

THE SALLY.¹*District Court, E. D. Pennsylvania.*

December 24, 1883.

ADMIRALTY—COLLISION BETWEEN FLOATING
BARGE AND BAILING VESSEL—DUTY ON
MEETING IN NARROW STREAM.

Where a barge, floating with the tide up a narrow creek, had her bow stuck in rubbish near the bank and her stern swung across the creek by the tide, and a collision with a sloop under sail coming down the creek might have been avoided by the man on the barge reversing his pole so as to turn the stern completely around, *held*, the barge was in fault in holding her stern against the tide and thereby making a collision inevitable.

In Admiralty. Hearing on libel, answer and proofs.

Libel by the owners of the canal barge Henry S. Pence, against the sloop Sally. The libelants claimed that on July 18, 1883, while the barge Henry S. Pence was floating up the Woodbury creek, and had proceeded about half a mile from its mouth, she was struck upon the starboard side by the sloop Sally, although the sloop had ample time and sufficient water to go astern of the barge. The respondent contended that as the sloop, proceeding down the creek, rounded a curve, the barge was seen about 100 yards distant, directly across the creek, floating up with the tide; that the barge was insufficiently and negligently manned by only one man, who was using a pole on her starboard side near the stern, and paid no attention to the approach of the sloop, although several men upon the shore called out to him. The sloop at once starboarded her wheel, and tried to go under the barge's stern expecting that the barge would allow her stern to drift up, but the man on the barge held her stern with the pole, making a collision inevitable.

John A. Toomey, for libelant.

Edward F. Pugh, for respondent.

BUTLER, J. The libel must be dismissed. Whether the barge was sufficiently manned, and, if not, whether this had anything to do with the result, need not be considered. Her position in the creek, barring the channel, was improper and inexcusable. Her bow appears to have been interfered with by rubbish at the side of the stream, and her stern swung around, under the influence of the tide. I do not think the wind had anything to do with it. Whether it had or not does not seem, however, material. Her stern would have gone completely around if her master had not prevented it. Desiring to right his boat, he held her stern against the tide with his pole. This was proper at the time he commenced it, and doubtless would soon have relieved the bow and turned it: up stream. His mistake, however, was in continuing it after the sloop came into view. Had he reversed his pole and added his strength to the force of the tide, he would have opened the channel before the sloop reached him. As it was his duty 336 to do this, the sloop was justified in supposing he would, and going forward. Seeing that he still held his boat across the stream he was cautioned to let her stern go, and every proper effort made to arrest the sloop's headway. He persisted, however, in his folly, and was struck. That the accident occurred in this way, and from this cause, seems very clear from the evidence on both sides. Directly after, the master of the barge repeatedly admitted his fault, and exonerated the sloop.

A decree must be entered dismissing the libel, with costs.

¹ Reported by Albert B. Guilbert, Esq., of the Philadelphia bar.

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