the master; $150 for the first officer, Chichester; $50 for the three seamen who were put aboard the schooner; $200 for the other officers and men on board the steamer, to be distributed in proportion to their wages; and the residue, $3,215.24, to the owners of the Seminole, besides the $2,885.46 expenses above mentioned.

A decree may be entered in accordance herewith.

THE S. W. MORRIS.[1]

PETRIE v. THE S. W. MORRIS.

NEWARK CHEMICAL WORKS v. SAME.

(District Court, S. D. New York. December 16, 1893.)

TOWAGE—STRANDING—OUT OF CHANNEL.

For getting upon rocks outside of the channel way at low tide without excuse, a tugboat is liable to her tow.

In Admiralty. Libels to recover damage to a tow and her cargo. Decree for libelants.

Goodrich, Deady & Goodrich, for Chemical Works.
Stewart & Macklin, for Petrie.
Hyland & Zabriskie, for claimants.

BROWN, District Judge. About noon on the 9th of August, 1893, the steam tug S. W. Morris, in towing the canal boat J. B. Devine alongside through the Kills towards Newark bay, ran upon a rock, or rocks, at low water, from 150 to 200 feet south of Bergen Point light, to the damage of the tow and cargo, for which the above libels were filed.

The evidence leaves no doubt that the shore off the Bergen Point light was known to be rocky and unsafe for loaded canal boats at low tide. The place of stranding was north of the proper channel course, which was at least 300 feet from the lighthouse. In the channel there was plenty of water, and plenty of space for navigation. Navigation out of the channel is at the risk of the tug, and not of the tow, which is without fault. It is not necessary that the pilot should have knowledge of the particular rock on which he strikes. His business is to keep the usual course, according to the time of tide, when he is navigating. For getting upon rocks out of the channel way without excuse, the tug is answerable. The Mascot, 48 Fed. 917, affirmed 6 C. C. A. 465, 57 Fed. 512; The Robert H. Burnett, 30 Fed. 214; The Ellen McGovern, 27 Fed. 868; The Ceres, 53 Fed. 667.

Decree for libelants.

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

MAYOR, ETC., OF CITY OF NEW YORK v. WHITE et al.[1]

(District Court, S. D. New York. December 26, 1893.)

PRACTICE—JOINDER IN REM AND IN PERSONAM—REVIVAL OF SUIT AGAINST EXECUTOR—ANCIENT CLAIM.

When process in a collision case was issued against both vessel and owner, and the owner afterwards died, and his executor qualified, and was thereafter discharged, and some 19 years after the collision the libelant moved to revive the suit against the personal defendant by bringing in the executor, it was *held* that the motion should be denied.

In Admiralty. Motion to revive suit denied.

Jas. M. Ward, Asst. Corp. Counsel, for libelant.
John C. McGuire, for defendant.

BROWN, District Judge. An examination of the libel, filed January 14, 1874, shows that it was brought for a collision between the steamboat Americus, then belonging to the defendant, R. Cornell White, and the libelant's steam propeller Hope, used by the department of public charities and correction.

The process was in rem against the vessel, and in personam against the owner. The vessel was arrested, and released on stipulation. The defendant in personam answered, among other things, that he was improperly joined as a defendant. The owner afterwards died; his executor qualified in 1884, and was discharged by the surrogate in 1886. The libelant now moves that the action be revived as respects the personal defendant, by bringing in his executor. Had the joinder of the defendant in personam been excepted to after the arrest and release of the vessel in rem, the exception would have been sustained, as such a joinder is not allowed by the rules of the supreme court in an action for collision. This is a sufficient reason, aside from the discharge of the executor long since, why no order for the revival of the action as against any executor should be allowed. The action in rem can proceed upon notice to the former executor and to the sureties, unless on their motion it be dismissed for laches and want of prosecution.

THE ITALIA.[1]

KANTER v. THE ITALIA.

(District Court, S. D. New York. December 28, 1893.)

1. SHIPPING — DAMAGE TO CARGO — RATS—NOTICE TO SHIPOWNER — DUTY TO TAKE DUE PRECAUTIONS.

Considering the well-known liability of lead pipe to be gnawed by rats, when a vessel has already suffered from such cause, and it is found that the rats cannot be subdued, reasonable prudence requires that the pipes which run amidst cargo liable to suffer water damage, and not open to inspection during the voyage, should be protected by a hard metal covering, or be replaced entirely by iron pipes. Failing such precaution, the liability to such water damage is at the risk of the ship.

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