

injury arising from the conditions existing above. A master may not place his servant at a work made dangerous by the nature of the work of other servants, or persons performing work under contract, without due effort to furnish adequate protection, and, when injury arises, escape upon the plea that, but for the negligence of a co-servant or third person employed on the premises, the injury would not have happened. A servant may expect that his master will not surround him with dangerous agencies, or expose him to their operation, whether they are in charge of the master's servants or of any independent contractor. The rule is well illustrated, if the block was dropped by one of the crew, by *Ford v. Lyons*, 41 Hun, 512, which, in all its facts, is similar to the case at bar. See, also, *Stephens v. Knitting Co.*, 69 Hun, 375, 23 N. Y. Supp. 656, and *Daley v. Schaaf*, 28 Hun, 314, where, however, an element existed not now present. If the block was dropped by the servants of an independent contractor, the case is illustrated by *Burnes v. Railroad Co.*, 129 Mo. 41, 56, 31 S. W. 347, and *Rook v. Concentrating Works*, 76 Hun, 54, 27 N. Y. Supp. 623.

It must be considered that this case is quite different from one where the master employs his servant generally in a building undergoing repairs by an independent contractor, and the servant comes in contact with the work which the contractor is doing, and is injured thereby. Such was *Conway v. Furst*, 57 N. J. Law, 645, 32 Atl. 380. In the case at bar the master had called in some men to do distinct work in the lower hold of the vessel, unconnected with the servants in the between-decks or the contractor's servants on the main deck, against whose acts the persons in the lower hold could not protect themselves, and against which the master had furnished no protection.

Therefore the libellant should recover, but his injuries were, fortunately, quite limited. During the day after the accident he was about, in a state of intoxication, and the surgeon states that his injury was of slight duration. He should be allowed for four weeks' loss of time, or \$60, and \$50 should compensate him for any discomfort arising from the slight wound received. Let a decree be entered for \$110, with costs.

## THE COLUMBIAN.

(District Court, D. Massachusetts. February 9, 1899.)

No. 956.

## 1. COLLISION—EXCESSIVE SPEED IN FOG.

Nine or ten knots at any time or place is excessive speed for a vessel in a fog, and the custom of ocean steamers to make such speed or greater will not relieve one of them from legal liability, under the international rules, for a collision occurring under such circumstances.<sup>1</sup>

## 2. SAME—NEGLIGENCE OF SCHOONER—INSUFFICIENT PRECAUTIONS IN FOG.

A collision occurred about midnight, in a fog, between the ocean steamer *Columbian* and the schooner *Doughty*, which was on the banks for fish. The steamer was making an excessive speed, and the schooner was neither at anchor nor quite under way nor under control, but was making about two knots an hour. There was no man at the wheel, but her helm was lashed. Only two men were on deck. She had no torch nor flare-up ready for use, and was otherwise insufficiently lighted, and her fog horn was not regularly sounded. *Held*, that the schooner as well as the steamer was in fault.

This is a libel for collision by Horace M. Sargent and others against the steamship *Columbian*.

Benjamin Thompson, for libelants.

Lewis S. Dabney and Frederic Cunningham, for claimant.

LOWELL, District Judge. This is a libel for damage caused by a collision between the large ocean-going steamer *Columbian* and the schooner *Doughty*. The *Columbian* was bound from London to Boston. The schooner was on a voyage to the banks for sword fish. The collision occurred on the La Have banks, shortly before midnight, on August 30, 1898. There was a fog, which had set in about 11 o'clock. From the evidence, I find that the *Columbian* was headed W. by N., and was proceeding at from nine to ten knots an hour, when she heard the fog horn of the *Doughty* about a point on her port bow. The steamer's engines were thereupon stopped. A minute later, or thereabouts, the officers and those on the lookout saw almost under the steamer's port bow the white light of the schooner, and heard her fog horn a second time. The order was immediately given to put the engines full speed astern, and the helm hard a-port. This was done, but neither the steamer's speed nor its course was seriously affected thereby before the collision. The bluff of the *Columbian*'s port bow struck the starboard anchor of the *Doughty*, doing trifling damage; but a projecting part, probably the crown, of the steamer's port anchor, caught the jibstay of the schooner, and tore out everything forward, bringing down the fore-topmast, and breaking off the mainmast, about 12 feet from the deck. The steamer forged by, and lost sight and hearing of the schooner. With commendable care, Capt. Masters of the *Columbian* lay to, sent out a boat, and, after about two hours of searching, heard a gun fired from the schooner; soon after-

<sup>1</sup> As to speed of vessels in fog, see note to *The Niagara*, 28 C. C. A. 532, and note to *The Mount Hope*, 29 C. C. A. 368.