

CONOVER *v.* THE JOHN S. DARCY.  
NEW YORK, L. E. & W. R. CO. *v.* THE I. L. FISHER.

*Circuit Court, S. D. New York.*

March 25, 1889.

WHARVES—RIGHT TO SURROUNDING WATER.

The fact that a ferry-boat lays such a usual course as to bring her within 10 or 20 feet of the corner of a pier, not itself the boundary of the slip, hugging it as closely as she can, does not give any superior right to so much of the water around the pier as may be required for the uses for which it was erected.

In Admiralty.

Appeals by both vessels from decree of district court under cross-libels, dividing the damages. *The John S. Darcy*, 29 Fed. Rep. 644.

*E. D. McCarthy*, for the I. L. Fisher, cited:

*The Favorita*, 8 Blatchf. 541; *The John Cooker*, 10 Ben. 488; *The Columbia*, 8 Fed. Rep. 716, 25 Fed. Rep. 844; *The Monticello*, 15 Fed. Rep. 474; *McFarland v. Lead Co.*, 17 Fed. Rep. 253; *The Fanwood*, 28 Fed. Rep. 374; *The Delaware*, 6 Fed. Rep. 195; *The Styel*, 6 Ben. 550, 14 Blatchf. 482; *The Pavonia*, 26 Fed. Rep. 110; *The Manhasset*, 34 Fed. Rep. 422; *Fay's Case*, 15 Pick. 253; *The Alabama*, 1 Ben. 483; *The Ariadne*, 7 Blatchf. 212; *The Mary T. Wilder*, Taney, 567; *The Farragut*, 10 Wall. 338; *The Ariadne*, 13 Wall. 478.

*Geo. Bethune Adams*, for the John S. Darcy, cited

*The Pavonia*, 26 Fed. Rep. 110; *The C. H. Scuff*, 32 Fed. Rep. 237; *The Free State*, 91 U. S. 200; *The Galatea*, 92 U. S. 439; *The Ferry-Boat Relief*, Olcott, 4; *The favorita*, 18 Wall. 598; *The Monticello*, 15 Fed. Rep. 476; *The Edwin H. Webster*, 22 Fed. Rep. 171; *The Ottawa*, 3 Wall., 268; *St. John v. Paine*, 10 How. 563; *The Genesee Chief*, 12 How. 443; *Haney v. Packet Co.*, 23 How. 287; *The Ariadne*, 13 Wall. 475; *The City of Parts*, 9 Wall. 634; *The Ant*, 10 Fed. Rep. 294; *The B. B. Saunders*, 25 Fed. Rep. 729; *Goslee v. Shute*, 18 How. 463.

LACOMBE, J. The decision of the district judge holding both vessels in fault is affirmed. Such affirmed, however, is not to be taken as an assent to the proposition that the ferry-boats at the Twenty-Third street ferry have “the exclusive use of the clear water: about 108 feet in width, between the Twenty-Second street pier and the lower ferry-rack,” The fact that a ferry-boat lays such an “ordinary and usual course “as will bring her within 10 to 20 feet of the corner of a pier, not itself the boundary of her slip, “hugging it as closely as she can,” (as the witnesses put it,) is not sufficient to give any exclusive or superior rights to the occupation of so much of the water area surrounding the pier as may be required for the uses to subserve which it was erected. *The Mary Powell*, 36 Fed. Rep. 598.