

App. 20; *Railroad Co. v. McDade*, 135 U. S. 554, 10 Sup. Ct. Rep. 1044; *The Serapis*, 51 Fed. Rep. 91.

On the whole I cannot regard the case of the libelant as sufficiently established; and the libel must, therefore, be dismissed.

THE JOHN H. MAY.

THE ORION.

THE OAKLAND.

RIGGS v. THE ORION AND THE OAKLAND.

(District Court, E. D. Pennsylvania. January 17, 1893.)

No. 26.

COLLISION—DAMAGES—DETENTION BY STORMS.

A schooner, bound from New York to Jacksonville, Fla., was injured by a collision occurring without her fault while at anchor in the mouth of Chesapeake bay, and was compelled to put into Norfolk for repairs. After the repairs were made, she again started on her voyage, but before reaching the place of collision was compelled by bad weather to put back to Hampton Roads, where she was detained by the storm for several days. *Held*, that she was not entitled to damages for this detention, as it was not such a probable consequence of the collision as might have been foreseen.

In Admiralty. Libel by Riggs, master of the schooner John H. May, against the steamer Orion and the barge Oakland for a collision. The latter vessels were heretofore adjudged to have been alone in fault. 52 Fed. Rep. 882. The cause is now heard upon a case stated for the assessment of damages for detention of the schooner by bad weather after repairs were completed. Claim denied.

The case stated was as follows:

"The schooner John H. May, on a voyage from New York to Jacksonville, Florida, was run into by the Orion and Oakland, while lying at anchor in the mouth of Chesapeake bay. The Orion and Oakland have been adjudged in fault for the collision. The schooner was seriously damaged, and was obliged to put into Norfolk, Virginia, for repairs. The repairs were made, and in coming out from Norfolk, and before getting back to the place in the mouth of Chesapeake where the collision happened, the May was unavoidably detained in Hampton Roads by stress of weather from February 19th to March 1st. Upon the latter date she again reached the point on her voyage where the collision occurred. Compensation is claimed by the libelants, as part of the damage arising from the collision, for this detention of eleven days at Hampton Roads. This claim is resisted by the respondents as too remote. Are the libelants entitled to compensation for this delay?"

Curtis Tilton, for libelant.

Morton P. Henry, for respondents.

BUTLER, District Judge. The question presented must be decided in the respondents' favor. The detention at Hampton Roads was not the direct result of the collision, but of the tempestuous weather which arose subsequently. It was not a probable con-

sequence of the accident, such as should have been foreseen, and is therefore too remote to be chargeable to it.

Furthermore the libelant was virtually back at the place of collision when the detention occurred. She was but eight or ten miles away, and it may be assumed that she could safely have gone this distance, especially with the aid of a tug. She did not go further doubtless because the storm forbade a continuance of her voyage to sea, and made it necessary to seek a harbor somewhere. The safest and most convenient was Hampton Roads, and she therefore stopped here. Had she gone further down she must have returned or sought harbor elsewhere. I do not understand it to be urged that if the storm had arisen after reaching the place of collision, or if the detention had occurred afterwards, such detention would be chargeable to the accident. Of course it would not be. As well might it be said that all detention on the subsequent voyage, from similar cause, (which might probably have been escaped but for the collision,) should be so charged.

THE H. S. NICHOLS.¹

THE CERES.

THE G. W. WRIGHT.

THE JAMES T. EASTON.

DU BOIS v. THE H. S. NICHOLS and THE CERES.

SAME v. THE G. W. WRIGHT and THE JAMES T. EASTON.

(District Court, S. D. New York. January 4, 1893.)

1. COLLISION WITH WRECK—NEGLIGENCE—PILOT—IGNORANCE OF CHANNEL.

The tug Ceres, in taking a mud scow to sea from New York harbor by Coney island channel, ran the scow aground. Thereafter the tug Nichols, passing through the channel with libelant's scow No. 3 in tow, ran No. 3 upon the stranded scow of the Ceres with such force as to cause No. 3 to sink. The owners of the Nichols sent the tug Wright to stand by No. 3 during the night and warn other vessels of the wreck, but in spite of the presence of the latter tug, with two red lights set, the tug Easton came down the channel, and ran her tow upon the sunken No. 3, inflicting on it further damages. The owner of No. 3 brought these suits against all four of the tugs, alleging negligence in their failure to give proper signals on the part of the Ceres and the Wright, and negligence in failing to observe and keep out of the way of the grounded scows on the part of the Nichols and the Easton. *Held*, that questions as to lights and signals were immaterial, as the Ceres and the Wright gave signals which were sufficient to warn an approaching vessel of some danger, and that the fundamental cause of the collision was a lack of knowledge of the true channel, and the proper way of navigating through it, on the part of the masters of the Nichols and the Easton, which rendered those tugs alone liable for the damages.

2. SAME—COLLISION WITH WRECK—SIGNALS REQUIRED.

In a dangerous place, some notice of the presence of a wreck is a reasonable obligation on the part of the owner of such wreck; but, no special signals being prescribed, any plain signals that naturally serve as a warning to keep off are sufficient.

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