Case No. 10,689.

PALMER ET AL. V. DALLET ET AL.

{3 Pa. Law J. 416.}

Circuit Court, E. D. Pennsylvania. 1844.

APPEAL—ADMIRALTY—EFFECT OF DECREE OF DISTRICT COURT.

The decree of the district court, where no question of law is involved, is entitled to the same weight as a verdict in a suit at law, not to be disturbed unless it is contrary to the clear result of the evidence on the facts in issue.

{Appeal from the district court of the United States for the Eastern district of Pennsylvania.}

In admiralty. The complainants filed a libel in the district court on the 17th of June, 1841, claiming the sum of $284.90 with interest, being the amount paid by them for repairing damages to their brig, occasioned by collision with the Orion, at the Chester piers, in January, 1840. From various causes the hearing was postponed until November, 1842, when after argument by Haly, for the libellant, and William G. Smith, for the respondent, the district judge (Randall) dismissed the libel, without costs. {Case unreported.}

From this decree the libellant appealed to the circuit court, where the cause was again heard, and the following opinion delivered by.

BALDWIN, Circuit Justice. This is an appeal from a decree of the district court sitting in admiralty, dismissing the libel of the appellants for damages occasioned by a collision between the two vessels at Chester, in January, 1840, in which both sustained considerable injury. The evidence taken in the district court and returned on the appeal was voluminous, and, as is usual in such cases, there was much discrepancy between the statements of the occurrence by the persons on beard of the respective vessels. The evidence on each side taken by itself was sufficient

to justify a decree, but taken together presented a doubtful case. The testimony of 1028 the witnesses who were present, and saw the collision from other vessels, was in favor of the respondents, but not of that decisive character as to make out a clear case in their favor. There were some strong circumstances in evidence in favor of the libellants, but their effect was so far neutralized by evidence on the other side as to leave it doubtful whether the vessel of the respondents was an offending one at the time of the collision. The case was one which I should have left to the jury had it been a suit at law in this court, and should not have granted a new trial on whatever side they would have given their verdict.

In deciding on appeals from the district court, where no question of law is involved, I have always considered the decree of the district court as entitled to the same weight as a verdict in a suit at law, not to be disturbed unless it is contrary to the clear result of this evidence on the facts in issue, though in my opinion a decree of a different kind would have better met the justice of the case. The reasons for this course are stronger in appeals than jury trials, for, if the decree is reversed, the consequence is not merely a new trial, but a final decree on the merits for the other party. The present is case of this description. It turned wholly on the evidence, and on a careful examination of it, in and out of court, I think the merits so doubtful that the decree below ought not to be disturbed. It is accordingly affirmed, with costs.