it was the first time that this ship had passed through this bridge, she should have taken great precaution. She had no experienced Pilot. The fact is that the Captain himself took care of the wheel.

The Master, seeing these new works, should have stopped his ship and made himself acquainted with every condition before entering the gap. If he had ascertained these conditions beforehand,
40 he would not have navigated with such speed.

I am of the opinion that he entered the gap in the middle, but for fear of striking Davies Wharf, eight hundred feet ahead, he put his helm to Starboard, and also to counteract the effect of the current to Northward.

The current, striking the bow of the ship to the Northward, could not push the stern to the Northward, but to the Southward."

*In the
Exchequer
Court.*

No. 10.
Reasons for
Judgment.
Maclean, J.,
20th June,
1934—con-
tinued.

I summarise this to mean that the learned trial judge found, in which finding his assessor concurred, that the Dodge had not exercised sufficient caution in passing through the bridge; that the master of the Dodge should have stopped his ship and acquainted himself with the existing conditions before attempting to pass through the draw of the bridge; that he attempted to navigate the draw at an excessive speed and before fully passing through the draw he put his helm to starboard in order to escape contact with the Davies wharf and also to counteract a current to the northward, which would have the effect of putting his bow to port and his stern to starboard, the latter thus coming in contact with the north bascule; and that the Dodge had no experienced pilot. The learned trial judge seems to have been of the opinion that there was a current striking to the north and that the effect of this current on striking the port bow would be to move the stern of the Dodge to starboard north, and not to the south, or port. 10

I do not agree to the proposition that the master of the Dodge should have stopped his ship and examined the situation before attempting to pass through the draw, even on his first trip through this bridge. Neither do I think any blame is to be attached to the Dodge for not having on board an experienced pilot. No pilot was there available to the Dodge, although, she did take on board an experienced local fisherman who was supposed to know these waters, intimately. I am not disposed, upon the evidence, to attach importance to the question as to whether or not there was a current, or that it in any way contributed to the accident. There was a slight current passing directly through the draw, but, even if it struck somewhat to the north I do not think, upon the evidence, that it was itself of such consequence as to create any serious or added difficulty in navigating a ship through the bridge. 20

There is another point in the case which might conveniently be mentioned here. It was pleaded on behalf of the Dodge, and it was suggested on the appeal, that the bridge constituted a public nuisance. I must say it is difficult for me to comprehend why the owners of the bridge were permitted to locate the draw of the bridge precisely where it was located. It appears to be somewhat out of the course or track theretofore followed by ships in reaching the upper waters of Gaspé Harbour, and to where the Dodge was on this occasion bound. In approaching the draw it was more or less necessary, except perhaps to those well acquainted with the locus, to make the approach on a somewhat curved course, and not on a straight course, and then, as I have already pointed out, the draw was located but 800 feet in front of a wharf which was in line with the course through the centre of the draw. The plan of the bridge was approved by the Department of Public Works, and the Department of Marine, at Ottawa, but the plans and drawings do not show the Davies wharf on the upper side of the bridge, or the existence of a shoal on the lower side of the bridge. In any event, the issue as to whether the bridge constitutes a public nuisance was not, I think, tried out, and, in my opinion, no ground work was laid for the determination of so important and serious an issue, and I therefore express no opinion upon it. I understood Mr. Beaugard 40

so to agree, but he did contend, that the location of the draw was such as to render it difficult and sometimes impossible for shipping to avoid contact with the bridge in passing through the draw, and that on the occasion in question the master of the Dodge did everything reasonably to be expected of him, that he was not negligent, and that the accident was unavoidable; and all this constitutes, I think, the real substance of the appellant's case.

It is conceded by the appellant that in passing through the draw the Dodge was proceeding at the rate of four miles per hour. Witnesses called by the respondent (plaintiff), at the trial, placed this speed at as
 10 much as six miles per hour. I prefer to accept the evidence adduced by the appellant upon this point, although it is possible the speed of the Dodge did exceed four miles. The first question for determination therefore is whether a speed of four miles, in passing through the draw, was excessive. The learned trial judge seems to have thought the speed was excessive, without any specific finding as to what the speed was, and it is to be assumed that in this his assessor concurred. In view of the fact that the Davies wharf was directly in front of the Dodge when she passed through the draw, only 400 feet distant, the ship's length, it does seem to me that a speed of
 20 4 miles per hour was excessive, because, once passing through the draw the Dodge was obliged to go to port not only in avoiding the Davies wharf, but also in reaching the wharf to which she was bound. In the same season, the Dodge made fifteen additional trips through the bridge without any mishap, and her master stated that in such trips he exercised greater caution, particularly with his "engines," and in this I think he must have had in mind the speed of his ship. I think the speed of the Dodge in passing through the bridge opening was, in the circumstances, excessive.

[When the Dodge was two-thirds through the bridge opening, the master put his helm to starboard, which had the effect of putting the ship's stern to starboard, thus causing, I think, the collision and the damage
 30 complained of. This movement, I agree with the learned trial judge, was executed because of fear of coming into collision with the Davies wharf. One can quite understand such a movement, but it was an error, and was, I think, thought to be necessary because of fear, or the imminence, of colliding with the Davies wharf, but that fear or imminence arose, I think, because of the excessive speed of the ship in passing through the bridge draw. Had the speed been reasonably reduced I do not think the liability of contact with the Davies wharf would have been so apparent, and would not have occasioned the fatal order of "helm to starboard," and without this I think the Dodge would have passed through the draw without any
 40 mishap. And that conclusion as to the speed of the Dodge in passing through the bridge contains the answer to the contentions that the master of the Dodge navigated his ship with reasonable care, and that the accident was inevitable.]

I am of the opinion therefore that the judgment appealed from must stand, and that the appeal should be dismissed with costs.

*In the
Exchequer
Court.*

No. 10.
Reasons for
Judgment.
Maclean J.,
20th June,
1934—con-
tinued.

*In the
Exchequer
Court.*

No. 11.

Formal Judgment.

No. 11.
Formal
Judgment,
20th June,
1934.

IN THE EXCHEQUER COURT OF CANADA.

On appeal from the Quebec Admiralty District.

Wednesday, the 20th day of June, A.D. 1934.

Present :—The Honourable THE PRESIDENT.

between

THE STEAMER " PHILIP T. DODGE " - - - - - *Appellant
(Defendant)*

and

DOMINION BRIDGE COMPANY, LIMITED, DUFRESNE CONSTRUCTION COMPANY, LIMITED and LA COMPAGNIE DU PONT DE GASPE LIMITEE - - - - - *Respondents
(Plaintiffs)*

10

THIS APPEAL having come on for hearing before this Court at the City of Ottawa on the 22nd and 23rd days of May A.D. 1934, in the presence of Counsel as well for the Appellant as for the Respondents, upon hearing read the notice of appeal, the decree appealed from, the evidence and exhibits of record, and upon hearing what was alleged by Counsel aforesaid, this Court was pleased to direct that the said appeal should stand over for judgment and the same coming on this day for judgment ;

THIS COURT DOTH ORDER AND ADJUDGE that the said appeal be and the same is hereby dismissed, and that the judgment of the local Judge in Admiralty for the Admiralty District of Quebec rendered herein on the 3rd day of January A.D. 1934, be and the same is hereby affirmed.

AND THIS COURT DOTH FURTHER ORDER AND ADJUDGE that the said Appellant do pay to the said Respondents their costs of this appeal forthwith after taxation thereof.

By the Court,
(Sgd.) ARNOLD W. DUCLOS, 30
Registrar.



No. 12.

Notice of appeal to His Majesty in Council.

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

From the Exchequer Court of Canada.

THE STEAMER PHILIP T. DODGE - - - *Appellant (Defendant)*
 — and —

DOMINION BRIDGE COMPANY LIMITED,
 DUFRESNE CONSTRUCTION COMPANY LIMITED, and
 LA COMPAGNIE DU PONT DE GASPE LIMITEE - *Respondents (Plaintiffs)*.

10 Messrs. Brown, Montgomery & McMichael,
 Solicitors for Respondents.

Sirs :

Take notice that the Defendant, Steamer Philip T. Dodge, in the above-mentioned case appeals from the judgment of the Exchequer Court made herein on the 20th of June, 1934, to the Judicial Committee of the Privy Council so that same may be reversed, altered or varied.
 Montreal, August 11th, 1934.

(Sgd.) BEAUREGARD & PHILLIMORE,
 Solicitors for Defendant.

20 Received copy.

(Sgd.) BROWN, MONTGOMERY & McMICHAEL,
 Attorneys for Plaintiffs.

*In the
 Exchequer
 Court.*

No. 12.
 Notice of
 appeal to
 His Majesty
 in Council,
 11th Au-
 gust, 1934.

*In the
Exchequer
Court.*

No. 13.

Order staying proceedings and fixing security for costs of appeal to His Majesty in Council.

No. 13.
Order staying proceedings and fixing security for costs of appeal to His Majesty in Council, 16th August, 1934.

IN THE EXCHEQUER COURT OF CANADA.

Thursday, the 16th day of August A.D. 1934.

Present : The Honourable Mr. Justice MACLEAN in Chambers.

between

THE STEAMER " PHILIP T. DODGE " - - - - - *Appellant
(Defendant)*

and

DOMINION BRIDGE COMPANY LIMITED, DUFRESNE
CONSTRUCTION COMPANY, LIMITED and LA COMPAGNIE
DU PONT DE GASPE LIMITEE - - - - - *Respondents
(Plaintiffs)*

10

UPON the application made this day by counsel for the Appellant, in the presence of counsel for the Respondents, and upon hearing what was alleged by counsel aforesaid;

IT IS ORDERED that the proceedings in this action be stayed pending the appeal to the Privy Council.

AND IT IS FURTHER ORDERED that the security for the costs of 20 the Respondents, on the said appeal, be and the same are hereby fixed, at the sum of fifteen hundred dollars to be furnished in the form of a bond to the satisfaction of the Registrar.

AND IT IS FURTHER ORDERED that the costs of and incidental to this application be costs to the successful party in the said appeal.

(Sgd.) ARNOLD W. DUCLOS,
Registrar.

Approved Aug. 24/34.
(Sgd.) HENDERSON, HERRIDGE & GOWLING,
Agents for Respondents,
Solicitors.

30

No. 14.
Surety Bond.

*In the
Exchequer
Court.*

Bond No. 8103.

No. 14.
Surety
Bond.

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL
From the Exchequer Court of Canada.

THE STEAMER PHILIP T. DODGE - - - *Appellant (Defendant)*
— and —

DOMINION BRIDGE COMPANY LIMITED,
DUFRESNE CONSTRUCTION COMPANY LIMITED, and
10 LA COMPAGNIE DU PONT DE GASPE LIMITEE, - *Respondents (Plaintiffs).*

KNOW ALL MEN BY THESE PRESENTS that the GUARDIAN INSURANCE COMPANY OF CANADA, hereby represented by its Vice-President and Assistant Manager, duly authorized by a resolution of the Board of Directors of this Company passed on the 22nd day of June, 1928, at Montreal by the Guardian Insurance Company of Canada, is held firmly bound unto the Dominion Bridge Company Limited, Dufresne Construction Company Limited and La Compagnie du Pont de Gaspé Limitée, the above-named respondents in the penal sum of fifteen hundred dollars (\$1500.00) to be paid to Dominion Bridge Company Limited, Dufresne Construction
20 Company Limited and La Compagnie du Pont de Gaspé Limitée, for which payment well and truly to be made it binds itself firmly by these presents, sealed with its seal the 18th day of August, 1934; and

WHEREAS a certain action was brought in the Admiralty Court, Quebec Admiralty District, by Dominion Bridge Company Limited, Dufresne Construction Company Limited, and La Compagnie du Pont de Gaspé Limitée against the Steamer S.S. Philip T. Dodge; and

WHEREAS judgment was given in the Admiralty Court, Quebec Admiralty District, on the third day of January 1934, against the Steamer S.S. PHILIP T. DODGE which appealed to the Exchequer Court of Canada;
30 and

WHEREAS judgment was given by the said Exchequer Court of Canada on the 20th June, 1934, dismissing the appeal of Defendant Appellant; and

WHEREAS said Appellant claims that in giving the last-mentioned judgment in the said action upon the said appeal to the Exchequer Court of Canada manifest error hath intervened;

THEREFORE the said Appellant desires to appeal from the said judgment of the Exchequer Court of Canada to the Judicial Committee of His Majesty's Privy Council;

*In the
Exchequer
Court.*

No. 14.
Surety
Bond—
continued.

NOW the condition of this obligation is such that if the said Appellant shall appeal to the Judicial Committee of His Majesty's Privy Council from the judgment of the Exchequer Court of Canada and if such appeal be dismissed, the Appellant pay such costs and damages, as were awarded against it by the said Judicial Committee of His Majesty's Privy Council, then the said obligation shall be void, otherwise remain in full force and effect.

THE GUARDIAN INSURANCE COMPANY OF CANADA.

per

..... 10

Vice-President.

— and —

.....

Assistant Manager.

THE GUARDIAN INSURANCE COMPANY OF CANADA, MONTREAL.

Extract from the Minutes of the Meeting of the Directors held at 240 St. James Street West, Montreal, on the 22nd day of June, 1928, at 4 p.m.

“IT WAS RESOLVED, that any documents required to be given under the Seal of the Company may be signed by the President or Vice-President and the Manager or Assistant Manager, or, in the case of the absence from the City or other inability to act of the President and Vice-President, by any Director of the Company, and the Manager or Assistant Manager.” 20

I certify the above to be a true extract.

.....
Assistant Manager.

No. 15.
Consent that
Record be
composed of
certain
documents,
22nd Febru-
ary, 1935.

No. 15.

