

tance; each was showing to the other her red light, and the officers of the Skeer were the first to give proper signals to indicate that she would go under the Robinson's stern. It seems scarcely credible, therefore, that they should not have noticed the two staff lights of the Robinson, if at that time two had been showing; nor, if they had noticed two, that they should a few moments afterwards have charged the master of the Skeer with having but one. Their testimony is confirmed by the man on the Jones, who came on deck when the scow was only 100 feet away, and is quite positive that there was but a single pole light then burning. A rigid cross-examination seems to me to have been well supported by him, and I do not think it is shown that he was not in a position to see the tug and her staff lights before collision. It is, however, possible in his case that the time of noticing the pole light may have been transposed.

I do not attach very much weight to the testimony of several of the witnesses for the Robinson, who think they saw the two pole lights shortly before collision. They had no duty in regard to it; and there was nothing to call their attention to it. The pilot and mate of the Skeer, on the other hand, were navigating in reference to the Robinson, as their original whistle to her shows, and designed to go under her stern; and from the time she was first seen by them until they passed from 200 to 400 feet abreast of her, there was abundant opportunity to see the lights she carried; and as the Skeer was crossing the Robinson's course under her stern, it seems to be, as above stated, incredible that they should not have paid sufficient attention to see whether she indicated a tow or not, or should not have seen both the staff lights, if they were properly burning. Upon these circumstances and the testimony, therefore, it seems to me that the weight of probability is in favor of the Skeer.

In one other regard I think the Robinson ought, also, to be held in fault; namely, for the unusual length of hawser which she was using for the scow in that situation. The evidence leaves no doubt that it was customary, in towing light scows up the bay, to shorten the hawser to about 100 feet off Red Hook, or in that neighborhood. This was expected by the men on board the Robinson that night; and they were in attendance for that purpose, as appears from their testimony; but it was not shortened. The Skeer crossed the Robinson's course about 400 feet astern of her, and this was twice the distance of an ordinary scow-tow upon a hawser in that region. The scow was not seen by the Skeer until within one or two hundred feet of her, when orders to reverse were immediately given, but too late. There is no doubt that the Skeer was misled, or misunderstood the situation. An unusual length of hawser would contribute to mislead her, even if there had been two staff lights, and these lights had been seen. The unusually long hawser might account for the collision, even if the story of the Skeer in regard to the lights was held to be a fabrication; that is to say, if both lights had been burning, and had been seen by the pilot and mate of the Skeer, since they might have supposed that they went a sufficient distance astern to avoid any stern tow of the Robinson. But this seems hardly credible

upon such a moonlight night. For the Skeer passed the Robinson near enough to see whether the tow, which two pole lights would have indicated, was alongside, or was astern; and it being plain enough that no tow was alongside, it must have been looked for astern. So that if two lights had been visible and seen, it does not seem credible that the collision should have taken place. I think the Robinson must, therefore, be held in fault both for failure to display proper staff lights, and for the unusual length of hawser.

The Skeer must, also, be held in fault for lack of vigilance in observing the scow. She was not only a large object some 12 or 15 feet out of water, easily seen on such a moonlight night, even without lights, in ample time to avoid her; but the evidence also leaves no possible doubt that she had white lights displayed and visible, to which no attention was given until the Skeer had approached within 100 or 200 feet of her. No doubt the fact that the scow was moving through the water, distinguishes the case somewhat from that of running into a similar boat at anchor; but the failure to observe her altogether until she was so near, deprives the Skeer of any defense on that ground, since it wholly fails to meet her negligence in observation, with which I must hold her chargeable. The nonobservance of the scow evidently contributed to the collision; and each must, therefore, contribute to the loss. No fault is proved against the scow. The libelants are each, therefore, entitled to a decree against the Robinson and the Skeer; and the libel as respects the scow must be dismissed. Decrees accordingly.

THE LIME ROCK.¹

DONNELLY et al. v. THE LIME ROCK.

(District Court, S. D. New York. March 30, 1893.)

COLLISION WITH BULKHEAD — MOVING VESSEL FROM BERTH — NECESSITY FOR CAUTION.

The steamboat E. was moored alongside a bulkhead in Gowanus creek, and outside of and moored to her was libelants' canal boat A. The steam lighter L. R., desirous of reaching her berth, which the E. was occupying, put her bow against the stern of the E., and pushed her forward; libelants' canal boat accompanying her. The forward motion, however, parted the canal boat's stern line to the E., and when the latter was checked the canal boat ran ahead, and into the bulkhead, receiving injuries from which she sank. The claimants denied that the canal boat struck the dock at all, and averred that the accident must have been caused by a floating log. *Held*, that the weight of evidence sustained the libelants' contention, and that, while the L. R. had the right to move the canal boat in order to reach her berth, she was bound to do so in a way to avoid accident, and was liable for her failure to use reasonable precautions.

In Admiralty. Libel for damage to canal boat by pushing her against a bulkhead. Decree for libelants.

Hyland & Zabriskie, for libelants.
Benedict & Benedict, for claimants.

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