

BRITISH COLUMBIA ADMIRALTY DISTRICT

BETWEEN :

1955
Mar. 9
Apr. 25

HER MAJESTY THE QUEEN PLAINTIFF;

AND

THE SHIP *M/V ISLAND CHALLENGER*, THE BARGE *LORD TEMPLETOWN* AND THE SHIP *M/V SWAN* DEFENDANTS.

Shipping—Practice—Particulars.

Held: That the Court will order a plaintiff to furnish particulars requested by the defendant although the case is one within the doctrine of *res ipsa loquitur* and before the delivery of a statement of defence.

APPLICATION for particulars.

The motion was heard before the Honourable Mr. Justice Sidney Smith, District Judge in Admiralty for the British Columbia Admiralty District, at Vancouver.

Alfred Bull, Q.C. and *John I. Bird* for the motion.

F. A. Sheppard, Q.C. contra.

SIDNEY SMITH D.J.A. now (April 25, 1955) delivered the following judgment:

1955
 THE QUEEN
 v.
 THE SHIP
 M/V Island
 Challenger
 et al.

This case concerns a collision between the defendant vessels and the New Westminster Railway Bridge. The statement of claim sets up damage to the bridge due to the negligent navigation of the defendant vessels and alternatively that the damage indicated a *prima facie* case of negligence. Particulars of the negligent navigation were given. The defendants now ask further and better particulars.

The application is resisted on the ground that in a *res ipsa loquitur* case particulars need not be given at all, and secondly that the further particulars asked for are within the knowledge of the defendants. I am of opinion that on the material before me neither ground is valid.

In the further alternative the plaintiff contends that in the present case further and better particulars should not be ordered until after the statement of defence has been delivered. But I agree with the defendants' counsel that here they are desirable to enable the defendants to plead.

The order will therefore go. Costs to be spoken to at the trial.

Order accordingly.