Consent that Record be composed of certain documents.

IN THE PRIVY COUNCIL

30

On Appeal from the Exchequer Court of Canada.

THE S.S. “PHILIP T. DODGE” - - - - - *Appellant,*

Vs

DOMINION BRIDGE COMPANY LIMITED, ET AL - - - *Respondents.*

The parties by the undersigned, their solicitors, hereby request the Registrar of the Exchequer Court to transmit to the Registrar of His Majesty in His Privy Council in London, the original court record, and consent that

the following documents shall form the printed case on appeal to His Majesty in His Privy Council :—

No. 15.
Consent that
Record be
composed of
certain
documents,
22nd Febru-
ary, 1935—
continued.

PART ONE—PROCEEDINGS.

1. Writ of Summons in Rem.
2. Plaintiffs' Statement of Claim.
3. Defendant's Statement of Defence.
4. Plaintiffs' Reply to Defendant's Statement of Defence.

PART TWO—EVIDENCE.

5. Plaintiffs' Evidence :

- | | |
|----|--------------------------|
| 10 | Evidence of Fred Newell |
| | " " Kenneth Cameron |
| | " " Alister J. Crerar |
| | " " Alexander Grant |
| | " " J. Edward Bertrand |
| | " " J. Adolphe Dansereau |
| | " " William P. Brown |
| | " " William R. Robertson |
| | " " Jean St-Croix |
| | " " Narcisse Fournier |
| 20 | " " John Langlais |

6. Defendant's Evidence :

- | | |
|----|------------------------|
| | Evidence of I. J. Tait |
| | " " Capt. Hutchinson. |
| | " " L. H. Dicks |
| | " " R. Dunn |
| | " " A. C. Aitkenhead |
| | " " George Park |
| | " " J. C. Walker |
| | " " Francis E. Eden |
| 30 | " " Ernest Roberts |
| | " " I. J. Tait. |

7. Plaintiffs' Evidence in Rebuttal :

- | | |
|--|-------------------------------|
| | Evidence of Jos. G. Chenevert |
| | " " S. A. Beaulne |
| | " " Fred Newell |
| | " " Fred Shearwood |

PART THREE—PLAINTIFFS' EXHIBITS.

Plaintiffs' Exhibits :

P-1, Contract between Dominion Bridge Co. and Dufresne Construction
40 Company, 13th April, 1931.

P-2, Contract between the Dufresne Construction Company Limited
and La Cie du Pont de Gaspé, 27th April, 1931.

No. 15.
Consent that
Record be
composed of
certain
documents,
22nd Febru-
ary, 1935—
continued.

- P-1 at Enquete, Plan of Bridge by Dominion Bridge Company, Limited.
P-3, Photograph of S.S. " Philip T. Dodge " passing through draw.
P-4, Photograph of stern of " Philip T. Dodge."
P-5, Copy of Letters Patent of La Cie du Pont de Gaspé.
P-6, Copy of Act respecting the construction of a bridge over Gaspé Bay, 20 George V, Chapter 4.
P-7, Certified copy of minutes of a meeting of the Privy Council approved by the Governor General on the 21st of April, 1932, with plans attached.

P-7 A, Extract from page 2207 of Quebec Official Gazette under date 10 of the 14th of June, 1930.

P-8, Copy of Agreement between La Cie du Pont de Gaspé and the Honourable J. N. Francoeur, dated 17th September, 1930.

P-9, Copy of an agreement between La Cie du Pont de Gaspé and the Honourable J. N. Francoeur, dated 26th March, 1931.

P-10, Two plans of Gaspé Bridge.

P-12, Certified copy of Order in Council, P C 525, dated 6th March, 1931.

P-13, Copy of Order in Council, PC 100, dated 23rd February, 1932, to grant issue of quit claim on water lots.

P-14, Copy of Memorandum in reference to the application for the 20 approval by the Governor General in Council of the sites and plans of works in navigable waters.

P-15, Copy of movements of Steamship " Philip T. Dodge " in Gaspé Harbour in 1932.

P-16, Extracts from Pages 13, 30, 31, 32 and 83 of Tide Tables for Atlantic Coast, 1932.

P-17, Photograph of the draw of the Bridge.

P-18, Letter from Deputy Minister of Public Works, dated the 28th November, 1933.

PART FOUR—DEFENDANT'S EXHIBITS.

30

8. Defendant's Exhibits :

D-1, Photograph showing bridge in distance.

D-2, Photograph showing bridge from vessel proceeding towards draw.

D-3, Photograph showing bridge from vessel proceeding towards draw.

D-4, Photograph showing draw.

D-5, Dominion Chart of Gaspé Bay.

D-6, Sketch by Captain Hutchinson.

D-7, Plan of Gaspé Bridge with outline of vessel going through.

D-8, Extract from Chief Officer's log, July 6th, 1932.

D-9, Extract from Chief Officer's log, Aug. 2nd, 1932.

D-10, Extract from Chief Officer's log, July 6th, 1932.

D-11, Photograph of bridge with bascule closing.

40

PART FIVE—JUDGMENTS.

9. Reasons for Judgment of Mr. Justice Demers, dated 3rd January, 1934.
10. Final Decree signed by the Deputy District Registrar, Oscar Belanger.

11. Reasons for Judgment of Mr. Justice Maclean, dated June 20th, 1934.
12. Final decree, dated 16th August, 1934, and signed by Arnold W. Duclos.
13. Judgment fixing security for costs on Appeal to Privy Council.

No. 15.
Consent that
Record be
composed of
certain
documents,
22nd Febru-
ary, 1935—
continued.

PART SIX—APPEAL.

14. Notice of Appeal, dated August 11th, 1934.
15. Surety Bond furnished by the Guardian Insurance Company of Canada.
Montreal, February 22nd, 1935.

(Sgd.) BEAUREGARD & PHILLIMORE,
Solicitors for Appellant.

(Sgd.) BROWN, MONTGOMERY & McMICHAEL,
Solicitors for Respondent.

Exhibits.

EXHIBITS .

P.6.
Copy of Act
respecting
the con-
struction of
a bridge
over Gaspé
Bay,
20 George V.
Chapter 4,
4th April,
1930.

**P.6.—Copy of Act respecting the Construction of a Bridge over Gaspé Bay,
20 George V, Chapter 4.**

Statutes of Quebec—20 Geo. V—1930.

CHAPTER 4.

An Act respecting the construction of a bridge over Gaspé Bay.
(Assented to, the 4th of April, 1930.)

HIS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows :—

1. To aid in the construction of a bridge over Gaspé Bay between the municipality of the Village of Gaspé and the place called Gaspé Harbour, in the county of Gaspé, the Lieutenant-Governor in Council may authorize the Minister of Public Works and Labour to enter into a contract, upon the conditions hereinafter mentioned, with any company, which will undertake the construction of such bridge. 10

2. Such contract shall provide :—

a. That the cost of construction, upkeep, operation and maintenance of such bridge and that of the work for the approaches, and of the acquiring of the necessary land, shall be borne by the company, party to the said contract; 20

b. That, for any loan contracted by the company for purposes in connection with the construction of the said bridge and its approaches, a yearly sinking-fund shall be provided, sufficient to repay the loan in a period of not less than twenty nor more than forty years, and that the said sinking-fund shall be deposited, each year, with the Provincial Treasurer to be dealt with as are the sinking-funds of loans by municipal corporations;

c. That the construction plans of the said bridge and of its approaches, after their approval by the Federal Government, shall be submitted to the Minister of Public Works and Labour and approved by him; 30

d. For the completion of the work within a specified time;

e. For the manner in which the bridge shall be kept and maintained;

f. For the imposing of tolls according to a tariff approved by the Lieutenant-Governor in Council;

g. That, in the event of the monies from the tolls established as aforesaid not being sufficient to meet each year at their maturity the sums of money required to pay the annual operating and maintenance charges of the said bridge, interest on any loan for the 40

purpose of constructing the said bridge and its approaches, and the sinking-fund of such loan, the Government undertake to pay seventy-five per cent. of the said annual deficit to the company, party to the said contract, as long as any such deficit may exist.

Exhibits.
 P.6.
 Copy of Act
 respecting
 the con-
 struction of
 a bridge
 over Gaspé
 Bay,
 20 George V.
 Chapter 4,
 4th April,
 1930—con-
 tinued.

If the rate of interest paid by the Company on a loan is higher than six per cent. per annum, the said rate of interest shall be reduced to six per cent. for the purposes of the application of the present paragraph;

10 *h.* That, at any time after the expiration of ten years from the date of the completion of the work of building the said bridge, the Government of the Province may redeem such bridge from the Company having built it by reimbursing such company, out of the consolidated revenue fund, all sums spent for the cost of land, construction, approaches and other necessary incidental expenses, with, in addition, a premium of ten per cent. of the total amount of such expenses;

i. For any other conditions, not contrary to those above stated, which the Minister of Public Works and Labour may deem useful or necessary for the carrying out of the provisions of this Act, provided such conditions be approved by the Lieutenant-Governor in Council;

20 *j.* That the books, papers and other documents, as well as the accounts of the company, party to the said contract be subject at all times to the inspection of the Minister of Public Works and Labour or of any other person authorized therefor by him.

3. The sums which the Government may be called upon to pay under paragraph *g* of section 2 shall be paid to the persons entitled thereto by the Provincial Treasurer, out of the consolidated revenue fund, upon certificates of the Minister of Public Works and Labour, stating that the conditions of the contract have been observed to date, and specifying the amount due.

30 4. The company, party to the above-mentioned contract, is authorized to acquire, by agreement or by expropriation, all immoveables required for the construction of the said bridge and its approaches, as well as all immoveable rights, charges, leases for occupation and emphyteutic leases, constituted rents, or any other rights whatsoever affecting such immoveables.

Every such expropriation shall be subject to the Quebec Railway Act (Revised Statutes, 1925, chapter 230).

5. This act shall come into force on the date which it may please the Lieutenant-Governor in Council to fix by proclamation.



Exhibits.

P.5.—Copy of Letters Patent of La Cie du Pont de Gaspé.

P.5.
Copy of
Letters
Patent of
La Cie du
Pont de
Gaspé, 9th
April, 1930.

(signé)

H.-G. CARROLL

CANADA

PROVINCE DE QUEBEC

GEORGE V, Par la Grâce de Dieu, Roi de Grande-Bretagne, d'Irlande et des territoires britanniques au-delà des mers, Défenseur de la Foi, Empereur des Indes.

A tous ceux qui ces présentes lettres verront ou qu'icelles pourront concerner.

10

SALUT :

Lettres
Patentes
incorporant
" LA COM-
PAGNIE DU
PONT DE
GASPÉ,
LIMITÉE "

Enregistré le
9 avril, 1930

Libro 137
folio 79.

Le sous-
registraire
supp. de la
province,

(signé)

ALEXANDRE
DESMEULES

ATTENDU que la première partie de la loi des compagnies de Québec, statue que le lieutenant-gouverneur peut, au moyen de lettres patentes expédiées sous le grand Sceau, accorder à trois personnes ou plus qui en font la demande par requête, une charte les constituant en corporation pour certains objets relevant de l'autorité législative de cette province, excepté pour la construction et l'exploitation de chemins de fer, pour les affaires d'assurance, et pour les affaires de fidéicommiss ;

ATTENDU que les personnes ci-après désignées ont demandé par requête une charte qui les constitue en corporation pour les objets ci-après décrits ; et

20

ATTENDU que les dites personnes ont rempli les formalités prescrites pour l'obtention de la charte demandée, et que les objets de l'entreprise de la compagnie projetée sont de ceux pour les quels le lieutenant-gouverneur peut accorder une charte ;

A CES CAUSES, Nous avons, en vertu des pouvoirs qui Nous sont conférés par la dite première partie de la loi des compagnies de Québec, constitué et, par les présentes lettres patentes, constituons en corporation les personnes suivantes, savoir :

30

Horace Evelyn Scott, gérant de compagnie, Percy Gerald Hyman, marchand, Alfred C. LaCouvée, navigateur, et J.-Edmond Gagnon, avocat, tous quatre de Gaspé, même comté et district, ainsi que les autres personnes qui sont ou deviendront actionnaires de la compagnie, et ce pour les objets suivants :

Acquérir, utiliser tous droits immobiliers, franchises, outillages et matériaux nécessaire à l'érection, au maintien, à la réparation et à la refec-tion d'un pont métallique moderne et approches entre le village de Gaspé

et la Municipalité de York (Gaspé Harbour), aux fins d'aider à relier effectivement par chemin ou route de grande communication, les habitants, industries et corporations des municipalités, cantons et paroisses situés de chaque côté de la Baie de Gaspé, dans le Comté de Gaspé;

Acquérir des droits exclusifs dans des brevets d'invention, privilèges et droits d'inventeurs pour les besoins de la présente entreprise et ses accessoires;

Faire des traités avec toute corporation ou compagnie de chemin de fer, de télégraphe ou de téléphone ou d'électricité pour toute fin jugée utile;

10 Faire un traité avec toute compagnie de chemin de fer dont la voie ferrée pourra avoir par la suite une tête de ligne sur l'une ou l'autre rive de la Baie de Gaspé, pour faire circuler ses trains de voyageurs ou de marchandise le pont de la présente compagnie;

Faire des traités ou contrats avec les gouvernements fédéral ou provincial et les corporations municipales pour atteindre les fins pour lesquelles la compagnie est constituée en corporation, pour la construction et l'exploitation d'un pont tel que susdit;

20 Exploiter tout genre de traverse sur eau et de faire à cette fin tout contrat avec les gouvernements, les municipalités, les compagnies et les individus;

Emprunter des sommes d'argent et émettre des obligations, debentures et autres valeurs et en garantir le remboursement par hypothèque, nantissement ou autre droit réel immobilier sur les propriétés de la compagnie;

Constituer et émettre à titre d'actions libérées des actions de la compagnie et les attribuer et remettre en paiement d'outillages, de matériel roulant, ou de matériaux de toute sorte, et aussi pour les services d'ingénieurs et d'entrepreneur et aussi pour autres fins jugées utiles;

30 Céder à bail, vendre ou autrement aliéner les biens et actif de la compagnie, en tout ou en partie, pour toute fin ou considération jugée opportune;

Tirer, faire, accepter, endosser, escompter, exécuter et émettre des billets promissoires, des lettres de change, connaissements, mandats, obligations, debentures et autres instruments négociables ou transférables;

Promouvoir ou aider à la promotion de la compagnie pour les fins de nature à profiter à la présente compagnie;

Faire tous les actes, exercer tous les droits et pouvoirs et faire toutes les opérations qui pourraient être jugées nécessaires et propres à atteindre les fins pour lesquelles la compagnie est constituée en corporation.

