

Case No. 4,310.

THE E. H. COFFIN.

{16 Blatchf. 421;¹ 8 Reporter, 297.}

Circuit Court, S. D. New York.

June 23, 1879.²

COLLISION—APPROACHING STEAMERS—CHANGE OF COURSE WITHOUT NOTICE.

A steamer, which is bound to keep out of the way of another steamer approaching so as to involve a risk of collision, has no right to attempt to pass to the left, unless there is an imperative necessity, for it, if that involves a change of course or speed by the other, until she has obtained the consent of the other to such a movement.

This was an appeal by the libellants, in a suit in rem, in admiralty, from a decree of the district court, dismissing the libel [Case No. 4,309]. The facts found by this court were as follows: "In the afternoon of August 21st, 1874, a collision occurred between the steam-tug Samuel J. Christian; owned by the libellants, and the steam-tug E. H. Coffin, about opposite pier 4, East river, New York, and between four and five hundred feet from the end of the pier. The tide was high water slack, and the weather pleasant. The Christian had been lying at pier 6, East river, with her bow to the pier and her stern out, waiting employment. Noticing a signal for a tug from a vessel in the North river, about in the range of Bedloe's Island, she backed out into the East river, and headed for the vessel. She got straightened on her course about opposite pier 5 and between four and five hundred feet out in the river. A tug, with a canal-boat in tow, bound for pier 3, was just passing on the inside of her, and the tug William Beard, on her way to get the tow of the vessel which had the signal flying, was outside, near by. The Christian had on her full head of steam. The Coffin had come from 35th street, North river, bound for pier 17, East river, and rounded the Battery two or three hundred feet off the ends of the piers. When between piers 2 and 3, she discovered the Christian, and gave one blast of the whistle, to pass to the right. This was not heard on the Christian. The Coffin was, at the time, heading on a course which crossed the bow of the Christian. The Christian did not discover the Coffin until she had herself got straightened on her course. She was then further out in the stream than the Coffin, and, consequently, had the Coffin on her starboard side. She gave two blasts of her whistle, to pass to the left, but did not then stop her engine or change her course. The Coffin was, at the

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time, about off pier 3, and the Christian about off pier 5, the Coffin still heading on a course crossing that of the Christian. The Coffin answered the signal with one blast of her whistle, and kept her course and speed. The Christian then stopped and backed her engine, but did not change her course, or get under sternway, before the collision occurred. The Coffin did not change her course, or slacken her speed, until just before the vessels came together, when she ported her wheel and backed her engine, but her course was not materially changed or her speed slackened. When the Christian stopped and backed she could not, by keeping on and porting her wheel, have passed to the right without a collision probably more dangerous than that which actually occurred.”

W. R. Beebe and P. A. Wilcox, for libellants.

R. D. Benedict, for claimant.

WAITE, Circuit Justice. From the evidence, it is clear, to my mind, that, when the Coffin was discovered from the Christian, the vessels were headed on courses which crossed the bow of the Christian. The Coffin was, undoubtedly, inside the Christian, and, had she been going directly up stream, no collision would have occurred. The Christian, being intent on securing her tow, and competing with the Beard, evidently bent on the same purpose, was, possibly, less observant of the actual movements of the Coffin than she otherwise would have been. She was anxious to pass by the left, and promptly signified, in reply, her desire to keep her course to the right, and, in doing so, but repeated her former signal, which had not been heard by the Christian. As the Christian had the Coffin on her starboard side, approaching so as to involve a risk of collision, it was the duty of the Christian to keep out of the way, and of the Coffin to hold her course. The obligation of the Coffin to keep her course was as imperative as that of the Christian to keep out of her way. The Christian, in making her calculations, was bound to act on the understanding, that the Coffin need not change her course unless she chose. There can be no doubt, that, if the Christian had promptly ported her wheel, she would have passed to the right in safety. She preferred passing to the left, and kept on, without changing her course of speed, or obtaining the consent of the Coffin to change hers, until the two were so close together that a collision was inevitable. A steamer which is bound to keep out of the way of another approaching so as to involve a risk of collision, has no right to attempt to pass to the left, unless there is an imperative necessity for it, if that involves a change of course or speed by the other, until she has obtained the consent of the other to such a movement. The Christian was guilty of a palpable violation of this rule. There was no difficulty whatever in her passing to the right, or, if she preferred, in stopping until the Coffin had crossed her bow. Instead of that, she kept on until the Coffin declined to permit her to go to the left, and then it was too late. This was the sole cause of the collision, and the judgment of the district court was right. Let a decree be prepared dismissing the libel.

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¹ [Reported by Hon. Samuel Blatchford, Circuit Judge, and here reprinted by permission.]

² [Affirmed in Case No. 4,309.]