

Case No. 6,714a.                      HOTALING V. THE TITAN.  
[23 Betts, D. C. MS. 42.]

District Court, S. D. New York.

March Term, 1857.

COLLISION—NEGLIGENCE—LIGHTS.

[It is an act of blamable misconduct for a vessel to run through a harbor at night time without exhibiting the lights prescribed by law.]

[This was a libel in admiralty by Jasper K. Hotaling against the steamboat Titan.]

BETTS, District Judge. The libellant's barge was in tow of the steamer Marshall, passing up the East River on a moonlight night, displaying her lights according to usage, when a collision occurred between her and the steamer Titan, running down the river without any lights exhibited, about opposite Fulton ferry, but nearest the Brooklyn side. The conflict of testimony common to these actions, respecting the doings and omissions of the respective vessels, pervaded the statements of the witnesses on the opposing vessels. The evidence for the libellant that owing to a haze upon the water, or some other condition of the atmosphere, at the moment the vessels were nearing each other, the Titan was not discoverable from the Marshall, is corroborated by the testimony of witnesses outside the two vessels who were in a situation to notice the fact. Here was, then, an act of blamable misconduct in the Titan, to run through the harbor in the night time without exhibiting lights in the manner prescribed by law, and as she does not succeed in outweighing the evidence given by the Marshall and barge that they committed no fault in the transactions leading to the collision, the wrongful cause of the collision must be held to be with the Titan. Decree for damages, with order of reference.