

VAN DYKE *v.* THE BRIDGEPORT AND THE JOHN E. MULFORD.

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

May 12, 1888.

COLLISION—VESSEL AT ANCHOR—FOG.

Where a steamer was running in a bank of fog as slowly as it was possible for her to do under the circumstances, a collision between such steamer and a schooner at anchor *held* to be an inevitable accident, imposing no liability for damages upon the steamer

In Admiralty.

Libel by the schooner *Messenger*, which, while proceeding through the East river to the Sound, on the flood-tide, in charge of the tug *John E. Mulford*, had anchored in a thick fog off the *Sunken Meadows*, and while at anchor had been run into by the steam-boat *Bridgeport*. The suit was begun against the steam-boat alone. The latter, by petition under the fifty-ninth admiralty rule, brought in the tug *Mulford*, which had the schooner in charge, as party defendant.

*Sidney Chubb*, for libelant.

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

*E. G. Davis*, for the *John E. Mulford*.

BENEDICT, J. This is an action to recover damages occasioned to the schooner *Messenger* by being run into by the steam-boat *Bridgeport*, when at anchor off the *Sunken Meadows*, above *Hell Gate*. These vessels, while proceeding towards the Sound, were all caught in a bank of fog that came suddenly upon them. The fault charged upon the *Bridgeport* is that she was running in the fog at too great a rate of speed, but the proofs satisfy me that she was going as slowly as it was possible for her to do under the circumstances. My opinion is that the collision should be held to be an inevitable accident. Let the libel be dismissed, with costs.