

THE OSCEOLA.
COFFIN *ET AL.* V. THE OSCEOLA.

Circuit Court, E. D. New York.

July 9, 1888.

COLLISION—OVERTAKING VESSEL—WANT OF 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. On appeal from district court. 30 Fed. Rep. 383.

THE OSCEOLA.COFFIN et al. v. THE OSCEOLA.

Edward H. Hobbs and *R. D. Benedict*, for appellee
Carpenter & Mosher, for appellant.

BLATCHFORD, Justice. I concur with the district judge in his conclusions in this case, and in the grounds on which he disposed of it, both on the merits and on the exceptions to the commissioner's report. In holding that this is not a case for allowing anything for depreciation of, or permanent injuries to, the *Spray*, I do not decide whether, if it were such a case, the allowance could be made although the libelant has not appealed. Let there be a decree for the libelants for \$1,570.62, with interest from January 28, 1885, and for \$832.50, with interest thereon from November 29, 1887, and for their costs in the district court, taxed at \$149.75, and for their costs in this court, to be taxed.