

Case No. 2,056.

BRUNSGAARD v. The AMERICA and The MAGDALENE.

[1 Wkly. Notes Cas. 172.]

District Court, E. D. Pennsylvania.

Jan. 19, 1875.

COLLISION—OVERTAKING VESSEL.

[A tug with a ship in tow, proceeding up the Schuylkill river on ebb tide at about four knots an hour, kept in towards the western shore, and was overtaken by another tow going at about eight knots, which, hugging the same shore, passed in between the tow ahead and the shore, thereby causing the injury complained of. *Held*, that the overtaking tow was in fault in violating the rule of navigation requiring a vessel astern to look out for the vessel ahead.]

In admiralty. This was a libel [by Martin Brunsgaard, master of the ship Premier, against the steam tug America and the ship Magdalene] for damage by collision. The facts were briefly these: On May 18th, 1874, about 5 o'clock p. m., the ship Premier, in tow of the tugs S. B. Jones and Levering, and the Magdalene, in tow of the tug America, left Gloucester Point and the Powder wharf at Fort Mifflin, respectively, both bound up the Schuylkill. The two tows, coming in converging lines, met at the mouth of the Schuylkill, the Premier being a little ahead. The wind was moderate and in the west. The channel was about 400 feet wide. The tide was ebb. The Premier, going about four knots, kept in towards the western shore going up the Schuylkill, and the America, with the Magdalene in tow, going about eight knots, also hugged the western shore, and, overtaking the Premier, went between her and the western shore. The tow line of the America was about 70 fathoms, that of the Premier about 40. The America passed the Premier, and had got abreast of the Premier's tugs, when the starboard bow of the Magdalene collided with the Premier a few feet aft of amidships, on the port side. Upon the hearing, it was the opinion of the nautical assessors that the America was in fault, having clearly infringed the well-established rule of navigation, that the "vessel astern must look out for the vessel ahead, and never pass to windward when in close proximity to such vessel."

Mr. Coulston, for libellant

J. B. Thayer, for the America.

Mr. Flanders, for the Magdalene.

THE COURT (CADWALADER, District Judge), approving their opinion, entered a decree for libellant against the tug America.

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