

THE OSCEOLA.<sup>1</sup>  
COFFIN *v.* THE OSCEOLA.

*District Court, E. D. New York.*

March 14, 1887.

COLLISION—OVERTAKING VESSEL—CLOSE APPROACH—NO SIGNALS—SHEER  
BY LEADING VESSEL.

Where the steam-boat O., overtaking the S., collided with her, and, on suit brought, defended by alleging a sheer on the part of the S., but the evidence showed that she had approached dangerously near the S., without giving the signal required by the international rules, *held* that, if the S. made no sheer, the O. was in fault as the overtaking vessel; if the S. did sheer, the O. was still in fault for her approach without signals. *Held, also*, that, in the absence of signals from the O., the sheer of the S. was not a fault

In Admiralty.

*Edward H. Hobbs*, for libelant.

*Carpenter & Mosher*, for claimant.

BENEDICT, J. If, as the libelants contend, the Spray made no sheer, the liability of the Osceola is clear. If, on the other hand, the Spray did sheer, still the Osceola was in fault, for she was the overtaking vessel, and approached dangerously near to the Spray without giving the signals required by the inspectors' rules. Had the signal been given, or had it been proved that the Spray had been otherwise informed of the position of the Osceola, the Spray would have been in fault for changing her course, when she did, but, in the absence of such signal or such knowledge, her change was not a fault.

The libelant must have a decree for his damages, with a reference to ascertain the amount.

<sup>1</sup> Reported by Edward G. Benedict, Esq., of the New York bar.