40 Le nom de la Compagnie constituée en corporation est "La Compagnie du Pont de Gaspé, Limitée."

La principale place d'affaires de la dite Compagnie est à Gaspé district de Gaspé, dans Notre province.

Le montant du capital-actions de la Compagnie, divisé en quinze mille actions de dix dollars chacune, est fixé à la somme de cent cinquante mille dollars, monnaie courante du Canada.

Vingt actions ordinaires ont été souscrites au fonds social de la Compagnie.

Exhibits.

—
P.5.
Copy of
Letters
Patent of
La Cie du
Pont de
Gaspé, 9th
April, 1930
—continued.

Exhibits.

Sont nommés directeurs provisoires de la Compagnie les personnes suivantes, savoir : tous les requérants.

—
P.5.
Copy of
Letters
Patent of
La Cie du
Pont de
Gaspé, 9th
April, 1930
—continued.

EN FOI DE QUOI, Nous avons fait rendre Nos présentes lettres patentes et sur icelles apposer le grand Sceau de Notre dite province de Québec, Témoin : Notre très fidèle et bien-aimé l'honorable HENRY GEORGE CARROLL, Lieutenant-Gouverneur de notre dite province de Québec.

Donné en Notre hôtel du gouvernement, à Québec, ce huitième jour d'avril l'an de grâce mil neuf cent trente et de Notre Règne le vingtième.

Par ordre,

Le sous-secrétaire de la province supp.

(signé) ALEXANDRE DESMEULES.

10

P.7a.

Extract
from page
2207 of
Quebec
Official
Gazette.

P. 7a.—Extract from page 2207 of Quebec Official Gazette.

PROCLAMATION.

CHARLES LANCTOT, }
Assistant Procureur- }
général. } ATTENDU que

par l'article 5 de la loi 20 George V, chapitre 4, il est décrété que ladite loi entrera en vigueur à la date qu'il plaira au lieutenant-gouverneur en conseil de fixer par proclamation :

ATTENDU qu'il y a lieu de fixer la date de l'entrée en vigueur de ladite loi :

A CES CAUSES, du consentement et de l'avis de Notre Conseil Exécutif exprimés dans un décret en date du 5 juin 1930, et conformément aux dispositions de l'article 5 de ladite loi, Nous avons décrété et ordonné, et, par les présentes, décrétons et ordonnons que la loi 20 George V, chapitre 4, concernant la construction d'un pont sur la baie de Gaspé, soit mise en vigueur à compter de la date de la présente proclamation.

DE TOUT CE QUE DESSUS, tous Nos féaux sujets et tous autres que les présentes peuvent concerner sont requis de prendre connaissance et de se conduire en conséquence.

EN FOI DE QUOI, Nous avons fait rendre Nos présentes lettres patentes et sur icelles fait apposer le grand sceau de Notre province de Québec. TÉMOIN : Notre très fidèle et bien-aimé l'Honorable HENRY GEORGE CARROLL, lieutenant-gouverneur de Notre province de Québec.

PROCLAMATION.

CHARLES LANCTOT, }
Deputy-Attorney- }
General. } WHEREAS un-

der Article 5 of the Act, 20 George V, chapter 4, it is ordered that the said Act shall come into force on the date which it may please the Lieutenant-Governor in Council to fix by proclamation ;

WHEREAS it is expedient to fix the date of the coming into force of the said Act ;

THEREFORE, with the consent and advice of Our Executive Council expressed in an Order dated the 5th of June, 1930, and in conformity with the provisions of article 5 of the said Act, We have ordered and enacted and do hereby order and enact that the Act 20, George V, chapter 4, respecting the construction of a bridge over Gaspé Bay, be put into force from and after the date of the present proclamation.

OF ALL WHICH OUR loving subjects and all others whom these presents may concern, are hereby required to take notice and to govern themselves accordingly.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent and the Great Seal of the Province of Quebec, to be hereunto affixed. WITNESS : Our Right Trusty and Well Beloved the Honourable HENRY GEORGE CARROLL, Lieutenant-Governor of Our said Province.

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30

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<p>En l'Hôtel du Gouvernement, en Notre Cité de QUEBEC, de Notre Province de QUEBEC, ce ONZIEME jour de JUIN en l'année mil neuf cent trente de l'ère chrétienne et de Notre Règne la vingt et unième année.</p> <p>Par ordre, Le sous-secrétaire suppléant de la province. 3285. ALEXANDRE DESMEULES.</p>	<p>At our Government House, in Our City of QUEBEC, in Our said Province, this ELEVENTH day of JUNE, in the Year of Our Lord one thousand nine hundred and thirty and in the twenty-first year of Our Reign.</p> <p>By command, ALEXANDRE DESMEULES, 3286. Acting Assistant Provincial Secretary.</p>	<p>Exhibits. — P.7a. Extract from page 2207 of Quebec Official Gazette— <i>continued.</i></p>
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10	<p>P.8.—Copy of Agreement between La Cie du Pont de Gaspé and The Hon. J. N. Francoeur.</p> <p>L'AN MIL NEUF CENT TRENTE, le dix-sept septembre, DEVANT CHARLES DELAGRAVE, notaire pour la Province de Québec, résidant et pratiquant à Québec, comparaissent :</p> <p>LA COMPAGNIE DU PONT DE GASPE LIMITEE, corps politique et incorporé ayant sa principale place d'affaires à Gaspé, dans le district de Gaspé, ici représenté et agissant par M. GERARD LACROIX, de la Cité de Québec, avocat, dûment autorisé à l'effet des présentes suivant résolution du Bureau de Direction de la dite Compagnie</p> <p>20 passée à une assemblée tenue à Gaspé le vingt-un mai dernier, dont copie certifiée est demeurée annexée à la minute des présentes, signée pour identification des parties et du notaire soussigné,</p> <p style="text-align: center;">PARTIE DE PREMIERE PART,</p> <p>ci-après appelée " LA COMPAGNIE " et</p> <p>L'HONORABLE JOSEPH NAPOLEON FRANCOEUR, avocat et Conseil du Roi, agissant ici en sa qualité de Ministre des Travaux Publics et du Travail de la Province de Québec, pour et au nom du Gouvernement de cette Province dûment autorisé suivant arrêté ministériel en date du quatorze août dernier (1930) approuvé par le Lieutenant-Gouverneur</p> <p>30 le quinze, dont copie certifiée est demeurée annexée à la minute des présentes, signée pour identification des parties et du notaire soussigné,</p> <p style="text-align: center;">PARTIE DE SECONDE PART,</p> <p>ci-après appelée " LE GOUVERNEMENT "</p> <p>LESQUELS déclarent et arrêtent entre eux ce qui suit :</p> <p>Une loi a été sanctionnée le quatre avril mil neuf cent trente (20 Geo. V chap. 4) concernant la construction d'un pont sur la Baie de Gaspé entre la municipalité du Village de Gaspé et l'endroit appelé la Municipalité de York (Gaspé Harbour) dans le comté de Gaspé, et cette loi est devenue en vigueur par arrêté ministériel No. 1085, sanctionnée le cinq juin, mil neuf cent</p> <p>40 trente.</p>	<p>P.8. Copy of Agreement between La Cie du Pont de Gaspé and the Hon. J. N. Francoeur, 17th September, 1930.</p>
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Exhibits.

P.8.

Copy of
Agreement
between
La Cie du
Pont de
Gaspé and
the Hon.
J. N. Fran-
coeur, 17th
September,
1930—con-
tinued.

LA COMPAGNIE, qui a été incorporée aux fins de construire ce pont, entend procéder sous le plus court délai.

SON capital est de cent cinquante mille piastres (\$150,000·00) divisé en quinze mille actions de la valeur au pair de dix piastres chacune, sur lequel un nombre de quinze cents actions ont été vendues et payées, et il est déposé au crédit de la Compagnie un montant de quinze mille piastres à la Banque de Montréal, Basse-Ville, Québec, tel qu'appert par certificat de cette Banque attaché à la minute du présent acte;

IL est nécessaire qu'un acte intervienne entre les parties fixant les conditions que le Gouvernement entend imposer;

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EN CONSEQUENCE, les présentes attestent :

1°. LA COMPAGNIE s'engage vis-à-vis le Gouvernement à construire un pont au-dessus de la Baie de Gaspé entre la Municipalité de Gaspé et la Municipalité du Village de York (Gaspé Harbour);

2°. LE COUT de la construction, de l'entretien de l'exploitation et du maintien de ce pont, ainsi que celui des travaux des approches et de l'acquisition des terrains nécessaires, sera à la charge de la Compagnie;

3°. POUR tout emprunt contracté par la compagnie, pour fins de construction du dit pont et de ses approches, il sera pourvu à un fonds d'amortissement annuel suffisant pour rembourser l'emprunt dans une période de pas moins de vingt et de pas plus de quarante années, et le dit fonds d'amortissement sera, chaque année, déposé entre les mains du Trésorier de la Province pour être traité comme les fonds d'amortissement des emprunts des corporations municipales;

LE MINISTRE des Affaires Municipales devra, en outre, approuver les procédures requises par l'émission des débetures;

4°. Les plans et devis du dit pont et de ses approches devront être approuvés par le Gouvernement Fédéral avant qu'ils soient soumis à l'approbation du Ministre des Travaux Publics et du Travail, de Québec, et approuvés par lui, et, à tout événement, ils devront être soumis à l'approbation de ce Ministre dans un délai de quatre (4) mois de la date du contrat et les travaux devront être complètement terminés de façon à ce que le pont soit livré à la circulation dans un délai de dix huit (18) mois, de la signature du contrat; faute de transmettre les plans et devis pour approbation dans le dit délai de quatre (4) mois ci-dessus, le présent contrat deviendra, ipso facto, nul et comme non avenue et tout comme s'il n'avait jamais été passé, sans recours par la compagnie contre le Gouvernement et ce par convention très expresse; à moins que le retard prévienne, de l'approbation par les autorités fédérales.—En tout temps durant l'exécution du travail, aux dires des ingénieurs du département des Travaux Publics et du Travail, si les travaux ne sont pas exécutés avec diligence et de manière que le pont soit terminé dans le dit délai de dix-huit mois, un avis sera transmis à la Compagnie et si dans les quinze jours de cet avis les ingénieurs constatent qu'il n'y a pas de changement, alors et sur le rapport de ces ingénieurs

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approuvé par le Lieutenant-Gouverneur en conseil, le dit contrat deviendra également nul et non avenu.

IL EST cependant entendu que cette déchéance ne s'appliquera pas dans le cas de retard pour cause de force majeure ou cas fortuit.

5°. LA COMPAGNIE devra, aussitôt que les dits plans et devis auront été approuvés, demander des soumissions régulières dans la forme telle que lui indiquera le Ministre des Travaux Publics et du Travail, suivant ces instructions et la Compagnie n'aura pas le droit d'accepter aucune soumission dont la forme n'aura pas été ainsi approuvée. Les soumissions qui
10 seront acceptées devront également être approuvées par le Ministre

LE MINISTRE des Travaux Publics et du Travail se réserve également le droit de refuser toute telle soumission qui ne lui paraîtra pas conforme et d'obliger la Compagnie à en demander des nouvelles, il se réserve également le droit de faire tout changement qu'il croira convenable dans les plans et devis ainsi que dans les travaux d'approches, ces changements lieront la Compagnie ;

6°. LE COUT total y compris les acquisitions des terrains nécessaires et autres frais incidents s'y rapportant, ne devront pas dépasser la somme de CINQ CENT MILLE PIASTRES (\$500,000.00) et c'est à ces chiffres que
20 se limite la responsabilité du Gouvernement sous le présent acte.

LE COUT tel qu'établi par la Compagnie sera toutefois sujet à la vérification et à l'approbation par le Ministre des Travaux Publics et du Travail et le Gouvernement ne sera lié que pour le montant qu'il aura ainsi établi ;

7°. LA COMPAGNIE devra maintenir et entretenir le pont suivant les instructions qu'elle pourra recevoir de temps à autre, du Ministre des Travaux Publics et du Travail et elle pourra imposer le taux de péage convenu entre les parties. Ces taux pourront être changés par Arrêté ministériel. La Compagnie garantit que cette échelle de taux est celle
30 actuellement en vigueur sur le bac.

8°. LA COMPAGNIE devra pendant la durée de la construction, maintenir un surveillant compétent, indépendant de l'entrepreneur, approuvé par le Ministre, et à défaut d'avoir un tel surveillant, la Compagnie devra confier cette surveillance à un firme faisant une spécialité de cette tâche. Cette surveillance sera aux frais seuls de la Compagnie.

9°. LA COMPAGNIE devra payer ses ouvriers suivant l'échelle de salaire reconnue dans la localité, pour ce genre de travail et au cas de désaccord, le Ministre du Travail déterminera lui-même le juste salaire. La Compagnie devra prendre et maintenir toutes les assurances requises.

