

THE LOWELL M. PALMER.

MACE v. THE LOWELL M. PALMER.¹

(District Court, S. D. New York. October, 1893.)

COLLISION—STEAM VESSELS MEETING—PROPER SIDE OF CHANNEL—INATTENTION TO SIGNALS.

A steamship and a tug with a tow met in the East river, the tow going up and the steamship coming down. When the tug was below the East River bridge, she three times gave a signal of one whistle to the steamship, which signals were disregarded, and no whistles blown to the tug, until too late to be of any use. The steamship was on the left-hand side of the river, and improperly directing her course towards the Brooklyn shore. There were no obstacles to prevent her going on the New York side. The tug backed as soon as danger of collision became manifest. *Held*, that the steamship was solely liable for the collision.

In Admiralty. Libel by Alfred E. Mace against the tug **Lowell M. Palmer** for collision. Dismissed.

Convers & Kirlin, for libellant.

Benedict & Benedict, for respondent.

BROWN, District Judge. On the 11th of May, 1892, the steamer **Cilurnum**, 300 feet long, and of about 1,370 tons register, bound down the East river, soon after passing the Brooklyn bridge came in collision with a railroad float in tow of the tug **Lowell M. Palmer**, the starboard corner of the float striking the starboard side of the steamer and breaking in some plates, for which damage the above libel was filed.

There is great contradiction in the evidence, both as to the place of collision, and the relative positions of the two vessels during the few minutes previous. In all essential particulars, however, the witnesses for the respondent,—many of whom are from other vessels and apparently wholly disinterested—evidently predominate, and are entitled to superior credit. They establish, without doubt, the fact that the collision was abreast, or very nearly abreast of the **Fulton Ferry** slip, on the Brooklyn side, and not more than from two to four hundred feet from the dock; that the **Palmer**, being upon the Brooklyn side of the river, when at least a quarter of a mile below the bridge, saw the **Cilurnum** above the bridge, and three times gave her a signal of one whistle, indicating that the vessels should each pass to the right, that is, port to port; that the **Palmer** directed her course still more to the Brooklyn shore; that no attention or answer was given by the **Cilurnum** to these whistles, nor any whistles blown by her to the **Palmer**, except two whistles given when she was quite near,—within two or three hundred feet, and too late to be of any use; that the **Cilurnum** was herself on the left-hand side of the river, and improperly directing her course somewhat towards the Brooklyn shore; that the angle of collision was nearly a right angle, and that the **Palmer** backed, until at the collision she was heading nearly straight across the river towards the **Fulton Ferry** slip; and that there were no

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

obstacles in the river to prevent the steamer from going to the right, on the New York side.

Under these circumstances, the steamer is plainly in fault, for not observing the whistles of the Palmer; for not going to the right, as was her duty in that situation; and for making over, on the contrary, towards the Brooklyn side of the river. The Palmer seems to me to have done all that was incumbent upon her, in the endeavor to avoid collision; and the libel must, therefore, be dismissed, with costs.

PRENTICE et al. v. UNITED STATES & CENTRAL AMERICAN STEAMSHIP CO., (two cases).¹

(District Court, S. D. New York. November 6, 1893.)

CHARTER PARTY—GENERAL AGENT OF COMPANY—AUTHORITY TO CHARTER.

When a steamship company, having no vessels of its own, had, by authority in writing, duly constituted one W. its general agent, and he chartered two steamers by the authority of the board of directors, as he testified, but which authority was denied, and it appeared that he had previously chartered other vessels by similar charters, and the letter heads of the company expressly stated that W. was its general agent, and libellant dealt with him as such, *held*, that in such a case it was not necessary to produce record evidence of action by the board of directors, in order to bind the company; that W. had authority to make the charters; and that the company was liable to the shipowner for its refusal to accept the vessels under the charters.

In Admiralty. Libels for damages for refusal to accept chartered steamers. Decrees for libellants.

Convers & Kirlin, for libellants.

F. E. Burrows, for respondents.

BROWN, District Judge. The above two libels were filed to recover damages for the refusal of the respondents to accept the steamships Aracuna and Burnley under two charters, dated March 21, 1893. The charters were negotiated and signed by R. Williams, Jr., the general agent of the respondents. The signature was "For the United States & Central American Steamship Company, R. Williams, Jr., General Agent." Due tender of the steamers was made to the defendant company, which refused to accept them. The defense is, an alleged want of authority in Williams to execute the charters on the defendant's behalf.

The defendant was incorporated under the laws of West Virginia in 1892, for the purpose, among other things, of carrying on a maritime business in the transportation of passengers and freight between New York, Jamaica, and Central America. The company had no steamers of its own. It had entered upon its business, however, a few months before by the chartering of two other steamers before the present, both of which were chartered under instruments executed in the same manner as the charters in the present case. Williams, by due authority in writing, had been made the general agent of the company. He testifies that all the particulars of the negotiation before these charters were signed, were re-

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