

Case No. 5,062.

THE FRANZ SIGEL.

{14 Blatchf. 480.}<sup>1</sup>

Circuit Court, S. D. New York.

June 11, 1878.<sup>2</sup>

COLLISION—BETWEEN STEAM VESSELS.

The steamboat *W.* had the steamboat *S.* off her starboard side and the courses of the two vessels crossed. The pilot of the *W.* saw that the *S.* must encounter a cross tide, and that it would affect her movements. He made no allowance for this and did not give the *S.* sufficient room. A collision ensued between the two vessels. *Held*, that the *W.* was wholly in fault.

{Cited in *The Fred W. Chase*, 31 Fed. 95.}

This was an appeal from a decree of the district court [of the United States for the Southern district of New York], in a suit in rem, in admiralty, dismissing the libel. [Case No. 5,311.] About noon of July 19, 1871, the steam propeller *Franz Sigel*, of ninety tons burden and seventy-five feet in length, having on board a cargo of sugar and so loaded as to be a little by the head, was on her way up the East river, at a slow rate of speed, from Prentice's stores, Brooklyn, below Bridge street, to the foot of Gold street, Brooklyn, above Bridge street. The weather was fair, the tide strong ebb and the wind fresh down the river. The course of the *Sigel* was under the Brooklyn shore, not far from the ends of the piers, so as to avoid the strength of the tide. She had been long employed as a steam lighter in the harbor of New York and was well known. Her course at the time was the one she usually took when employed as she then was, with an ebb tide and such as those engaged in similar business were accustomed to take under like circumstances. The *George Washington*, a side-wheel steamboat running on a ferry between Oliver street slip, New York, and the foot of Bridge street, Brooklyn, was at the same time on a trip from New York to Brooklyn. The distance between the two slips is about one mile and the Brooklyn slip is further up the river than that on the New York side. The ebb tide in the East river strikes the New York shore above Corlears' Hook and then sets across to a point near the foot of Gold street, Brooklyn. From there it follows down the Brooklyn shore to a tight dock, known as "Long Dock," situated next above the ferry slip and but a short distance from it. This dock extends into the river about ten feet beyond the ferry slip, and about seventy feet beyond the docks above, between it and Gold street. When the tide reaches this dock it strikes off with great force toward the New York shore. This movement of the tide is regular and well understood by all engaged in business upon the river in that vicinity. Skillful navigators always make their calculations to counteract its influences. Upon leaving her New York slip, the *Washington* headed up the river, under the New York shore, until she reached a point some distance above her Brooklyn slip, when she rounded to and commenced crossing the river, relying upon the wind and tide to carry her down abreast her slip by the time she was ready to enter it. This was prop-

The FRANZ SIGEL.

er navigation and the course usually pursued under like circumstances of wind and tide.  
After the Washington had rounded to and while

she was still under the New York shore, her pilot discovered the Sigel on his starboard side, two or three piers below the bridge street slip. He then gave two blasts of his whistle, which were not heard on the Sigel and were not answered. The river at that point is about two thousand feet wide. The Sigel kept her course, and, when she was about abreast the ferry slip, the engine of the Washington was stopped, she being, at the time, near the middle of the river and heading so as to enter her slip. Nothing more was then done to arrest her progress and she went ahead under the influence of her former headway and the force of the wind and tide upon her port broadside. After the Sigel had passed the ferry slip, she struck the cross tide which set out from Long dock. This took her bodily out into the river and turned her bow somewhat off her true course. The Washington was then above the Sigel and above her slip. On striking the cross tide, the full power of the engine of the Sigel was put on, and she was forced through the strength of the current and straightened upon her course. Her pilot, then discovering that there was danger of a collision, rang his bell to stop and back, but, before stern way could be got on her, she struck the Washington on the starboard side, just forward of the wheel, producing the injury complained of. As soon as the pilot of the Washington saw that the Sigel was being carried out by the tide, he, for the first time, rang his bell to stop and back, but, before the headway of the boat was stopped, the collision occurred.

Welcome R, Beebe, for libellants.

Henry T. Wing, for claimants.

WATTE, Circuit Justice. Upon the facts, I am clearly of the opinion that the collision was caused solely by the fault of the Washington. She saw the Sigel off her starboard side, and the courses of the two vessels crossed. It was the duty of the Sigel, therefore, to hold her course, and of the Washington to keep out of her way. The pilot of the Washington saw that the Sigel must encounter the cross tide, and that, with her speed and load, it would necessarily affect her movements. It was his duty, therefore, to make the necessary allowances for this, and to see that the Sigel had sufficient room to do whatever was required. That he failed in this, is evident from the fact, that, as soon as the Sigel took the sheer, he rang his bell to back, and only between three and four turns of the wheel had been made before the collision occurred. In the meantime, the Sigel had overcome the force of the current and straightened herself up on her course. I agree entirely with the district judge in the views which he took of the case [Case No 5,311], and a decree may be prepared dismissing the libel with costs.

FRASER, In re. See Case No. 5,068.

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

<sup>2</sup> [Affirming Case No. 5,311.]