10°. DANS le cas où le montant d'argent provenant des droits de péage établis comme dit ci-dessus ne sera pas suffisant pour rencontrer
40 chaque année à l'échéance, les sommes d'argent nécessaires pour payer les charges annuelles d'exploitation et d'entretien du dit pont, les intérêts sur tout emprunt pour fins de construction du dit pont et de ses approches et le

Exhibits.

P.8.
Copy of
Agreement
between
La Cie du
Pont de
Gaspé and
the Hon.
J. N. Fran-
coeur, 17th
September,
1930—con-
tinued.

Exhibits.
 ———
 P. 8.
 Copy of
 Agreement
 between
 La Cie du
 Pont de
 Gaspé and
 the Hon.
 J. N. Fran-
 coeur, 17th
 September,
 1930—con-
 tinued.

fonds d'amortissement de tel emprunt, le Gouvernement s'engage à payer SOIXANTE QUINZE POUR CENT du dit déficit annuel à la Compagnie, aussi longtemps que subsistera tel déficit.

SI le taux d'intérêt payé par la Compagnie sur un emprunt est supérieur à six pour cent par an, le dit taux d'intérêt devra être réduit à six pour cent pour les fins d'application du présent paragraphe ;

11°. EN TOUT TEMPS, après l'expiration de dix années de la date du parachèvement des travaux de construction du dit pont, le Gouvernement de la Province pourra acheter ce pont de la Compagnie qui l'a construit en lui remboursant, à même le fonds consolidé d'origine, toutes sommes 10 dépensées pour le coût des terrains, de la construction, des approches et des autres dépenses incidentes nécessaires, avec en plus une prime de dix pour cent du montant total de ces dépenses.

12°. Les livres, papiers et autres documents, de même que la comptabilité de la Compagnie, seront en tout temps soumis à l'examen du Ministre des Travaux Publics et du Travail ou de toute autre personne par lui à ce autorisée.

13°. Les sommes que le Gouvernement pourra être appelé à verser en vertu de l'article 10, seront payées à qui de droit par le Trésorier de la Province, à même le fonds consolidé du revenu, sur certificat du Ministre 20 des Travaux Publics et du Travail, déclarant que les conditions du contrat ont jusqu'à date été observées, et spécifiant le montant dû ;

14°. LA COMPAGNIE est autorisée à acquérir à l'amiable ou par expropriation tous les immeubles requis pour la construction du dit pont et de ses approches, de même que tous les droits immobiliers, charges, baux à loyer et baux emphytéotiques, rentes constituées ou autres droits quelconques affectant ces immeubles.

TOUTE telle expropriation sera soumise à la Loi des Chemins de Fer de Québec (Statuts Refondus 1925 chapitre 230).

LA COMPAGNIE paiera les frais du présent acte et de deux copies 30 pour le Gouvernement.

DONT ACTE : A QUEBEC, étude du notaire soussigné sous le numéro onze mille sept cent cinq de ses minutes.

LECTURE FAITE, les parties signent avec moi, notaire.

(Signé) " J. N. FRANCOEUR "

" GERARD LACROIX "

CHARLES DELAGRAVE N.P."

Vraie copie de la minute demeurée en mon étude.

CHARLES DELAGRAVE

N.P.

COPIE du RAPPORT d'un Comité de l'Honorable Conseil Exécutif
 endate du 14 août 1930 approuvé par le Lieutenant-Gouverneur le 15 août
 1930.

1778

CONCERNANT la Compagnie du Pont de Gaspé, Limitée.

L'Honorable Ministre des Travaux Publics et du Travail dans un
 mémoire en date du 14 août (1930), recommande qu'il soit autorisé à signer
 avec la Compagnie du Pont de Gaspé, Limitée, un contrat conforme à la
 teneur du projet, dont copie est annexée au mémoire susdit, relatif à la
 10 construction d'un pont sur la Baie de Gaspé (20 Geo. V. chap. 4, article 1).

Exhibits.
 P.8.
 Copy of
 Agreement
 between
 La Cie du
 Pont de
 Gaspé and
 the Hon.
 J. N. Fran-
 coeur, 17th
 September,
 1930—con-
 tinued.

CERTIFIE

(Signé) " A. MORISSET "
 Greffier Conseil Exécutif.

CECI est l'ordre en Conseil mentionné en un Acte de Conventions passé
 devant C. Delagrave, notaire à Québec, le dix-sept septembre, mil neuf cent
 trente, et demeuré annexé à l'original des présentes, sous le No. 11,705 de
 ses minutes.

Quebec, 17 septembre 1930.

(Signé) " J. N. FRANCOEUR "
 20 " GERARD LACROIX "
 " CHARLES DELAGRAVE N.P."

Vraie copie.

CHARLES DELAGRAVE,
 N.P.

EXTRACT from the Minutes of a Meeting of the Board of Directors of
 the Gaspe Bridge Company held at Gaspe the 21st of May 1930.

It is moved by Mr. P. G. Hyman seconded by Mr. H. E. Scott and
 unanimously adopted that Mr. Gerard Lacroix, lawyer of Quebec City
 be authorized and empowered, and he is authorized and empowered by
 30 the present, to negotiate with the Provincial Department of Public Works a
 contract as outlined in Bill No. 224 of the Legislative Assembly to accept
 and sign it in the name and for the Gaspe Bridge Company Limited.

(Certified true extract from the Minutes of the above-mentioned
 meeting)

(Signed) " J. E. GAGNON "
 Secretary.

Gaspe, May the 21st 1930.

CECI est la résolution de GASPE BRIDGE COMPANY dont il est
 fait mention en un acte de conventions passé devant C. Delagrave, notaire

Exhibits. à Québec, le dix sept septembre, mil neuf cent trente, No. 11,705 de ses
 ——— minutes.
 P.8. Québec, 17 septembre 1930.
 Copy of Agreement between La Cie du Pont de Gaspé and the Hon. J. N. Francoeur, 17th September, 1930—*con-
 tinued.*

(Signé) “ J. N. FRANCOEUR ”
 “ GERARD LACROIX ”
 “ CHARLES DELAGRAVE N.P.”

Vraie copie.
 CHARLES DELAGRAVE,
 N.P.

BANK OF MONTREAL.

10

Quebec, Que. 17th September, 1930.

TO WHOM IT MAY CONCERN :

This is to certify that there is standing at the credit of the Cie. du Pont de Gaspé, Ltee., at this date, the sum of Fifteen Thousand Dollars (\$15,000·00).

(Signed) “ W. M. BANCROFT ”
 Manager
 (W. M. BANCROFT)
 “ J. MACCRIMMON ”
 Acct.

20

CERTIFICAT mentionné en un acte de conventions reçu devant C. Delagrave, notaire à Québec, le dix-sept septembre, mil neuf cent trente, No. 11,705, de ses minutes.

(Signé) “ J. N. FRANCOEUR ”
 “ GERARD LACROIX ”
 “ CHARLES DELAGRAVE N.P.”

Vraie copie.
 CHARLES DELAGRAVE,
 N.P.

P.12.—Certified copy of Order in Council, P.C. 525.

Exhibits.

P.C. 525.

P.12.
 Certified
 copy of
 Order in
 Council,
 6th March,
 1931.

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Administrator on the 6th March, 1931.

The Committee of the Privy Council have had before them a Report, dated 6th March, 1931, from the Minister of Public Works, submitting as follows :—

10 That La Compagnie du Pont de Gaspé, Limited, has applied under Section 7, Chapter 140, Revised Statutes of Canada, 1927—the Navigable Waters Protection Act—for the approval of the annexed set of two plans of a bridge, and of the site thereof, according to the description attached, proposed to be erected over the York River between Gaspé Village and Gaspé Harbour, Gaspé County, P.Q.;

20 That the Chief Engineer of the Department of Public Works, on the favourable report of the District Engineer, has recommended the approval of the application from the standpoint of navigation, and in this recommendation the Deputy Minister of Public Works has concurred;

That the Department of Marine has advised that it has no objection to the approval of this application subject to the applicant company obtaining a quit claim of the water lots required as a site for the proposed work;

That the Department of Justice has reported that all the requirements of Section 7 of the Navigable Waters Protection Act have been complied with and that this application may now properly be submitted to the Governor General in Council for approval.

30 The Committee, therefore, on the recommendation of the Minister of Public Works, submit for Your Excellency's approval, under the provisions of Chapter 140, Revised Statutes of Canada, 1927—the Navigable Waters Protection Act—the annexed set of two plans of a bridge, and of the site thereof, according to the description attached, proposed to be erected by La Compagnie du Pont de Gaspé, Limited, over the York River, between Gaspé Village and Gaspé Harbour, Gaspé County, P.Q., such approval, however, to be subject to the condition that the applicant company obtain a quit claim of the water lots required as a site for the proposed work from the Dominion Government.

40 (Sgd.) E. J. LEMAIRE,
 Clerk of the Privy Council.

Exhibits.

**Document attached to plan of Bridge by Dominion Bridge Co., Plan
being exhibit P.1. on Enquete.**

Document
attached to
plan of
bridge by
Dominion
Bridge Co.,
Plan being
exhibit P.1
on Enquete,
6th March,
1931.

P.C. 525.

Certified to be a true copy of a Minute of a Meeting of the Committee of the
Privy Council, approved by His Excellency the Administrator on the
6th March, 1931.

The Committee of the Privy Council have had before them a report,
dated 6th March, 1931, from the Minister of Public Works, submitting as
follows :—

That La Compagnie du Pont de Gaspé, Limited, has applied, 10
under Section 7, Chapter 140, Revised Statutes of Canada, 1927—
the Navigable Waters Protection Act—for the approval of the
annexed set of two plans of a bridge, and of the site thereof, according
to the description attached, proposed to be erected over the York
River between Gaspé Village and Gaspé Harbour, Gaspé County,
P.Q.;

That the Chief Engineer of the Department of Public Works,
on the favourable report of the District Engineer, has recommended
the approval of the application from the standpoint of navigation,
and in this recommendation the Deputy Minister of Public Works 20
has concurred;

That the Department of Marine has advised that it has no
objection to the approval of this application subject to the applicant
company obtaining a quit claim of the water lots required as a site
for the proposed work;

That the Department of Justice has reported that all the
requirements of Section 7 of the Navigable Waters Protection Act
have been complied with and that this application may now properly
be submitted to the Governor General in Council for approval.

The Committee, therefore, on the recommendation of the Minister of 30
Public Works, submit for Your Excellency's approval, under the provisions
of Chapter 140, Revised Statutes of Canada, 1927—the Navigable Waters
Protection Act—the annexed set of two plans of a bridge, and of the site
thereof, according to the description attached, proposed to be erected by
La Compagnie du Pont de Gaspé, Limited, over the York River, between
Gaspé Village and Gaspé Harbour, Gaspé County, P.Q., such approval,
however, to be subject to the condition that the applicant company obtain
a quit claim of the water lots required as a site for the proposed work from
the Dominion Government.

(Sgd.) E. J. LEMAIRE, 40
Clerk of the Privy Council.

The Honourable
The Minister of Public Works.

Re Gaspé Bridge.

DESCRIPTION OF THE SITE.

As indicated on the plans, the bridge will reach the Gaspé Harbour side opposite Main Street. Starting at the junction of the south side of the Street with the railway, running for a distance of 1420 feet across the river where we strike the main highway on Gaspé side opposite lots Nos. 205 and 206, turning ninety degrees right for a distance of fifty feet and turning ninety degrees right for a distance of 1420 feet where we strike the railway on the Gaspé Harbour side, turning right again ninety degrees fifty feet to
10 the starting point.

S. A. BAULNE.

Exhibits.

Document attached to plan of Bridge by Dominion Bridge Co., Plan being exhibit P.1 on Enquete, 6th March, 1931—*continued.*

P.9.—Copy, Agreement between La Cie du Pont de Gaspé and The Hon. J. N. Francoeur.

L'AN MIL NEUF CENT TRENTE ET UN, le vingt-six mars',
DEVANT CHARLES DELAGRAVE, notaire pour la province de Québec, résidant et pratiquant à Québec, comparaissent :

LA COMPAGNIE DU PONT DE GASPE LIMITEE, corps politique et incorporé ayant sa principale place d'affaires à Gaspé, dans le district de Gaspé, ici représenté et agissant par M. GERARD LACROIX, de Québec,
20 avocat, dûment autorisé à l'effet des présentes suivant résolution du Bureau de Direction de la dite Compagnie passée à une assemblée tenue à Montréal, le cinq mars courant (1931), dont copie certifiée est demeurée, annexée à la minute des présentes, signée pour identification du notaire soussigné,

PARTIE DE PREMIERE PART,

et

L'HONORABLE JOSEPH NAPOLEON FRANCOEUR, avocat et

Conseil du Roi, agissant ici en sa qualité et Ministre des Travaux Publics et du Travail de la Province de Québec, pour et au nom du Gouvernement de cette Province, dûment autorisé suivant Arrêté Ministériel en date du
30 treize mars courant (1931) approuvé par le Lieutenant-Gouverneur le 14 mars, courant dont copie certifiée est demeurée annexée à la minute des présentes, signée pour identification du notaire soussigné

PARTIE DE SECONDE PART,

LESQUELLES déclarent et arrêtent :

Par Arrêté Ministériel No. 1778 sanctionné par le Lieutenant Gouverneur le quinze août mil neuf cent trente, l'Honorable Ministre des Travaux Publics et du Travail a été autorisé à signer une convention entre le Gouvernement de cette Province et la Compagnie du Pont de Gaspé Limitée, concernant la construction d'un pont sur la baie de Gaspé. Ce contrat a été

P.9.
Copy Agreement between La Cie du Pont de Gaspé and The Hon. J. N. Francoeur, 26th March, 1931.

