

their instantaneous removal. It could not have been long after they were removed by the Champion, that the owner and his watchman came to the bulkhead; and had not the Champion already removed the boats, they would, no doubt, have been attended to by the owners, who could have made use, if necessary, of a small tug, which was not far distant. It is the policy of the law, however, to encourage promptitude and readiness to rescue property from danger by giving a suitable, but not excessive reward, according to the circumstances of each case.

The value of the boats in this case seems to have been quite small, not above \$250 each; and the coal on board of one of them was of the value of about \$400. One hundred dollars for the boat that was light, and \$150 for the other boat and cargo will, I think, be a sufficient compensation in this case.

The complaints made of the great haste of the libelant in filing his libel within a few hours after the boats were taken to Twenty-Eighth street, before reporting even to the owners of the boats where the boats were, and without previously making known his claim, or endeavoring to adjust it, are, I think, well founded, and must prevent the allowance of costs. Decree accordingly.

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THE RIVERSDALE.

THE ALLEN GREEN.

NICKERSON v. THE RIVERSDALE.

LAING v. THE ALLEN GREEN.

(District Court, S. D. New York. November 23, 1892.)

**COLLISION—BROKEN RUDDER CHAIN—DEFECTIVE EQUIPMENT—LOOKOUT.**

A steamer meeting a sailing vessel, put her wheel over to avoid her, when her rudder-chain, being defective, broke. No explanation of her insufficient equipment was offered. She thereafter backed and blew alarm whistles, but the sailing vessel, by reason of having no lookout, did not appreciate the steamer's disabled condition in time to avoid her, as she might have done. For the resulting collision, *held*, that both vessels were in fault.

In Admiralty. Libel by A. L. Nickerson against the steamer Riversdale, to recover damages for a collision with the schooner Allen Green, and cross libel by Arthur Laing against the schooner. Decree for divided damages.

Owen, Gray & Sturges, for the Riversdale.  
Robinson, Biddle & Ward, for the Allen Green.

BROWN, District Judge. At about half past 2 o'clock in the afternoon of May 24, 1892, as the steamer the Riversdale was steaming slowly up the upper bay a short distance below Bedloe's island, the starboard bow, about 20 feet aft of the stem, came in collision with the bowsprit of the schooner Allen Green, which was going down, and both received some damage, for which the above libel and cross libel were filed. The wind was about southwest—a fresh breeze, with occasional lulls. The schooner, when nearly ahead of the

steamer, was observed to be heading somewhat towards Bay Ridge, as if intending to haul over to the east side of the channel way. The pilot of the steamer thereupon gave the order to starboard; but in the attempt to execute that order the rudder chain broke, and the steamer consequently lost the use of her helm. Thereupon she shortly after stopped her engines, and reversed; and many witnesses in her behalf contend that she was actually going astern through the water at the time of the collision. The tug on her starboard side, fastened only by her bowline, had her stern swung out by the reversal of the steamer. This fact would seem to confirm the witnesses of the steamer that she was actually going astern before collision. She was previously proceeding under a slow bell, and the testimony indicates that there was ample time for her to have acquired sternway. Her witnesses contend that collision was brought about by the luffing of the schooner to the westward, and because the schooner paid no attention to the repeated sounding of danger signals, both from the Riversdale, and her tug, from the time that the rudder chain broke.

I think this collision arose from the fault of both vessels. The primary cause was the breaking of the rudder chain. A link of the broken chain was produced in court, and showed that it had lost one third of its area through long wear. The iron was of medium quality. At the time when it broke, there could not have been any unusual strain upon it. There being no other explanation, I must hold the vessel responsible, as for insufficient appliances and equipment, and neglect to keep her in a proper state of efficiency and repair. See *The Exc*, 52 Fed. Rep. 155. I can hardly treat as an additional fault the fact that the steamer did not reverse instantly, but only after the lapse of one or two minutes, that being from five to ten minutes before collision. She repeatedly sounded danger signals; and this, together with her evident reversal, ought, I think, to have been reasonably understood by the schooner, as an indication of disability, or of something unusual,—enough to put the schooner on her guard, and to keep out of the way.

