

## THE HARRY.

(District Court, E. D. New York. January 15, 1883.)

## COLLISION—CANAL-BOAT AT END OF PIER—PROPELLER.

Where a canal-boat, sound and strong, was lying at the end of a pier, and a propeller, in attempting to get into the adjoining slip, brought up against the canal-boat and injured her, *held*, that if it was necessary for the propeller to come up along-side and against the canal-boat, it was her duty to do so in an easy manner, and the propeller must be held liable for the damage resulting from the blow.

In Admiralty.

*W. W. Goodrich*, for libellant.

*Beebe, Wilcox & Hobbs*, for claimant.

BENEDICT, J. This action is to recover for injuries to the canal-boat *T. S. Gray*, while lying at the end of pier 46 in the North river, occasioned by a collision between the canal-boat and the propeller *Harry*. At the time of the collision the propeller *Harry*, having a barge laden with grain in tow along-side, was endeavoring to get into the slip between pier 46 and pier 45. The libellant's boat lay moored at the end of the pier, her bow down stream and projecting beyond the side of the pier. The tide was flood. The method adopted by the propeller was to come head to the tide off the end of pier 46, and then move into the slip. In accomplishing this maneuver she brought up against the canal-boat, that was lying at the end of pier 46, causing the damage sued for.

The proofs show that the canal-boat was a sound boat, able to withstand all ordinary contact with other vessels at the piers, and that she was moored in a proper manner at a place where she had the right to be. The proofs also show that the blow which she received from the *Harry* was a severe one. If, as contended in behalf of the propeller, it was necessary for the propeller, under the circumstances, to come up along-side and against the canal-boat, it was, nevertheless, the duty of the propeller to do so in an easy manner, without dangerous force. This duty was not discharged. The effect of the blow shows that the blow was severe. I have no doubt that the injury to the libellant's boat resulted from a want of due care on the part of the *Harry*.

The case differs from the case of *The Charles R. Stone*, 9 Ben. 182, relied on by the claimant. In that case the tug simply sagged in by

\*Reported by R. D. & Wyllys Benedict

the tide so easily that no danger resulted from the contact. Here, a blow was given with force sufficient to break in the side of a strong boat.

There must be a decree for libelant, with an order of reference to ascertain the amount of the damage done.

**THE HUDSON.**

(District Court, S. D. New York. February 7, 1883.)

**1. COLLISION—SEVERAL VESSELS—JOINER IN ONE SUIT.**

Where several vessels are alleged to be in fault in causing a collision by which the property of a third person is injured, in a libel by the latter to recover his damages, all the vessels in fault should be proceeded against as defendants to avoid multiplicity of suits, and to enable the damages to be justly apportioned among those liable according to the law in admiralty.

**2. SAME—VESSELS BROUGHT INTO SUIT BY FURTHER PROCESS.**

If in such a suit the libelant proceeds against one vessel only, it is competent for the district court to award its further process in the cause, upon the petition of the vessel sued, for the arrest of the other vessel to answer for its share of the damage.

**3. SAME—APPORTIONMENT OF DAMAGES.**

Under the recent decisions of the supreme court the right to an apportionment of the damages between the vessels liable to third parties, in a case of collision, is a substantial right which cannot be suffered to depend upon the caprice, the mistake, or the collusion of the libelant in suing one vessel only.

**4. DISTRICT COURT—PRACTICE AND PROCEDURE.**

In cases not provided for by the supreme court rules in admiralty, it is competent for the district court to regulate its own practice, and to allow remedies according to the analogies of admiralty procedure, as new exigencies arise, as the court may deem necessary for the due administration of justice.

**5. SAME—BRINGING IN THIRD PARTIES.**

Under the English judicature act of 1873 it is the constant practice, at the instance of the defendant, to bring in third persons as parties to be bound by the judgment, where they have a common interest in the subject-matter of the litigation, or in the question of liability to be determined.

**6. SAME—APPLICATION TO COLLISION CASES.**

Collision cases in admiralty present an aggregate of features which make them *sui generis*, and the due administration of justice renders it essential and expedient in this class of cases that the liability of all persons or vessels involved should be determined in a single action, rather than in successive independent suits.

Motion to Bring in Another Vessel as Defendant.

*Edward D. McCarthy*, for libelant.

*Benedict, Taft & Benedict*, for the Hudson.

BROWN, J. The libel in this case was filed against the steam-tug Hudson to recover damages for an injury by a collision to the