Exhibits.
 —
 P.9.
 Copy
 Agreement
 between
 La Cie du
 Pont de
 Gaspé and
 The Hon.
 J. N. Fran-
 coeur, 26th
 March, 1931
 — continued.

signé par les parties devant le notaire soussigné, le dix-sept septembre dernier (1930) No : 11,705 de ses minutes;

L'article SIX de ce contrat stipule que le coût total du pont, tel que plus amplement détaillé, ne devra pas dépasser la somme de CINQ CENT MILLE PIASTRES (\$500,000·00);

QU'IL importe, vu certaines représentations qui ont été faites, d'augmenter ce coût de CINQ CENT MILLE PIASTRES(\$500,000·00), à SEPT CENT MILLE PIASTRES (\$700,000·00); cette dernière somme de SEPT CENT MILLE PIASTRES (\$700,000·00) est fixés par le présent acte.

LE TOUT sans novation ni dérogation aux conditions exprimées au dit contrat, tout comme si ce coût de SEPT CENT MILLE PIASTRES (\$700,000·00) avait été donné en premier lieu. 10

DONT ACTE : A QUEBEC, étude du notaire soussigné, sous le numéro douze cent de ses minutes.

LECTURE FAITE, les parties signent avec moi, notaire.

(Signé) “ J. N. FRANCOEUR ”
 “ GERARD LACROIX ”
 “ CHARLES DELAGRAVE N.P.”

Vraie Copie de la minute demeurée en mon étude.

CHARLES DELAGRAVE,
 N.P.

20

COPIE du RAPPORT d'un COMITE de l'Hon. Conseil Exécutif en date du 13 mars, 1931, approuvé par le Lieutenant-Gouverneur le 14 mars 1931.

726

CONCERNANT la Compagnie du Pont de Gaspé Limitée (re-construction d'un pont.)

L'Honorable Ministre des Travaux Publics et du Travail, dans un mémoire en date du 13 mars (1931), expose :

ATTENDU que le Statut 20, Geo. V, chap. 4, autorise la construction d'un pont sur la baie de Gaspé; 30

ATTENDU que par arrêté ministériel No. 1778 sanctionné par le Lieutenant-Gouverneur le 15 août 1930, l'Honorable Ministre a été autorisé à signer une convention conclue entre le gouvernement de cette province et la compagnie du Pont de Gaspé Ltée, concernant la construction du pont sur la baie de Gaspé;

ATTENDU que l'article 6 de cette convention stipule que “ le coût total y compris les acquisitions des terrains nécessaires et autres frais incidents s'y rapportant, ne devra pas dépasser la somme de \$500,000.00 et c'est à ce chiffre que se limite la responsabilité du Gouvernement sur le présent acte.” 40

ATTENDU que des représentations ont été faites à l'effet d'augmenter ce montant de \$500,000.00 et de le porter à \$700,000.00;

L'Honorable Ministre recommande :

Qu'il soit autorisé à signer une nouvelle convention ou tout autre document à l'effet de porter le coût probable de la construction de ce pont sur la baie de Gaspé de \$500,000.00 à \$700,000.00.

CERTIFIE

(Signé) " A. MORISSET "

Greffier Conseil Exécutif

10 CECI est l'ordre en Conseil mentionné en un acte passé devant Charles Delagrave, notaire à Québec, le vingt-six mars mil neuf cent trente et un, No. 12100 de ses minutes.

(Signé) " CHARLES DELAGRAVE N.P. "

Vraie Copie.—

CHARLES DELAGRAVE
N.P.

ASSEMBLEE SPECIALE DU BUREAU DE DIRECTION

Assemblée spéciale du Bureau de Direction tenue à MONTREAL, le 5ième jour de mars à 2 heures P.M. sont PRESENTS :—

20 Monsieur C. O. LACROIX occupe le fauteuil présidentiel et Monsieur A. GAGNE agit comme secrétaire.

La résolution suivante est proposée et adoptée unanimement.

ATTENDU qu'à la suite de certaines représentations faites au Gouvernement Provincial et à la Compagnie par les parties intéressées relativement à des changements dans les travaux concernant des approches du Pont, il a été décidé de se rendre à ces demandes.

ATTENDU cependant que cette décision n'a été prise qu'à la condition que le Gouvernement Provincial consentirait une garantie additionnelle sur le montant déjà apporté au contrat.

30 ATTENDU que le Gouvernement Provincial est consentant à donner à la Compagnie une garantie additionnelle de \$200,000.00 en considération de ce qui est ci-dessus mentionné, et qu'à la suite d'un ordre en conseil passé à cette fin, il sera nécessaire d'ajouter une annexe au contrat déjà existant entre les parties.

IL EST PROPOSE PAR :

SECONDE PAR :

40 ET IL EST UNANIMEMENT RESOLU que la Compagnie soit autorisée, et elle est, par les présentes, autorisée à signer une annexe nouvelle au contrat pour faire partie d'icelui, acceptant de faire les changements proposés aux travaux d'approche du Pont à être construit à Gaspé, sous la

Exhibits.

—
P.9.

Copy
Agreement
between
La Cie du
Pont de
Gaspé and
The Hon.
J. N. Fran-
coeur, 26th
March, 1931
—continued.

Exhibits.
 P.9.
 Copy.
 Agreement
 between
 La Cie du
 Pont de
 Gaspé and
 The Hon.
 J. N. Fran-
 coeur, 26th
 March, 1931
 —continued.

condition expresse d'une garantie additionnelle de \$200,000.00; le tout suivant les termes du contrat original quant aux termes de la dite garantie.

IL EST DE PLUS PROPOSE ET UNANIMEMENT RESOLU

QUE Monsieur GERARD LACROIX, avocat, de la cité de Québec, soit et il est, par les présentes, nommé fondé de pouvoirs pour signer les documents nécessaires à cette fin avec le Gouvernement Provincial.

Après l'adoption de cette résolution, l'assemblée est levée.

Signé :—“ C. O. LACROIX ”

President

“ ARTHUR GAGNE ” 10
 Secrétaire.

Vraie Copie.
 (Signé) “ ARTHUR GAGNE,”
 Secrétaire

CECI est la résolution de la Cie du Pont de Gaspé Ltée mentionnée en un acte passé devant Charles Delagrave, notaire à Québec, le vingt-six mars mil neuf cent trente et un, No. 12100 de ses minutes.

(Signé) “ CHARLES DELAGRAVE N.P.”

Vraie Copie.
 CHARLES DELAGRAVE,
 N.P.

20

P.1.
 Contract
 between
 Dominion
 Bridge
 Company
 Limited and
 Dufresne
 Construc-
 tion Com-
 pany
 Limited,
 13th April,
 1931.

P.1.—Contract between Dominion Bridge Company Limited and Dufresne Construction Company Limited.

MEMORANDUM OF AGREEMENT entered into on the Thirteenth day of April in the year Nineteen hundred and thirty-one.

By and between :

DOMINION BRIDGE COMPANY, LIMITED (hereinafter called “ the Contractor ”)

Party of the First Part,

and

DUFRESNE CONSTRUCTION COMPANY, LIMITED (hereinafter called “ the Purchaser ”)

30

Party of the Second Part

WITNESSETH :

That the Contractor and the Purchaser for the consideration hereinafter set forth, agree the one with the other as follows, that is to say :—

ARTICLE I : The Contractor shall supply, fabricate, deliver to Gaspé, P.Q., erect and paint the structural steelwork and machinery for a Highway Bridge across the York River, in accordance with Dominion Bridge Company's Drawing No. D-8-D,* copy of which is attached hereto and signed for identification. 40

*No. 1 in
 book of
 plans, &c.

The Contractor shall prepare all the necessary detail shop drawings, which are to be submitted to Messrs, Baulne and

Leonard, Consulting Engineers for La Compagnie du Pont de Gaspé, Limitée, for their approval.

It is agreed and understood that the design, painting, construction and erection are all to be made in accordance with the specification of the Department of Public Works and Labour of the Province of Quebec and to the entire approval of the Department of Public Works and Labour and of Messrs. Baulne & Leonard.

10 ARTICLE II. (a) It is hereby agreed between the parties hereto that the Purchaser will supply the material and perform all the Labour required in the construction of the counterweights for the Bascule Spans. The Contractor shall design the counterweights and furnish the Purchaser with the necessary drawings and instructions for their construction.

(b) The Purchaser will provide and install the reinforced concrete flooring for the Simple Spans and the timber and asphalt flooring for the Bascule Spans.

20 (c) The Purchaser will provide the material and construct the Operator's Cabin and the Machinery Houses for the Bascule Spans.

(d) The Purchaser will provide electric current at main switch located in a convenient position in the Operator's House.

30 ARTICLE III. The Contractor hereby agrees to start erection of the steelwork at Gaspé on the 15th day of July, 1931, and complete erection ready to receive the flooring on the 1st day of October, 1931, provided the Contractor is not delayed in the prosecution of the work by the act or default of the Purchaser or his representative, by inclement weather or by a general strike, or by a lockout of a trade or delays by carriers, or for any other reason beyond the Contractor's reasonable control. Should the Contractor be delayed due to any or all of the above causes, then the time fixed for the completion of the work shall be extended for a period equivalent to the time so lost.

ARTICLE IV. It is understood and agreed that the workmanship and materials used in the manufacture of the steelwork are to be first-class and high grade in every particular.

ARTICLE V. The Contractor agrees to furnish suitable and sufficient erection equipment and to man the job with proper and skilled workmen at all times.

40 ARTICLE VI. The Contractor shall carry Public Liability Insurance and, if required, shall present to the Purchaser a certificate to the effect that such Insurance is carried. If the Purchaser shall suffer any damage by reason of injuries to persons or property occasioned by the Contractor, or by employees of the Contractor, the Contractor shall pay the same and save the Purchaser harmless therefrom. Likewise, if the Contractor shall suffer any damage by reason of injuries to persons or property

Exhibits.

P.1.

Contract between Dominion Bridge Company Limited and Dufresne Construction Company Limited, 13th April, 1931—continued.

**P.2.—Contract between the Dufresne Construction Company Limited and
La Cie du Pont de Gaspé.**

Exhibits.

P.2.

L'AN MIL NEUF CENT TRENTE ET UN, le 27e jour d'avril, 1931.

Contract
between the
Dufresne
Construc-
tion Com-
pany
Limited
and La Cie
du Pont de
Gaspé, 27th
April, 1931.

ONT COMPARU

10 LA COMPAGNIE DU PONT DE GASPE LIMITEE, corps politique et
incorporé ayant sa principale place d'affaires en la Cité de Montréal
et représentée aux présentes par MM. C. O. LACROIX, son président
et ARTHUR GAGNE, C.R., son secrétaire, dûment autorisés par une
résolution adoptée par les directeurs de cette compagnie à leur assemblée
tenue le dont une copie
certifiée est ci-annexée, ci-après nommée la Propriétaire,

D'UNE PART

et

20 DUFRESNE CONSTRUCTION COMPANY, LIMITED corps politique
et incorporé ayant sa principale place d'affaires en la cité de Montréal,
au numéro 1832 Boulevard Pie IX, agissant et représentée aux pré-
sentes par M. Marius Dufresne son secrétaire-trésorier en vertu des
pouvoirs qui lui sont conférés par une résolution adoptée par les
directeurs de cette compagnie à leur assemblée tenue le
dont une copie certifiée est ci-annexée, ci-après nommé

“ Les Entrepreneurs ”

D'AUTRE PART

LESQUELS ont fait le marché pour travaux qui suit :

NATURE DES TRAVAUX.

30 Dufresne Construction Company, Limited, s'engage à construire pour
le compte de la Compagnie du Pont de Gaspé la sous-structure et la
superstructure au complet d'un pont à être érigé sur la Rivière York entre
le village de Gaspé et le village de York et dans le prolongement de la rue
principale du village de York avec approches, une travée à bascule, dalle
en beton armé sur les quatre travées fixes, plancher en bois sur les travées
mobiles, chaussée en gravier sur les approches, maison et barrière de péage,
le tout tel que demandé aux plans et devis ci-annexés.

DELAIS.

40 Le pont devra être livré à la Propriétaire prêt à recevoir le trafic au
plus tard le 31 décembre, 1931. Toutefois, s'il arrivait que certains travaux
de détails ou nécessaires à donner le fini à cette construction ne pourraient
être faits durant la saison d'hiver, il sera permis aux entrepreneurs de les
exécuter au printemps suivant. Si les travaux compris dans le présent
contrat ne sont pas terminés à la date fixée plus haut, sauf cas de force
majeure, les Entrepreneurs seront sujets et se soumettront à une pénalité
de Dix Dollars pour chaque jour de retard que la propriétaire pourra
réclamer à titre d'indemnité.

Exhibits.

PLANS ET DEVIS.

P.2.
Contract
between the
Dufresne
Construc-
tion Com-
pany
Limited
and La
Cie du Pont
de Gaspe,
27th April,
1931—con-
tinued.

Les travaux compris dans ce contrat seront exécutés conformément aux documents, plans et devis annexés à la minute des présentes après avoir été signés ne varietur par les parties et le notaire soussigné et qui en feront partie intégrante savoir :

A—Copie de la soumission faite par les Entrepreneurs et datée à Montréal le

B—Copie de la demande de soumission pour les travaux de la construction du pont faite par les ingénieurs de la Propriétaire, MM. Baulne & Léonard, le

C—Une série de plans préparés par les ingénieurs de la Propriétaire, MM. Baulne & Léonard, portant les numéros 1, 2, 3, 4, 5, 6, 7 et 8 et datés du mois d'octobre, 1930 ;

D—Un exemplaire des devis généraux préparés par les ingénieurs de la Propriétaire.

