

Case No. 4,586.  
[3 Ben. 572.]<sup>1</sup>

THE E. W. GORGUS.

District Court, E. D. New York.

Dec., 1869.

COLLISION AT ATLANTIC DOCKS—NARROW PASSAGE—SIGNAL.

The steam tug E. W. Gorgus was intending to come out of the Atlantic docks, the entrance to which is by a narrow gap between piers, on which are built warehouses which obstruct the view, except opposite the entrance. She blew her whistle, as a signal of her intention to go out, and, hearing no answering signal, entered the gap. She then discovered the steam tug W. S. Earle, coming into the dock, and at once stopped, but the two vessels came together: *Held*, that, whether the failure of the Gorgus to hear any signal from the Earle arose from the fact that the latter gave no signal, or from the coincidence of the Earle's whistle with that of the Gorgus, in either case, there was no negligence on her part, and as no subsequent negligence was shown, the libel against her must be dismissed.

In admiralty.

F. A. Wilcox, for libellan.

Beebe, Donohue & Cooke, for claimant.

BENEDICT, District Judge. The collision, which is the foundation of this action, occurred on the 20th of November last in the day time, at the mouth of the entrance to the Atlantic docks, between two steamboats, one of which, the William S. Earle, was intending to enter the docks, and the other, the E. W. Gorgus, was passing out of them.

It is clear, upon the evidence, that the Gorgus gave the usual signal, indicating her intention to pass out through the gap, and it seems, also, clear that she heard no signal from the Earle, until it was too late for her to avoid the Earle, by stopping. Whether her failure to hear any signals from the Earle arose from the absence of such a signal, or from the coincidence that the signal from the Earle was blown at the same instant with the whistle of the Gorgus, and, therefore, not heard, would not affect the question of negligence, on the part of the Gorgus.

As soon as the Gorgus passed the corner of the buildings, which surround the dock, and hide the gap from approaching vessels, the Earle was seen, and the Gorgus stopped, and I see nothing, in her subsequent conduct, which indicates negligence.

The proofs, therefore, failing to fasten any negligence upon the Gorgus, which conduced to the collision, the libel must be dismissed, with costs.

<sup>1</sup> [Reported by Robert D. Benedict, Esq., and here reprinted by permission.]