

Case No. 17389b, WELLS V. THE ANN CAROLINE.  
[N. Y. Times, May 31, 1861.]

Circuit Court, S. D. New York.

May 30, 1861.

COLLISION—DAMAGES—VALUATION IN BOND.

[Where a vessel held liable for a collision has been released upon a stipulation for her value under the act of March 3, 1851 [9 Stat. 635], the amount of damages recoverable cannot exceed her actual value, although the bond was for a greater sum. The valuation for the purposes of determining the amount of the bond is not the real test of value in such a case.]

This case came up on exceptions to a commissioner's report. The libel was filed to recover for the sinking of the schooner William H. Wells, owned by the libelant, by the Ann Caroline [Case No. 17,389a], and a decree was given for the libelant on an appeal to this court [Id. 17,389], and it was referred to a commissioner to ascertain the damages. The commissioner reported the value of the Wells at \$5,000. The Ann Caroline had been discharged from custody by consent, on the claimants filing a stipulation for value in the sum of \$5,000. On the hearing before the commissioner the claimants offered to prove that the Ann Caroline was not worth \$5,000, and insisted that, according to the act of congress of March 3, 1851 [9 Stat. 635], the libellant's recovery could not exceed the value of the Ann Caroline. The evidence was excluded, and on this ground the claimants excepted.

Benedict, Burr & Benedict, for libelant.

Owen, Gray & Owen, for claimants.

HELD BY THE COURT [NELSON, Circuit Justice]: That the act of congress is applicable to the case, and the libelant's recovery cannot exceed the value of the Ann Caroline. That the valuation of the vessel, whether by consent or otherwise, for the purpose of bond or stipulation to discharge it from the custody of the marshal, is not the test of real value in cases of collision under the act. That the evidence, therefore, should have been received.

The case was referred back, therefore, for a further report.

[This cause was subsequently carried to the supreme court, where the decree of the circuit court rendered in Case No. 17,389 was modified. 2 Wall. (69 U. S.) 538.]