The evidence shows that no lookout was maintained on the schooner. She had been just before dropped by a tug, and after the hawser was hauled in, her foretopsail was ordered set. The master was at the wheel, and the mate was seeing to the execution of this order. But the men refused to obey, and went aft to confer with the captain; and in the mean time no one was on the lookout. The captain heard only one danger signal, and that shortly before collision, which shows that the various previous signals were not noticed. The mate, who was claimed to have been acting as lookout, was not only performing other duties, but himself states that, after noticing the steamer while they were hauling in the hawser, he did not observe her until the "next occasion," when "the captain called out to him to know what the steamer was blowing for,—blowing her whistles," which, as just observed, is shown to have been only very shortly before collision.

The schooner claimed that the tide was slack low water, and that there was almost no wind, so that the schooner had no headway of her own. I am not persuaded of the correctness of either of these points. The other witnesses say that the tide was ebb, meaning that

the current was ebb. According to the almanac it was high water that day at about 7 P. M. The ebb current there continues to run down until within about three hours of high water at Governor's island; (The *Ludvig Holberg*, 36 Fed. Rep. 917, note, div. 3;) on this occasion, therefore, until about 4 o'clock—an hour and a half after the collision. The wind, moreover, is shown to have been fresh, viz.: from 12 to 14 knots; and though there were some lulls, these did not go below 7 knots; so that if a proper lookout had been kept, there was abundant opportunity for the steamer's disability to have been recognized, and ample wind and space for the schooner to have kept out of her way.

Decrees may be entered accordingly on each libel for one half the damages and costs.

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FABRE v. CUNARD STEAMSHIP CO., Limited.

Circuit Court of Appeals, Second Circuit. October 4, 1892.

No. 45.

1. COLLISION—BETWEEN STEAMSHIPS—FOG.

The steamship *Umbria*, capable of 19½ knots per hour, bound from New York to Liverpool, having passed Sandy Hook and discharged her pilot, was on a course E. by S. ½ S., about six miles off Rockaway beach, Long Island, running full speed in a dense fog, sounding her whistle every minute or two. A faint whistle was heard, which seemed to be two or three points on her starboard bow. She was then slowed a few moments to about 13 or 14 knots, when the whistle was again heard, more distinctly, and in about the same direction. The master thereupon ordered full speed ahead. In about two minutes the steamer *Iberia* loomed into sight about two lengths ahead. The *Umbria's* engines were immediately reversed, and her helm ported, but she struck the *Iberia*, cutting her in two. *Held*, that the *Umbria* was guilty of reckless navigation in disregarding the rule requiring steamers to slow in a fog, and in assuming that she was clear of the *Iberia's* course. 40 Fed. Rep. 893, affirmed.

2. SAME.

The *Iberia* was approaching Sandy Hook from the eastward, drawing towards the Long Island coast on a course of W. N. W. She was capable of 9½ to 10 knots an hour, but was running about 4 knots. She heard the *Umbria's* whistle about two points on her port bow, and was immediately put two points to starboard, blowing a short whistle. She was kept on this course, though the whistle was heard three or four times with increasing distinctness on her port bow, until the *Umbria* was seen, 900 feet away, and about five points on her port hand. Her engines were then put full speed ahead to cross the *Umbria's* course, but she was unable to escape, and was hit at an angle of six or seven points, her stern being cut completely off. *Held* that, in view of the *Umbria's* apparently rapid approach on a crossing course, it was the *Iberia's* imperative duty to stop until she could obtain a clear understanding of the *Umbria's* course, and she, too, was at fault in failing to do so, and the case was one for divided damages. Shipman, J., dissenting. 40 Fed. Rep. 893, reversed.

3. SAME—DAMAGES—TOTAL LOSS—SUBSEQUENT FREIGHT.

In case of destruction of a vessel by collision the recovery is limited to her value, with interest from the time of the loss, and freight which would have been earned on the particular voyage, and there can be no recovery of net freight which would have been earned on a subsequent voyage from the port of immediate destination, and for which the vessel was already engaged. 46 Fed. Rep. 801, reversed.

4. SAME—BOUNTIES.

In case of destruction by collision, the fact that the vessel would have been able to earn a bounty under the law of her nationality is an element of value proper to be considered, but no allowance can be made for loss of bounty.