10

CONDITIONS

Le présent marché est arrêté aux conditions suivantes :

1°. Les entrepreneurs se chargent de la fourniture de tous les matériaux quelque soit leur nature et de la main d'œuvre à quoi qu'elle puisse s'appliquer.

20

2°. Ils ne devront employer que des matériaux et marchandises de première qualité et ils choisiront des ouvriers habiles et de capacité reconnue.

3°. Ils se soumettront entièrement à la direction des ingénieurs de la Propriétaire, MM. Baulne & Léonard, et se conformeront à toutes leurs instructions, mais s'il s'élevait toutefois des difficultés dans l'interprétation à donner aux présentes ou aux plans et devis et autres documents ci-annexés, ce différent sera alors soumis à l'arbitrage, la Propriétaire nommant son arbitre et les Entrepreneurs nommant le leur, et ces deux arbitres nommés en nommant un troisième ; la décision des trois arbitres ainsi appointés sera finale et obligatoire pour les parties ;

30

4°. Tous les travaux et fournitures non acceptés par l'ingénieur de la Propriétaire demeureront pour compte aux entrepreneurs qui les remplaceront ou compléteront à leurs frais.

5°. La Propriétaire par elle-même ou par ses ingénieurs pourra apporter des changements, additions, améliorations ou diminutions qu'elle jugera à propos dans les plans et devis des ouvrages que comportent les présentes. Ces changements, additions, améliorations, ou diminutions toutefois ne seront faits que sur un ordre écrit des ingénieurs et n'apporteront ni dérogation ni novation au présent contrat qui continuera de subsister tout comme s'ils y avaient été insérés et ils donneront lieu, soit à une augmentation du prix du présent marché si les entrepreneurs encourent par ce fait un surcroît de dépenses, soit à une diminution du dit prix proportionnelle à la

40

valeur des ouvrages et matériaux que les entrepreneurs seront dispensés de faire et employer. Exhibits.

6°. La valeur de ces changements, additions, améliorations ou diminutions en plus ou en moins sera fixée par les ingénieurs.

7°. Les entrepreneurs devront tenir leur employés ou ouvriers assurés contre les accidents de travail.

PRIX DE L'ENTREPRISE.

Le prix des travaux confiés aux Entrepreneurs, marchandises et matériaux compris, a été fixé à la somme de \$639,750.00 dont \$589,750.00 est le montant de la soumission acceptée par résolution des directeurs de la compagnie et \$50,000.00 est la somme additionnelle convenue entre les parties pour travaux supplémentaires à être exécutés en rapport avec l'approche nord du dit pont, la somme totale de \$639,750.00 que la Propriétaire s'engage à payer d'après les termes suivants :

La Compagnie paiera aux Entrepreneurs une fois par mois 90% du travail fait durant le mois précédent, tel qu'estimé par les ingénieurs. A la fin des travaux, la compagnie paiera aux Entrepreneurs les 10% de retenue 30 jours après l'acceptation finale des travaux par les ingénieurs.

Les travaux devront commencer immédiatement après la signature du contrat et être terminée pour le 31 décembre, 1931.

La propriétaire reconnaît avoir reçu des Entrepreneurs un chèque accepté au montant de cinquante mille (\$50,000.00) dollars lequel leur sera retourné sur réception d'une police de garantie à être acceptée par la Propriétaire pour le même montant de cinquante mille (\$50,000.00) dollars. Cette police devra être maintenue en vigueur durant l'exécution des travaux et jusqu'à leur parfait parachèvement et acceptation.

8°. Chaque fois que la Propriétaire fera un paiement partiel du prix durant le cours des travaux, elle aura le droit d'exiger que les Entrepreneurs justifient qu'ils ont payé tous leurs journaliers, ouvriers et fournisseurs et qu'aucun privilège n'existe de leur chef à leur encontre ni à celui de la Propriétaire.

(Signé) LA COMPAGNIE DU PONT DE GASPE LIMITEE

„ C. O. LACROIX, Président

„ ARTHUR GAGNE, Secrétaire

„ DUFRESNE CONSTRUCTION CO. LIMITED

„ par MARIUS DUFRESNE.

P.2.
Contract
between the
Dufresne
Construction
Com-
pany
Limited
and La Cie
du Pont de
Gaspé,
27th April,
1931—con-
tinued.

Exhibits.

P.13.
 Certified
 copy of
 Order in
 Council
 P.C. 100 to
 grant issue
 of quit
 claim on
 water lots,
 23rd Febru-
 ary, 1932.

P.13.—Certified copy of Order in Council, P.C. 100 to grant issue of quit claim on water lots.

P. C. 100.

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by his Excellency the Governor General on the 23rd February, 1932.

The Committee of the Privy Council have had before them a Report, dated 7th December, 1931, from the Minister of Marine, stating that authority was granted by Order in Council (P.C. 526) dated 6th March, 1931, for the issue of a quit claim in favour of La Compagnie du Pont de Gaspé Limitee, of Montreal, P.Q., of six certain parcels or tracts of land and land covered with water situate in the harbour of Gaspé, P.Q., upon payment of the sum of \$30 for the purpose of erecting thereon the approaches and piers of a bridge which is being constructed by it across the harbour of Gaspé, between the Village of Gaspé and the point in the Township of York known as Gaspé Harbour, at a cost of approximately \$600,000; 10

That subsequently the said Company changed the position of the northerly end of the bridge and submitted new plans, and the following description of the water lots required:—

All and singular those certain parcels or lots of land and land covered with water situate, lying and being in the harbour of Gaspé, in the County of Gaspé and Province of Quebec, which said parcels or lots are to be used as sites for the approaches and piers of a bridge being constructed across the harbour of Gaspé and are symmetrical about a line, to be known as the centre line of the said bridge, running from a point where the centre line of lot 204 intersects the southerly boundary of the lower public road in the Village of Gaspé to a point in the public road in the Township of York distant twelve and eight tenths feet (12·8') from the north easterly corner of lot No. 3 in the northerly boundary of said lot No. 3 produced easterly, the said centre line also cuts the westerly boundary of a lot known as Reserve A at a point 145 feet from the north westerly corner of said Reserve. The said parcels or lots may be more particularly shown and described as follows:— 20 30

AS TO THE SITE OF THE NORTHERLY APPROACH.

That certain parcel or lot of land bounded to the north by the line of high water; to the east by a straight line parallel to and forty feet easterly from the above described centre line of the bridge; to the south by a line at right angles to the said centre line of the bridge and 190 feet southerly from the line of high water and on the west by a straight line parallel to and distant 40 feet westerly from the said centre line of bridge. The whole containing an area of 15,200 square feet and as shown on accompanying plan. 40

AS TO PIER SITE No. 4.

Being a rectangle 22 feet long by 12 feet wide, whose sides are respectively perpendicular and parallel to and symmetrical about the centre line of the said bridge. The east and west centre line of this site is at a distance of 154 feet, 6 inches from the southerly boundary of the site of the said northerly approach measured along the centre line of the said bridge. The area is 396 square feet.

AS TO PIER SITE No. 3.

10 Being a rectangle 33 feet long by 18 feet wide, whose sides are respectively perpendicular and parallel to and symmetrical about the centre line of the said bridge. The east and west centre line of this site is at a distance of 176 feet from the east and west centre line of pier site No. 4, measured along the centre line of the said bridge. The area is 594 square feet.

AS TO PIER SITE No. 2.

20 Being a rectangle 33 feet long by 18 feet wide, whose sides are respectively perpendicular and parallel to and symmetrical about the centre line of the said bridge. The east and west centre line of this site is at a distance of 108 feet from the east and west centre line of the pier site No. 3 measured along centre line of the said bridge. The area is 594 square feet.

AS TO PIER SITE No. 1.

Being a rectangle 33 feet long by 12 feet wide whose sides are respectively perpendicular and parallel to and symmetrical about the centre line of the said bridge. The east and west centre line of the pier site is at a distance of 176 feet from the east and west centre line of pier site No. 2 measured along the centre line of the said bridge. The area is 396 square feet.

AS TO THE SITE OF THE SOUTHERLY APPROACH.

30 That certain parcel or lot of land bounded to the north by a line at right angles to the said centre line of the bridge and 154' 6" southerly from the centre of pier site No. 1 last above described; bounded on the south by high water line; on the east and west by straight lines outlining a lot symmetrical about the said centre line of the bridge, and being 50 feet wide at its northerly end and 40 feet wide at the point where the said centre line of the bridge cuts the high water line, containing an area of 13,950 square feet and as shown on plan.

The Measurements are in English feet.

40 That it is stated that the said Company has acquired the land on which the sites of the approaches to the bridge abut;

Exhibits.

P.13.
Certified
copy of
Order in
Council
P.C. 100
to grant
issue of
quit claim
on water
lots, 23rd
February,
1932—con-
tinued.

Exhibits.

P.13.
Certified
copy of
Order in
Council
P.C. 100
to grant
issue of
quit claim
on water
lots, 23rd
February,
1932—con-
tinued.

That the Chief Engineer of the Department of Marine reports that the water lots in question are not required by the Crown for public purposes; that the construction of works thereon will not interfere with navigation, and that a nominal price of \$5·00 per lot, or \$30·00 is fair and just.

The Minister of Public Works to whom the said application was referred, states that it has been examined by the officers of the Department of Public Works and favourably reported upon; that no public use of the said lands is anticipated and the quit claiming of the same to La Compagnie du Pont de Gaspé Limitee, will not interfere with navigation, and he recommends the granting of a quit claim of the said water lots to La Compagnie du Pont de Gaspé Limitee, of Montreal, P.Q., accordingly. 10

The Committee, therefore, on the recommendation of the Minister of Marine, advise that authority be granted for the issue of a quit claim of the above described water lots in favour of La Compagnie du Pont de Gaspé, Limitee, of Montreal, P.Q., upon payment of the sum of \$30·00 on the condition that the grant to be made shall cease and be null and void should the grantee, its successors and assigns cease to operate, maintain, work, manage and use the said bridge at any time.

The Committee further advise that the said Order in Council (P.C. 526) dated 6th March, 1931, be cancelled. 20

G. G. KEZOR.

Asst. Clerk of the Privy Council.

P.7.—Certified copy of Minute of Meeting of Privy Council approved by Governor General.

P.C. 861.

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 21st April 1932.

The Committee of the Privy Council have had before them a report, dated 12th April, 1932, from the Minister of Public Works, submitting : 30

That an Order in Council (P.C. 525) was passed on March 6, 1931, approving, under section 7 of the Navigable Waters Protection Act, plans of a bridge, and of the site thereof proposed to be erected by La Compagnie du Pont de Gaspé, Limitée, over the York river, between Gaspé Village and Gaspé Harbour, P.Q.;

That the plans* approved showed the northern extremity of the bridge opposite lot No. 206 of the village of Gaspé. The bridge, however, is being constructed on a slightly different location being opposite lot No. 204 (beach lot No. 9);

*Nos. 4
and 5 in
book of
Plans &c.

That the Department of Justice has advised that a further Order in Council to approve of the new site for the said work should be issued;

That the Chief Engineer of the Department of Public Works has recommended from the standpoint of navigation the approval of the annexed plan and description showing the new site, and in this recommendation the Deputy Minister of Public Works has concurred

That the Company has secured from the Department of Marine the water lots required in connection with the new site of the work in question;

That the Department of Justice has reported that all the requirements of section 7 of the Navigable Waters Protection Act have been complied with in respect to the structure on the new location, and that this application may now properly be submitted to the Governor General in Council for approval.

The Honourable,
The Minister of Public Works.

The Committee, therefore, on the recommendation of the Minister of Public Works, submit for Your Excellency's approval, under the provisions of chapter 140, Revised Statutes of Canada, 1927—the Navigable Waters Protection Act—the annexed plan of the bridge, and of the new site thereof, according to the description attached, being constructed by La Compagnie du Pont de Gaspé, Limitée, over the York river, between Lot No. 204 of the Village of Gaspé and an emplacement forming part of a certain beach and deep water lot known as Reserve "A" on the south side of Gaspé Basin inside, more commonly known as Gaspé Harbour, P.Q.

The Committee further advise that Order in Council (P.C. 525) of March 6, 1931, approving of the construction of the said bridge opposite lot No. 206 of the Village of Gaspe be rescinded.

(Sgd.) E. J. LEMAIRE,
Clerk of the Privy Council.

Department of Public Works of Canada
CERTIFIED A TRUE COPY.

Pursuant to section 6, sub-section (c), and section 19, chapter 166, R.S.C. 1927, Public Works Act.

N. DESJARDINS,
Secretary,
Department of Public Works
of Canada.

Dated at Ottawa, Canada,
November 22nd, 1933.

Exhibits.

P.7.

Certified copy of Minute of Meeting of Privy Council approved by Governor General, 21st April, 1932—*continued.*

Exhibits. Rapport No. 1056.

P.7.
Certified
copy of
Minute of
Meeting of
Privy
Council
approved by
Governor
General,
21st April,
1932—con-
tinued.

CERTIFICAT D'ARPENTEUR.

Re : Lots 2, 3, Rang I, Canton York, comté Gaspé.

Préparé par :

GABRIEL HURTUBISE,
Arpenteur-geomètre.

CERTIFICAT D'ARPENTEUR.

