SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

The Corsica

The Corsica

SooperKanoon Citation : sooperkanoon.com/81812

Court : US Supreme Court

Decided On : 1869

Appeal No. : 76 U.S. 630

Appellant : The Corsica

Judgement :

The Corsica - 76 U.S. 630 (1869)
U.S. Supreme Court The Corsica, 76 U.S. 9 Wall. 630 630 (1869)

The Corsica

76 U.S. (9 Wall.) 630

APPEAL FROM THE CIRCUIT COURT FOR

THE SOUTHERN DISTRICT OF NEW YORK

SYLLABUS

Where two vessels, moving under steam, are crossing so as to involve a risk of collision, if the ship which has the other on her starboard does keep out of the way of the other, as a ship in that position is directed to do by the Rules of Navigation adopted by Congress, by the Act of April 29, 1864, and a collision occurs, from the other vessel's not having kept on her course -- as under the said rules, it is

impliedly her duty in such a state of movements to do -- the obligation rests on this last vessel to show sufficient causes existing in the particular case which rendered a departure from the rule necessary to avoid an immediate danger.

Page 76 U. S. 631

Appeal from the Circuit Court for the Southern District of New York, affirming a decree of the district court of said district, in which latter court Samuel Schuyler, owner of the steamer *America,* had libeled the steam propeller *Corsica,* one of the steamers of the Cunard line, for damages which his vessel had suffered by being, as he alleged, run into by the *Corsica,* in the harbor of New York. The collision occurred on the 9th of September, 1865, about midday; the weather having been clear, and the vessels for some time previously in plain sight of each other. The libeled vessel, the *Corsica,* laid the blame of the disaster wholly on the other steamer. The district court decreed for the libellant; the circuit court affirmed that decree, condemning the *Corsica* in $33,000 damages and costs. Whereupon the owners of the *Corsica* appealed to this Court.

MR. JUSTICE BRADLEY stated the facts, and delivered the opinion of the Court.

The pleadings and evidence in the case show that the *Corsica,* having just steamed out from her dock, preparatory to her outward passage, had turned her stem southwardly, and was proceeding, at a distance of about three or four hundred yards from the line of the Jersey City wharves, straight down the river towards the Narrows. The evidence as to her speed is contradictory. Her master says about five or six knots an hour; the master of the *America* says eight or nine knots, and the pilot, seven or eight miles. The chief engineer of the *Corsica* says she was gradually increasing her speed, and had got up to fifteen revolutions per minute; that at full speed she made twenty-five revolutions and ten knots an hour. Fifteen revolutions would therefore make about six knots, which is equivalent to seven miles an hour. A

Page 76 U. S. 632

number of vessels were at anchor on the westerly side of the river, and some to the east; amongst others two ships nearly opposite the Battery, one a little southerly of the other. Whilst the *Corsica* was thus starting on her course, the *America* came around the Battery from the East River, at a speed of about six miles an hour, passed between the two ships above mentioned, and directed her course across the river in a diagonal line, making for her wharf in Jersey City, where she was accustomed to take in coal and water. Her

image:a

course lay across that of the *Corsica,* and the men on the two vessel vessels each saw the approach of the other when they were about four hundred or five hundred yards apart. From the course the vessels were respectively pursuing, the one southerly, nearly in line with the river, and the other northwesterly,

in a diagonal line, the *Corsica* was off the starboard bow of the *America,* and the latter was off the larboard bow of the *Corsica.* Both being steamers and standing on an equal footing, they were subject to the following rule, adopted by Congress in the Act of April 29, 1864: *

"If two ships under steam are crossing so as to involve risk of collision, the ship which has the other on her own starboard side shall keep out of the way of the other."

This rule made it the duty of the *America* to keep out of the way of the *Corsica,* and by implication the corresponding and reciprocal duty of the *Corsica* to keep on her course. It can hardly be doubted from the evidence, taken together, that had the *Corsica* kept on her course, the collision would not have occurred. The diagrams furnished by the counsel for the appellants render this fact very clear and demonstrable. But instead of doing this, the persons in charge of the *Corsica* just before the collision occurred ordered her helm hard a-starboard, and thus turned her right upon the *America,* which, as in duty bound, was backing out of her way. It is so apparent that this was the immediate cause of the disaster that it

casts the burden of proof upon the appellants to show a sufficient cause in the conduct of the *America* to justify such a sudden change of course. We have carefully examined the testimony to see if anything of the kind was elicited, and have failed to find it. It is admitted by the pilot of the *America* that his first intention was to pass ahead of the *Corsica,* but seeing that it was risky, he took the more prudent course of stopping and backing. The master of the *Corsica* says in effect that the *America* had got right ahead of him, in his way, and he was obliged to turn to the left as the best means of avoiding or diminishing the danger. Now the diagram of the courses of the two vessels shows that this could not have been so until the *Corsica* had herself changed her course. And the master of the *Corsica* admits that instead of keeping her course, her helm was starboarded, and

Page 76 U. S. 634

her course was altered two points for the purpose of passing under the stern of the *America* soon after the latter vessel was discovered. This, if so, was the first error. It was the business of the *Corsica,* as we have seen, to have kept on her course. After this, perceiving the danger she had brought upon herself, her helm was again starboarded and the collision ensued. According to the master of the *Corsica's* own account, therefore, the accident occurred in consequence of her assuming to perform the duty which devolved on the *America* under the Congressional rule above quoted.

It is also evident that the *Corsica* was under considerable headway when the collision occurred. The force of the blow proves this. The *America* did not contribute to the effect of the blow, for the weight of the evidence is that she was backing away from the *Corsica* at the time. The fact is that the latter vessel was under too much speed for the place she was in -- a crowded harbor spotted with vessels at anchor and in motion. This made her headway uncontrollable and accounts for the fact that although her officers tried to check her speed, they were only very partially successful.

We are satisfied that the decree of the circuit court was right, and ought to be

Affirmed.

* 13 Stat. at Large 60.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com