thoroughly consider,—whether, notwithstanding the catching of the log by the helm, the collision might not have been avoided if the preceding management of the Trudeau had been such as proper skill in navigation required. The weight of evidence shows that opposite and above the point of the landing which the Trudeau was endeavoring to make, there was a large and powerful eddy, well known to the navigators of the Mississippi river; that the usual and prudent course of descending boats desiring to make a landing at this point was to keep outside of the eddy, *i. e.*, further towards the Algiers side than the eddy, and fall a little below the point of landing, and then turn and proceed to the landing through the eddy a little upstream. There is conflict of testimony, but I think the preponderance and the reason of the thing tend to establish this mode of proceeding as being the proper and safe mode. This was not the mode resorted to by the Trudeau. She kept in the eddy, and attempted to turn towards the point of landing while within the eddy, and at a point not below but opposite to it. Had she kept outside of the eddy, and kept on to a point below Canal street, so that her turning would have been without the eddy, and her motion towards her landing would have been a little upstream, though her helm became incapable of governing the motion of the vessel, the wheel might nevertheless have been made, simply by its revolutions, to have prevented the Trudeau from running into the Josie. No question was made at the argument but that, and I think it is settled, as a rule of law, that, in cases of collision it is the efficient, controlling management of the vessel charged with fault which must be looked at, and that, though her management at the very moment of or for a few moments preceding the collision was faultless, nevertheless if her anterior and controlling management contributed to the disaster, and was injudicious, and lacking in skill or in the observance of the known methods of navigation, either local or general, she is deemed to be in fault. I think this principle of law upon the evidence leaves a case established against the Trudeau. Judgment will therefore be entered in favor of the libelant, and against the claimants.

FREEMAN *et al. v.* CLAY *et al.*

(*Circuit Court of Appeals, Fifth Circuit.* November 27, 1891.)

1. APPEAL TO CIRCUIT COURT OF APPEALS—CITATION—DEFECT CURED BY APPEARANCE.
The citation on appeal must be signed by the judge or justice, and, under rule 14, par. 5, must be made returnable not exceeding 30 days from the day of signing, whether the return-day fall in vacation or in term-time; but a defect in such particulars is cured by the filing of the transcript and an entry of a regular appearance by appellees' counsel.

2. SAME—APPROVAL OF BOND.
The appeal-bond must be approved by the judge or justice. An approval by the clerk alone is not sufficient, and is ground of dismissal.

Appeal from the United States Circuit Court for the Northern District of Mississippi. Motion to dismiss the appeal. Granted conditionally.

Edward Mayes and *Frank Johnston*, for appellant.

W. L. Nugent, for appellees.

Before PARDEE, Circuit Judge, and LOCKE and BRUCE, District Judges.

PARDEE, J. In this case the appellees have moved to dismiss the appeal in this court for the following reasons:

"(1) The bond is not approved by the trial judge, nor are the names of the sureties inserted in it. (2) The citation is not signed by the trial judge, but by the clerk, and was signed September 12th, executed September 14th, and made returnable on the third Monday in November, contrary to paragraph 5, rule 14."

An inspection of the record shows that on the 30th day of June, 1891, the court below, on motion of complainants, granted an appeal to the next term of the United States circuit court of appeals for the fifth circuit, to operate as a *supersedeas* upon their entering into bond in the penalty of $5,334.50, with two or more good and sufficient securities, conditioned according to law. That thereafter, on the 8th of September, 1891, an appeal-bond was filed, in which the names of the sureties are not inserted, and upon which was the following indorsement: "I approve the above bond. September 8th, 1891. G. R. HILL, Clerk," —but no approval by any judge. That upon the 12th day of September, 1891, G. R. Hill, clerk, issued a citation, directing the appellees to be and appear before the United States circuit court of appeals for the fifth circuit at the next term thereof, to be held in the court-room of said court at New Orleans, in said fifth circuit, on the third Monday of November, 1891. From this showing it appears that the motion to dismiss the appeal in this cause is well founded as far as the facts are concerned; for, in taking and perfecting the said appeal, neither the law (Rev. St. § 1000) nor the rules of this court have been complied with. The citation should have been issued and signed by the judge of the court below, directing the appellees to appear within 30 days; and the judge signing the citation should have required and accepted a sufficient bond to perfect the appeal, instead of which it appears that the judge