

Case No. 4,889.

THE FLORIDA.

{4 Blatchf. 470.}¹

Circuit Court, S. D. New York.

Oct. 30, 1860.

COLLISION—DOUBT AS TO VESSEL AT FAULT—REVISION BY CIRCUIT COURT—SPEED IN EAST RIVER.

1. Where, on an appeal, in a suit in rem in admiralty, for a collision, the question, on the proofs, was a close one, as to which vessel was in fault, this court refused to revise the decision of the district court.

{Cited in *The Maggie P.*, 25 Fed. 206; *The Rockaway*, Id. 776; *The Parthian*, 48 Fed. 564; *The Albany*, Id. 565; *Re Hawkins*, 13 Sup. Ct. Rep. 527.}

2. A speed of nine miles an hour, in the East river, in a crowd of vessels, is an unreasonable speed. [Appeal from the district court of the United States for the southern district of New York.]

This was a libel in rem, filed in the district court, against the steamship Florida, to recover damages for a collision between her and the barge Owen Gorman, while the latter was in tow of the tug New York, in the East river. [Case unreported.] After a decree for the libellant, the claimants appealed to this court.

John E. Burrill, Jr., for libellant.

Charles Donohue, for claimants.

NELSON, Circuit Justice. The Florida had left pier No. 4 in the North river, and was bound for the Novelty Works, at the foot of Twelfth and Thirteenth streets, in the East river. The tug, with several barges in tow, the Gorman being the farthest from her on the larboard side, was also going up the East river, some distance ahead of the Florida, the latter being somewhat nearer the New York side. The witnesses on the part of the barge insist, that when the Florida overtook the tug, although there was sufficient room on either side for her to have passed clear, she passed so near to the Gorman that her wheel struck the stern of the Gorman and occasioned the damage complained of. The witnesses on the part of the Florida insist, that when she reached within some two hundred feet of the tug, the latter suddenly sheered towards the New York side and produced the collision. The question is a close one on the proofs, and I am not inclined to revise the conclusions arrived at by the court below, which held the Florida in fault. It appears that there was a sloop at the point of collision, between the Florida and the New York shore, and she had to pass between this vessel and the tug, and it may very well be that, in attempting to avoid the sloop, to which she was quite close, she unconsciously inclined towards the tug. The river, was, as usual, filled with vessels, and great care was necessary, in moving in any direction, to avoid a collision. The Florida was going, as admitted by her

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hands, at the rate of nine miles an hour, which, in the place, and under the circumstances, I am inclined to think was an unreasonable speed

Decree affirmed.

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