

taken by the witness Lansing from the tug to have it understood that he does not swear to a light on the barge is perhaps suggestive. Still further, none of the witnesses from the ferry-boat who saw the tug and barge as the ferry-boat approached speak of a red light displayed on the barge. The red light of the tug was burning, and while it is easy to believe that the absence of the unusual feature of a second red light on the barge along-side would not be remarked, it seems to me that the presence of a red light there, if burning, would have been remarked, and the omission of any witness to mention that two red lights were displayed on the tow at the time the barge was struck indicates that the two red lights were not both burning at that time. But, whatever may have been the cause of the disappearance of the only red light displayed to the ferry-boat as she approached, the fact of its disappearance is proved, and the evidence showing that the tug's red light would be made to disappear by change of course on the tug, whether the red light on the barge had gone out, or been temporarily obstructed by some intervening object, the cause of its disappearance is immaterial. The disappearance of the red light being proved, the navigation of the ferry-boat cannot be held to be faulty, and her liability for the collision has not been shown.

The libel must therefore be dismissed as against the ferry-boat, and as against the tug, which was brought in by petition; the evidence being that the barge and the tug belonged to the same owners.

THE R. H. WILLIAMS.¹

LOMBARD, AYRES & Co. v. THE R. H. WILLIAMS.

(District Court, E. D. New York. May 22, 1891.)

COLLISION—STEAM-VESSELS CROSSING—VESSEL BACKING OUT OF SLIP.

Where a steam-tug was moving at a high rate of speed near the piers in the Kill von Kull, and struck and sunk a vessel which was backing out of a slip, giving a long whistle as she backed, it was held that the collision was due to inattention on the part of the passing vessel, which rendered her liable for the collision.

In Admiralty. Suit to recover damages caused by collision.

Carpenter & Mosher, for claimant.

Goodrich, Deady & Goodrich, for libellant.

BENEDICT, J. This is an action to recover of the propeller R. H. Williams the damage done to the tug Little Nellie in a collision that occurred on the 13th of March, 1889, at 6 p. m., just off pier 4, the Seaboard Refinery dock, at Bayonne, N. J. As the Little Nellie was coming out of the slip on the east end of the pier the R. H. Williams was

¹ Reported by Edward G. Benedict, Esq., of the New York bar.

coming down the Kills to the eastward, and close in upon the piers. When the Little Nellie had emerged but a short distance from the slip she was struck on her starboard side by the R. H. Williams, and sunk. The question of liability turns upon the question whether the Little Nellie blew a long blast of her whistle as she drew near to the end of the pier, while passing out of the slip. If she did blow such a whistle, and the same was not heard by those directing the Williams, it must have been owing to inattention on their part; and inattention in such a particular, under the circumstances, was great negligence, for the Williams was running rapidly across the mouths of the slips, by no means as far out as she would have it believed, but very near to the ends of the piers. If, on the other hand, the whistle of the Little Nellie was heard by those directing the Williams, she was in fault for not stopping and staying out into the stream. The proof is that the Williams kept up her speed until the Little Nellie appeared outside of the ends of the pier; and the man at her wheel says he heard no long whistle from the Little Nellie. As to the fact of a long whistle having been blown by the Little Nellie as she passed up the slip nearing the end of the pier, it is proved by the great weight of the evidence, and that it could have been heard by the Williams with ordinary attention. The libellant is therefore entitled to a decree with an order of reference to ascertain the amount of the damage.

THE ROBERT BURNETT.¹

THE DASORI.

OWL TRANSPORTATION Co. v. THE MAYOR, ETC., OF CITY OF NEW YORK,
AND THE ROBERT BURNETT.

(District Court, S. D. New York. May 6, 1891.)

COLLISION—TWO TOWS PASSING—LEEWAY—INATTENTION.

A tow of four boats on a 200-foot hawser astern of the tug B. met a tow consisting of the tug D., with two scows on a hawser. A heavy north-west gale was blowing at the time, and though the tugs passed each other at what would have been a sufficient distance in ordinary weather, the wind caused the tow of the B. to make as much leeway as headway, so that one of the boats on her tow struck one of the scows, and was sunk. The evidence showed that neither tug paid much attention to the tows after the tugs had passed each other. *Held*, that for such lack of attention to their tows, both tugs were responsible for libellant's damage.

In Admiralty. Suit to recover damage caused by collision.

Wilcox, Macklin & Adams, for libellant.

James M. Ward, Asst. Corp. Counsel, for mayor.

Carpenter & Mosher, for the Burnett.

¹Reported by Edward G. Benedict, Esq., of the New York bar.