Je, soussigné, GABRIEL HURTUBISE, arpenteur-geomètre pour la Province de Québec, ayant droit de pratiquer dans la dite Province, résidant et pratiquant dans la Cité de Montréal, certifie :

Que les terrains requis, dans la Baie de Gaspé, pour permettre l'érection d'un pont comportant culées et piliers sont localisés suivant un axe dont l'extrémité sud-est est établie par un point situé dans le prolongement de la ligne de division des lots Deux et Trois du Rang Un du Canton York et à une distance de Douze pieds et Quatre-Vingt centièmes de pied (12'.80) de la ligne de division entre le dit lot numéro Trois et cette partie du lot C-8 du dit Canton York sur laquelle partie passe aujourd'hui un chemin public, et dont l'extrémité nord-ouest est établie par un point situé sur la ligne centrale du lot numéro Deux Cent Quatre (204) du Village de Gaspé, à cet endroit où le dit lot numéro 204 est borné par un chemin public situé dans le Village de Gaspé près de la rive du Bassin de Gaspé.

Que le terrain, requis pour la culée Nord-Ouest du dit pont, est situé sur une partie du dit lot numéro Deux Cent Quatre (204) du Village de Gaspé, laquelle partie du lot numéro 204 est bornée de tous cotés par des résidus du dit lot 204. L'axe central du dit pont est localisé sur le dit terrain requis pour la culée Nord-Ouest, comme passant à une distance de Quarante-Cinq pieds (45') de la limite Sud-ouest du dit lot 204, à l'endroit des hautes eaux moyennes, et comme étant à une distance de Quarante pieds (40') de la dite limite sud-ouest du dit lot 204, mesuré à l'extrémité sud-est du dit terrain requis pour la culée Nord-Ouest. L'extrémité Nord-Ouest du dit terrain requis est approximativement localisée comme étant à une distance d'environ Cent pieds (100') du dit chemin public, situé près de la rive du dit Bassin de Gaspé, et l'extrémité sud-est est à une distance d'environ Cent Quatre-Vingt-Dix pieds (190') de la dite limite Nord-Ouest. Le dit terrain requis, ainsi délimité, contient en superficie environ Dix Mille pieds (10000'), le tout tel que montré au plan préparé par l'arpenteur soussigné portant la date du 23 Oct. 1931.

Que le terrain requis pour le pilier numéro quatre, tel que montré au dit plan, est situé sur une autre partie du dit lot numéro deux cent quatre (204) mesurant douze pieds (12') dans la direction Nord et Sud Trente-Trois pieds (33') dans la direction Est et Ouest et contenant en superficie environ Trois Cent Quatre-Vingt-Neuf pieds (396'). L'axe courant dans la direction

Est et Ouest, du dit terrain requis pour le pilier numéro 4, est situé à une distance de Cent Cinquante-Quatre pieds (154') et Six pouces (154' 6") de la dite limite sud-est du terrain requis pour la dite culée Nord-Ouest et l'axe courant dans la direction Nord et Sud correspond à l'axe central du dit pont, tel que plus haut décrit.

10 Que le terrain requis pour le pilier numéro Trois, tel que montré au dit plan, est situé sur du terrain non cadastré, mesurant Dix-Huit pieds (18') dans la direction Nord et Sud, Trente-Trois pieds dans la direction Est et Ouest et contenant en superficie Cinq Cent Quatre-Vingt-Quatorze pieds (594'), dont l'axe, courant dans la direction Est et Ouest, est à une distance de Cent Soixante-Seize pieds (176') de l'axe, courant dans la dite direction Est et Ouest, du pilier numéro 4 et dont l'axe, courant dans la direction Nord et Sud, correspond à l'axe central du pont, tel que ci-haut décrit.

20 Que le terrain requis pour le pilier numéro deux, tel que montré au dit plan, est situé sur du terrain non cadastré, mesurant dix-huit pieds (18') dans la direction Nord et Sud, Trente-Trois pieds (33') dans la direction Est et Ouest et contenant en superficie Cinq Cent Quatre-Vingt-Quatorze pieds (594') carrés, dont l'axe, courant dans la direction Est et Ouest, est à une distance de Cent Huit pieds (108') de l'axe, courant dans la direction Est et Ouest, du pilier numéro 3 et dont l'axe, courant dans la direction Nord et Sud, correspond à l'axe central du dit pont, tel que ci-haut décrit.

Que le terrain requis pour le pilier numéro Un tel que montré au dit plan, est situé sur du terrain non cadastré, mesurant douze pieds (12') dans la direction Nord et Sud, Trente-Trois pieds (33') dans la direction Est et Ouest et contenant en superficie Trois Cent Quatre-Vingt-Seize pieds (396') carrés, dont l'axe, courant dans la direction Est et Ouest, est à une distance de Cent Soixante-Seize pieds (176') de l'axe, courant dans la direction Est et Ouest, du pilier numéro 2, et dont l'axe courant dans la direction Nord et Sud, correspond à l'axe central du dit pont, tel que ci-haut décrit.

30 Que le terrain requis pour la culée Sud-Est du dit pont, tel que montré au dit plan, est situé pour une partie sur du terrain non cadastré et pour l'autre partie sur une partie de la réserve A du dit Canton York. La limite Nord-Ouest de ce terrain est à une distance de Cent Cinquante-Quatre pieds et Six pouces (154' 6") de l'axe, courant dans la direction Est et Ouest, du dit pilier numéro 1 et est à une distance d'environ Trois Cent Dix pieds (310') de la ligne des hautes eaux dans le dit Bassin de Gaspé et est borné au nord-ouest par une autre partie du dit terrain non cadastré et vers le Nord-Est, le Sud-Est et le sud-ouest par d'autres parties de la dite réserve A, mesure Cinquante pieds (50') de largeur à son extrémité Nord-Ouest, 40 Quarante-pieds (40') à son extrémité Sud-Est et contient en superficie environ Quinze Mille Cinq Cent pieds (15500'). L'axe central du dit pont est situé sur le terrain requis pour la dite culée sud-est, comme passant à une distance d'environ Cent Quarante-Cinq pieds (145') du coin Nord-Ouest de la dite réserve A, mesuré suivant la limite Ouest de la dite réserve A, et comme étant à une distance d'environ Cent Soixante-Dix pieds (170') de la dite limite Ouest, mesurée dans une direction nord-est et le long de la limite nord-ouest du lot numéro Un du dit Canton York.

Exhibits.

P.7.

Certified
copy of
Minute of
Meeting of
Privy
Council
approved by
Governor
General,
21st April,
1932—*con-
tinued.*

Exhibits.
 ———
 P.7.
 Certified
 copy of
 Minute of
 Meeting of
 Privy
 Council
 approved by
 Governor
 General
 21st April,
 1932—con-
 tinued.

Que la ligne des hautes eaux, dont il est plus haut fait mention, a été localisée du côté sud comme étant à une distance d'environ Cinquante-Cinq pieds (55') de la ligne limite Nord du terrain de la Compagnie du Chemin de fer Canadien National, traversant le Chemin Public, et du côté Nord comme étant à une distance d'environ Cent pieds (100') du dit Chemin Public, longeant la rive Nord du Bassin de Gaspé.

Que toutes les dimensions données dans la présente description sont Mesure Anglaise.

EN FOI DE QUOI, j'ai signé à Montréal, ce Vingt-Troisième jour du mois d'Octobre (23 Octobre) Mil Neuf Cent Trente-et-Un.

(Signé) GABRIEL HURTUBISE,
 Arpenteur-géometre.

10

P.C. No. 861
 Order in Council
 Dated 21st April, 1932
 Privy Council, Canada.

Vraie Copie.

(Sgd) E. J. LEMAIRE,
 Clerk of the Privy Council.

GABRIEL HURTUBISE A.G.

D.8.
 Extract
 from Chief
 Officer's
 log of S.S.
 " Philip T.
 Dodge,"
 6th July,
 1932.

D.8.—Extract from Chief Officer's log of S.S. " Philip T. Dodge."

EXCHEQUER COURT OF CANADA,
 Quebec Admiralty District.

20

No. 58.

DOMINION BRIDGE ET AL - - - - - *Plaintiffs*
 vs
 STEAMER " PHILIP T. DODGE " - - - - - *Defendant.*

EXTRACT FROM THE CHIEF OFFICER'S LOG OF JULY 6TH, 1932.

0.00 a.m. Stopped ship off Gaspé head waiting for daylight to clear fishing nets and Bridge, passage ends.
 3.00 a.m. Full speed.
 3.20 a.m. Stopped for pilot.
 3.26 a.m. Pilot aboard full speed.
 5.47 a.m. Stand by engines.
 5.50 a.m. Half speed.
 5.55 a.m. Slow, speed outside outer beacon.

30

- 6.00 a.m. Stop, ship now almost through draw and set against rudder by cross current on North buttment, corner of starboard poop deck catching ironwork of partly constructed bascule tearing same down into water. Damage to ship corner of Poop holed, rails and rail flange bent, awning spars wrecked and springing chalk—apparently no other damage seen. Exhibits. ——— D.8. Extract from Chief Officer's log of S.S. "Philip T. Dodge," 6th July, 1932—continued.
- 6.04 a.m. Slow ahead.
- 6.06 a.m. Full speed to turn to loading wharf, wind N.W. Fine, tide commencing ebb.
- 10 6.45 a.m. All fast ready for cargo—Draft 9' 10"—14' 9".
- Montreal, November 30th, 1933.

BEAUREGARD & PHILLIMORE,
Solicitors for Defendant.

D.10.—Extract from Chief Engineer's log of S.S. "Philip T. Dodge."

EXCHEQUER COURT OF CANADA.
Quebec Admiralty District.

NO. 58.

DOMINION BRIDGE ET AL - - - - - Plaintiffs
vs

20 STEAMER "PHILIP T. DODGE" - - - - - Defendant.

EXTRACT FROM CHIEF ENGINEER'S LOG BOOK OF JULY 6TH, 1932.

Slow ahead 12.06 a.m.—stop 12.20 a.m.—full ahead 3.00 a.m.—stop 3.18 a.m.—full ahead 3.25 a.m.—stand by 5.41 a.m.—half ahead 5.50 a.m.—slow ahead 5.55 a.m.—stop 6.00 a.m.—vessel gave a slight lurch entering Harbour—afterwards found that overhanging span of bridge had come down on starboard side of poop doing considerable damage; slow ahead 6.04 a.m.—full ahead 6.06 a.m.—full astern 6.08 a.m.—full ahead 6.10 a.m.—slow ahead 6.12 a.m.—stop 6.14 a.m.—slow ahead 6.14½—engines worked at various speeds until 6.47—finished with engines, vessel in berth.

30 Montreal, November 30th, 1933.

BEAUREGARD & PHILLIMORE,
Solicitors for Defendant.

Exhibits.

D.9.—Extract from Chief Officer's log of S.S. "Philip T. Dodge."

D.9.

EXCHEQUER COURT OF CANADA.

Quebec Admiralty District.

Extract from Chief Officer's log of S.S. "Philip T. Dodge," 2nd August, 1932.

No. 58.

DOMINION BRIDGE ET AL - - - - - *Plaintiffs*
vs
 STEAMER "PHILIP T. DODGE" - - - - - *Defendant.*

EXTRACT FROM CHIEF OFFICER'S LOG OF AUGUST 2ND, 1932.

Commences waiting for orders and tide time (2.39 p.m.)
 2.20 p.m. Enquiry Board on board ship (12). 10
 2.30 p.m. Commenced heaving up anchor.
 2.38 p.m. Slow ahead to turn ship.
 3.12 p.m. Off outside beacon, fine, clear, light NE wind.
 3.17 p.m. Passed through draw.
 3.23 p.m. Anchored to turn to wharf.

Draft 9' 10"-12' 11".

Montreal, November 30th, 1933.

BEAUREGARD & PHILLIMORE,
 Solicitors for Defendant.

P.14.

Copy Memorandum in reference to application for approval by Governor General in Council of the sites and plans of works in navigable waters, 1st September, 1932.

P.14.—Copy Memorandum in reference to application for approval by Governor General in Council of the sites and plans of works in navigable waters. 20

DEPARTMENT OF PUBLIC WORKS, CANADA.

MEMORANDUM in reference to applications for the approval by the Governor General in Council under the provisions of Chapter 140, Revised Statutes of Canada, 1927, of the Sites and Plans of Works in navigable Waters.

Construction of works in navigable waters subject to approval. Section 4 of the Navigable Waters Protection Act, chapter 140, Revised Statutes of Canada, 1927, provides, with regard to works to be constructed in navigable waters, as follows:—

"4. No work shall be built or placed in, upon, over, 30
 under, through or across any navigable water unless the site thereof has been approved by the Governor in Council, nor unless such work is built, placed and maintained in accordance with plans and regulations approved or made by the Governor in Council."

Applications for the approval of works to be built in navigable waters are regulated by the provisions of section 7 of the

Act. The procedure, under the statute and practice of the Department, is as follows :—

Exhibits.

—
P.14.

Documents
to be filed
with Dept.
of Public
Works.

1. To deposit a written description of the site, if possible by metes and bounds, and also a plan or plans of the proposed work, with the Minister of Public Works, accompanied by an application for their approval by the Governor in Council.

Copy
Memoran-
dum in
reference to
application
for approval
by Governor
General in
Council of
the sites and
plans of
works in
navigable
waters, 1st
September,
1932—*con-
tinued.*

The plan or plans must be sufficient to indicate clearly the nature and extent of the work, and also the site of the same.

10

Five copies of the description and five copies of the plan, or set of plans if there are more than one plan, are required.

One of the plans, or one set of the plans if there are more than one, must be traced on linen, the others may be blue or white prints. The descriptions must be typed on heavy paper.

If these documents are sent by mail, they should be addressed to "The Secretary, Department of Public Works, Ottawa."

Deposit in
Registry
Office.

20

2. A duplicate of the above-mentioned description of the site and of the plan or plans of the proposed work, must be deposited with the Registrar of Deeds for the District, County or Province in which the work is to be constructed.

