

THE M. M. CALEB.

[5 Ben. 163.]¹

District Court, E. D. New York.

May, 1871.²

DAMAGES—MARITIME TORT—TOW-BOAT AND TOW.

A boat in tow of a steamtug was run on shore by reason of the breaking of the rudder-chain of the tug-boat. The chain was worn out and insufficient, and this was known to the owner of the tug when the boat was taken in tow. *Held*, that, to tow the boat while having such a rudder-chain was negligence, and that the tow-boat was liable for the damage.

In admiralty.

R. D. Benedict and F. A. "Wilcox, for libellants.

Scudder & Carter, for respondents.

BENEDICT, District Judge. It is clear upon the evidence that the libellant's vessel, while being towed by the steam tug Caleb, was run on shore by reason of the breaking of the rudder-chain of the tug. It is equally clear that the breaking of the rudder-chain was owing to a palpable defect in the chain itself. The tug's rudder-chain was worn out and insufficient, and this was known to the claimant at the time the libellant's vessel was taken in tow. It was manifest negligence to attempt to tow the libellant's boat with such a chain, and the tug is accordingly responsible for the damages which ensued. Decree for the libellants, with an order of reference.

{An appeal was taken to the circuit court, which affirmed the decree above entered, but allowed the claimants to take proof upon the question of certain set-offs, should they so desire. Case No. 9,683.}

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² [Affirmed in Case No. 9,683.]

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