

THE HELENA.¹
THE LORD O'NEILL.
THE HELENA *v.* THE LORD O'NEILL.

Circuit Court, E. D. Pennsylvania.

March 10, 1888.

COLLISION—BETWEEN STEAMERS—CROSSING VESSELS.

The steamers A. and B. were sailing down the Delaware bay, the A. being, a few miles ahead of the B. When the A. arrived at the breakwater, she signaled for a boat to take off her pilot. None responding, she determined to out back up the bay a few miles, and anchor for the night, it being then about 7.45 p. M. The A. selected an anchorage east of the regular channel for outbound steamers, and was slowly proceeding to it, with all lights burning brightly, and obeying every requirement of the law touching the mode of giving notice to approaching vessels. She discovered another steam-vessel approaching on her port side, involving danger of collision, and kept her course as required by the rules of navigation. The B.'s officers saw the A.'s lights, but mistakenly supposed them to be those of another vessel passing down the bay, and did not discover their error until too late to avoid the collision, *Held*, that the B.'s officers were guilty of carelessness or recklessness, and that the B. must be held accountable for the consequences.

In Admiralty. Cross-libels for damages.

On appeal from district court. 26 Fed. Rep. 463.

M. P. Henry and *H. R. Edmunds*, for the Lord O'Neill.

Charles Gibbons, Jr., for the Helena.

McKENNAN, J. These are cross-libels for damages resulting from a collision between the Helena and the Lord O'Neill, each vessel insisting that the other was solely in fault. On the afternoon of February 13, 1885, were steaming down the Delaware river from Philadelphia, the Helena on her way, in ballast, to Baltimore, and the O'Neill, with a full cargo on a voyage to Liverpool. The tide was flood. The O'Neill was in the lead. She was followed by the Agnes, a sister ship of the Helena, and the Helena was in the rear. As the night closed in, the O'Neill was over four miles in advance of the Helena, and, as the faster vessel, was increasing this distance; and the Agnes about two miles and a half ahead

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of the Helena, which was "following the track of the two ships as near as possible." Both vessels were in charge of pilots. The Lord O'Neill went down towards Cape Henlopen, burned blue lights for a boat to take off her pilot, and, receiving no answer, the master concluded to anchor for the night higher up the bay, and to the eastward of the deep-water channel, because he could get better anchorage, and would be out of the way of passing vessels. She then turned on her course and went up the bay, steering a northward and easterly course, moving at half speed, and occasionally slowing to take soundings. It was then dark, and the lights of the O'Neill were properly set, and burning brightly. After she changed her course and was moving up the bay, the Agnes passed, going down on the port side, and about on fourth of a mile distant from her. After these vessels thus passed each other, the pilot of the O'Neill, in proceeding to the intended anchorage ground to the eastward of the channel, and in shallow waters, changed his course to the eastward, steering east by north by the compass "At this time the head-light of another steamer, which afterwards proved to be the Helena," was reported on the port bow of the Lord O'Neill by the lookout of that vessel, and seen about the same time by the pilot at a considerable distance off. The Lord O'Neill ported and continued slowly at half speed on this course, occasionally taking soundings, and stopping while on this course. The other Vessel showed a green light, indicating that the two vessels were approaching each other by converging courses, the lines of which would, if continued, necessarily cross each other. The pilot of the Lord O'Neill, observing that the green light was rapidly approaching so as to endanger a collision, stopped his vessel, reversed at full speed, and put the helm hard aport; but the Helena continued to approach until she ran into the O'Neill, striking her on the port side, about 25 feet from the stern, and doing her serious injury. This was about 7.45 at night. The O'Neill afterwards came to anchor. At the time of the collision the O'Neill was in eight fathoms of water, and it was the place of anchorage intended by the pilot, towards which he had for some time been holding an eastward course, moving at a slow rate of speed. The lights of both vessels were burning brightly, and could have been clearly seen.; the red or port light of the O'Neill, on which side the Helena was approaching, being visible to the latter; and it was not until the collision was imminent that the engines of the O'Neill were reversed, and her helm put hard aport. The Helena was steaming down the Delaware bay in the track of the Agnes, and during her progress a snow squall came up, and her pilot concluded to come to an anchor. The vessel was accordingly slowed down, and the anchor cleared away. Her lookout assisted in clearing away the anchor, and did not see or expect the lights of the Lord O'Neill. The engine of the Helena was stopped to get a cast of the lead before coming to an anchor; but she was again put at half speed, and as the horizon was clearing up, the pilot concluded to go, to Cape Henlopen. The wheelsman of the Helena, who was steering on the bridge,

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first saw the light of the O'Neill. It was approaching, coming forward of the bridge, but he did not expect it. The head-light and red

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light of the O'Neill were afterwards seen by the master of the Helena from the bridge at the same time on his starboard beam, a little abaft of it. Both he and the pilot were seeking to discover the Cape Henlopen light, and not looking out for the light of other vessels. He did not wait to verify the course of the approaching vessel, but inferred that it was the light of a vessel bound down the river in the same direction being pursued by him, and he put the telegraph ahead full speed. In a brief period thereafter the master of the Helena called the pilot's attention to the fact that the vessels were rapidly approaching each other, who thereupon ordered her helm hard a starboard, and reversed her engines, but too late to prevent the collision.

These are all the material facts which I deem it necessary or proper for me to find. They are, in my judgment, the fair result of a preponderance of the proofs carefully considered and collated, and they indicate clearly the comparative nature and measure of the responsibility of these two vessels for the disaster complained of. The O'Neill was proceeding on her outward voyage, intending to prosecute it continuously. She had on board a pilot to conduct her down the Delaware bay, and it was her duty to discharge him at the mouth of the bay. Failing in obtaining a conveyance for him, she changed her purpose, and concluded to come to anchor for the night. She accordingly reversed her course, and moved up the bay, towards a safe anchorage ground, where she proposed to remain till the next day, and could discharge her pilot. She moved slowly, and with due caution, and had nearly reached her place of anchorage when the collision occurred. There she would have been put of the track of descending vessels, and in a place of safety for herself. In all this she was in the exercise of her undoubted legal right, and was free from any culpability if she observed all the precautions prescribed by the law touching the mode of giving notice to approaching vessels and her own cautious movements. She was not derelict in any of these duties. Her rate of speed was slow. She was provided with all the lights which the law requires. They were set in their proper places and were burning brightly, and when she discovered another steam-vessel approaching on her port side, involving danger of collision, she kept her course as required by the rules of navigation. She did not, therefore, by any fault of hers, contribute to the collision.

The Helena was sailing down the bay, and in view of the location of the O'Neill, on the eastern side of the main channel. If her lookout and officers were vigilant, they must have seen the light of the O'Neill, from her starboard side, that the courses of the vessels were crossing each other, and involved danger of collision, and they must be presumed to have known that under such circumstances the law required them to keep out of the way of the O'Neill. If through want of due vigilance or recklessness, they failed to discharge this duty, as they did, they must, be held accountable for the consequences.

The decision of the district court is affirmed, and a decree for, same sum awarded to the O'Neill in that court, with interest, will be entered in this court with costs.

¹ Reported by C. Berkeley Taylor, Esq., of the Philadelphia bar.