Evidence that the description of the site and the plans have been so deposited, and of the date of their deposit, must be furnished to the Department, and the most satisfactory evidence is a certificate of the Registrar endorsed upon one of the descriptions of the site, and upon one of the plans or on each of the plans forming a set of plans, if there are more than one plan, forwarded to the Secretary of the Department.

The plan or plans so certified must be the tracings referred to in Clause 1 hereof.

30

It is essential that it be clearly established that the description and plan or plans deposited with the Registrar are duplicates of those filed with the Minister.

If the proposed work is to be situated in more than one District, County or Province, the plans and description must be deposited with the Registrar of Deeds for each District, County or Province concerned.

40

When the plans and description are deposited in two or more Registry offices, the certificates of the various Registrars of Deeds must all be placed on the tracings, in the case of the plans, and on a single copy of the description, as regards the site.

Advertising.

3. One month's notice, in the form set out at the conclusion hereof, of the deposit of the description of the site and of the plan or plans with the Minister of Public Works and with the Registrar of Deeds, must be given by advertisement in the

Exhibits.

P. 14.

Copy
Memorandum in
reference to
application
for approval
by Governor
General in
Council of
the sites
and plans of
works in
navigable
waters, 1st
September,
1932—*con-
tinued.*

Proof of
interest in
the site of
the works.

Canada Gazette and in two newspapers published in or near the locality where the work is to be constructed.

The publication of the notice must be commenced only after the deposit of the plans and description with the Department of Public Works and in the Registry Office.

Evidence of the publication of the advertisement in the Canada Gazette and in the two local newspapers must be furnished to the Department, and may be by Statutory Declaration, with copies of the advertisement in the Canada Gazette and in each newspaper attached as exhibits. 10

The declaration must state that the two newspapers containing the advertisement are published in or near the locality where the work is to be constructed, and must mention the dates of the issues of the newspapers that contained the advertisement.

Four insertions of the advertisement at weekly intervals will be accepted as satisfactory compliance with the provisions of the Statute in this regard.

When applicants furnish proof of publication of the notice through the production of the newspapers proper, full copies 20 of such papers must be supplied with the notice pencil marked, and not merely clippings of such notice, or the page of the newspapers containing the same.

4. The applicants must furnish proof that they own or have a sufficient interest in the land and land covered with water upon which the works are to be constructed. It is not sufficient to hold the riparian interests alone if the work extends beyond the limits of the shore, but a sufficient portion of the harbour, river or lake bed must also be held by the Applicants. The Statute has reference to the erection of structures on lands 30 owned by the Applicants or which they have the right to use and is designed to provide for due protection to navigation. It cannot be used as a means of acquiring title to lands upon which the structure is to be erected.

Applicants will note that when it is necessary in connection with the proposed work for them to acquire land (including land covered with water) belonging to the Dominion of Canada, a separate application for such land must be made :—

(a) To the Department of Marine if the land is situated in a public harbour; 40

(b) To the Department of the Interior—

(1) If the land is in the Northwest Territories or the Yukon Territory,

(2) if it is Ordnance land in any of the provinces of Canada, or

- (3) if the land lies within the area defined in Section 11 of the Railway Belt and Peace River Block Act, Chap. 37, Statutes of 1930, namely, "the foreshores and beds of the Fraser river and the Pitt river lying above the eastern boundaries of New Westminster harbour, and below lines to be ascertained and defined by agreement at the junction of Kanaka creek with the Fraser river and at the point of the exit of the Pitt river from Pitt lake,"— providing any of the land, so classified, is not in a public harbour;
- 10
- (c) To the Department of Indian Affairs if the land belongs to an Indian reserve;
 - (d) To the Department of Railways and Canals if the land is part of a canal reserve;
 - (e) To the Department of National Defence if the land is part of a Military reserve;
 - (f) In other cases the application for the Dominion Land required may be sent with the application for the approval of the work, and the description of the site thereof, to the Department of Public Works.
- 20

Exhibits.
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P.14.
Copy
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reference to
application
for approval
by Governor
General in
Council of
the sites
and plans of
works in
navigable
waters, 1st
September,
1932—*con-
tinued.*

All applications for Dominion Lands must be accompanied by a plan and description of the land by metes and bounds in quintuplicate. One of the plans must be a tracing, the others may be blue or white prints.

Approval of
certain
works cost-
ing \$1,000
or less.

5. By Section 4 (2) of the Act certain specified small works, which, in the opinion of the Minister, do not interfere with navigation and do not cost more than one thousand dollars, are excepted from certain provisions of the Act.

30

The only works covered by this exception are the following :
Small Wharfs or Groyne or other Bank or Beach protection works, or Boat-houses.

It is to be noted that any work not enumerated above cannot be considered as an exception and the full requirements of the Act will therefore have to be complied with in regard to such unexcepted work although the cost thereof may be below one thousand dollars.

Further, should any of the works enumerated interfere with navigation in the slightest degree or cost more than one thousand dollars it cannot come within the exceptions.

40

Application made under Section 4 (2) of the Act should be accompanied by five copies of a plan of the work and five copies of a description of the site thereof as provided in Clause 1 of this memorandum, but the requirements respecting the deposit of the said plan and description in the Registry Office, and publication of the Notice to the public, as mentioned in

Exhibits.
P.14.
Copy Memorandum in reference to application for approval by Governor General in Council of the sites and plans of works in navigable waters, 1st September, 1932—continued.

Works not to be commenced before approval.
Approval of works already constructed.

Clauses 2 and 3, respectively, may be omitted. A statement of the interest of the applicant in the site should also be given which may have to be supplemented by evidence of such interest where considered necessary.

6. It is to be noted that it will be too late to apply for approval of the plans and site after the work is built, and works must not be commenced before the plans have been duly approved. The Statute gives no power to approve of works already constructed or in process of construction, except in the case of works constructed or in process of construction on the first day of June, 1918.

The Procedure to secure approval of the plans and sites of works constructed or in process of construction on June 1, 1918, is the same as already described for works proposed to be constructed, except that legal evidence must be supplied that the works were constructed or in process of construction on that date; this evidence may be by Statutory Declaration.

Department of Public Works, Canada,
Ottawa, September 1, 1932.

MODEL ADVERTISEMENT
NAVIGABLE WATERS PROTECTION ACT
R.S.C. 1927 Chapter 140.

20

_____ hereby ^{gives} notice that _____
(full name of applicant) give (he, they, or it)
has, under Section 7 of the said Act, deposited with the Minister of Public
have, Works at Ottawa, and in the Office of the District Registrar of the Land
Registry District of _____ at
(name of county or district)
_____ a description of the site and the
(name of place where Registry Offices located)
plans of _____
(name of work : wharf, breakwater, booms, bridge, cable dam, etc., not merely " work " or such
general terms)
_____ proposed to be _____ in the
(built, laid, stretched, etc as the case may be) over
_____ at _____
(name of river or other body of water) (name of place where work is to be located)
in the front of Lot Number _____

30

(or at the foot of such a street, etc.) (1)

And take notice that after the expiration of one month from the date
of the first publication of this notice _____
(name of applicant)
will under Section 7 of the said Act, apply to the Minister of Public Works at
his Office in the city of Ottawa, for approval of the said site and plans, and
for leave to construct the said _____
(give exact name of work)

Dated _____ this _____ day of _____ 193

(Signature) _____
(full name of applicant)

Exhibits.
P.14.
Copy
Memoran-
dum in
reference to
application
for approval
by Governor
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Council of
the sites
and plans of
works in
navigable
waters, 1st
September,
1932—*con-
tinued.*

(1) It is essential that the location of the proposed work be properly identified for the information of the public.

10 The location of the work may also be indicated as being built on a water lot, giving the number of the water lot or the lot number in front of which it is situated.

Where a work is to extend from one side of the river to the other, as in the case of a bridge, cable, dam, etc., the location should read from _____ to _____ well determined points.



Exhibits.

P.15.—List shewing movements of S.S. "Philip T. Dodge" in Gaspe Harbour in 1932.

P.15.
List shewing movements of S.S. "Philip T. Dodge" in Gaspe Harbour in 1932, 4th October, 1932.

**MOVEMENTS STR. "PHILIP T. DODGE."
GASPE HARBOR—1932**

DATE	TIME	DIRN.	REMARKS	
July 6	6.00 a.m.	In	N. Leaf up : Wrecked	
9	6.00 a.m.	Out	No Bascules Erected	
21	6.00 a.m.	In	do. do.	
27	9.00 a.m.	Out	S. Bascule Erected	
Aug. 2	3.00 p.m.	In	do.	10
6	4.30 p.m.	Out	do.	
11	10.45 a.m.	In	do.	
15	1.45 p.m.	Out	do.	
20	5.20 a.m.	In	Both Bascules Erected	
24	1.55 p.m.	Out	do.	
28	6.50 p.m.	In	do.	
Sept. 1	9.25 a.m.	Out	do.	
5	6.20 a.m.	In	do.	
8	8.30 a.m.	Out	do.	
11	6.30 p.m.	In	do.	20
14	2.00 p.m.	Out	do.	

A.J.G.
Oct. 4/32.

**P.16.—Extract from page 31 of Tide Tables for Atlantic Coast
of Canada, 1932.**

TIDE TABLES—FATHER POINT—1932

Date.	Day.	OCTOBER							
		High Water.				Low Water.			
		Time.	H't	Time.	H't	Time.	H't	Time.	H't
		H.M.	FT.	H.M.	FT.	H.M.	FT.	H.M.	FT.
1	Sa.	2 : 20	14·1	14 : 34	14·7	8 : 32	1·1	21 : 00	0·3
2	S.	3 : 00	13·7	15 : 14	15·0	9 : 06	1·1	21 : 43	0·4
10 3	M.	3 : 42	13·1	15 : 55	14·8	9 : 45	1·5	22 : 30	1·0
4	Tu.	4 : 28	12·1	16 : 44	14·3	10 : 25	2·2	23 : 22	1·9
5	W.	5 : 20	10·9	17 : 36	13·4	11 : 11	3·1		
6	Th.	6 : 23	9·9	18 : 42	12·5	0 : 23	2·9	12 : 05	4·1
7	F.	7 : 40	9·2	20 : 04	11·7	1 : 38	3·7	13 : 14	4·9
8	Sa.	9 : 09	9·1	21 : 30	11·5	3 : 10	4·3	14 : 45	5·3

Exhibits.
P.16.
Extract
from page
31 of Tide
Tables for
Atlantic
Coast of
Canada,
October,
1932.

P.18—Letter from Deputy Minister of Public Works.

MINISTÈRE DES TRAVAUX PUBLICS

Québec, le 28 novembre 1933.

Au Protonotaire de la Cour Supérieure
District de Montréal.

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Monsieur le Protonotaire,

Les présentes vous certifient que les plans du pont sur la Baie de Gaspé, entre Gaspé Station et Gaspé Village, et de ses approches ont été dûment approuvés par les autorités fédérales et par l'honorable J. N. Francoeur, en sa qualité de Ministre des Travaux Publics de la Province de Québec, telle que le veut la loi.

Sincèrement à vous,

IVAN E. VALLEE,
Sous-Ministre.

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P.18.
Letter from
Deputy
Minister of
Public
Works,
28th Nov-
ember,
1933.

Exhibits.

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P.1.
(on
Enquete).

P.1. (On Enquete).—Plan of Bridge by Dominion Bridge Company, Limited.
(see *Book of Plans etc.*, No. 1)

P.3.

P.3.—Photograph of S.S. "Philip T. Dodge" passing through draw.
(see *Book of Plans etc.*, No. 2)

P.4.

P.4.—Photograph of stern of "Philip T. Dodge."
(see *Book of Plans etc.*, No. 3)

P.10.

P.10.—Two plans of Gaspe Bridge.
(see *Book of Plans etc.*, Nos. 6 & 7)

P.17.

P.17.—Photograph of the draw of the Bridge.
(see *Book of Plans etc.*, No. 8)

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D.1.

D.1.—Photograph showing bridge in distance.
(see *Book of Plans etc.*, No. 9)

D.2.

D.2.—Photograph showing bridge from vessel proceeding towards draw.
(see *Book of Plans etc.*, No. 10)

D.3.

D.3.—Photograph showing bridge from vessel proceeding towards draw.
(see *Book of Plans etc.*, No. 11)

D.4.—Photograph showing draw. (see <i>Book of Plans etc.</i> , No. 12)	Exhibits. <hr/> D.4.
<hr/>	
D.5.—Dominion Chart of Gaspé Bay. (<i>separate document</i>)	D.5.
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D.6.—Sketch by Captain Hutchinson. (see <i>Book of Plans etc.</i> , No. 13)	D.6.
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D.7.—Plan by Gaspé Bridge with outline of vessel going through. (see <i>Book of Plans etc.</i> , No. 14)	D.7.
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D.11.—Photograph of bridge with bascule closing. (see <i>Book of Plans etc.</i> , No. 15)	D.11.
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In the Privy Council.

No. 24 of 1935.

ON APPEAL FROM THE EXCHEQUER
COURT OF CANADA.

BETWEEN

THE STEAMER " PHILIP T. DODGE "

(Defendant) Appellant

AND

DOMINION BRIDGE COMPANY LIMITED,
DUFRESNE CONSTRUCTION COMPANY
LIMITED AND LA COMPAGNIE DU PONT
DE GASPE LIMITEE

(Plaintiffs) Respondents.

RECORD OF PROCEEDINGS.

RICHARDS, BUTLER & Co.,

88, Leadenhall Street, E.C.3.

Appellant's Solicitors.

HILL, DICKINSON & Co.,

88, Leadenhall Street, E.C.3.

Respondents' Solicitors.

EYRE AND SPOTTISWOODE LIMITED, EAST HARDING STREET, E.C.4.