

BURT *v.* THE STEAM-BOAT NEVADA.

District Court, E. D. New York.

July 16, 1880.

1. COLLISION—NEGLIGENCE.

Oscar Frisbie, for libellant.

Beebe, Wilcox & Hobbs, for claimant.

BENEDICT, D. J. The evidence shows that the lighter *Martin*, beating in the East river with a fresh breeze from the eastward and an ebb tide, stood over towards the New York shore across the course of the ferry-boat *Nevada*, then coming down the river not far from the middle there of. After having crossed the course of the *Nevada*, the lighter went about at a considerable distance from the New York shore, and so close to the *Nevada* as to make it impossible for a collision to be avoided by any manœuvre on the part of the *Nevada*.

The excuse given in behalf of the lighter, for going about when she did, is the existence at the time of an eddy along the New York shore, which, it is contended, made it imprudent for her to continue her tack towards the New York shore. The excuse is not sufficient. There was an eddy along the New York shore, but it was not such as to render the lighter unmanageable. She could have gone on in the eddy and have made her tack nearer the New York shore in safety. This it was her duty to do under the circumstances, and considering her proximity to the ferry-boat then approaching in plain sight. The failure of the lighter to keep on further towards the New York shore, as she might have done with safety, and not any fault on the part of the ferry-boat, was the cause of the collision.

Libel dismissed, with costs.

{END OF CASES IN VOL. 3.}

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