35TH CONGRESS, 1st Session. } SENATE. { REP. COM. No. 133.

IN THE SENATE OF THE UNITED STATES.

MARCH 24, 1858.—Ordered to be printed.

Mr. HAMMOND submitted the following

REPORT.

The Committee on Naval Affairs, to whom was referred the petition of Martin Hubbard, praying indemnity for the loss of a vessel owned by him, which was run into and sunk by the United States steamer Engineer, Captain Lovell, have had the same under consideration, and ask leave to report as follows:

The facts of the case, as gathered from the statements of Captain Lovell, his pilot, and a seaman, on one side, and Captain Turner and a seaman on the other, are these: On the night of the 6th May, 1856, which was very dark and rainy, the "Engineer" was going down the Chesapeake from Annapolis to Norfolk, when she discovered a light, which was supposed to be Lookout light, and made for it. It was soon ascertained to be the light of another vessel, which proved to be the schooner "Buena Vista," owned by the petitioner, commanded by Captain Turner, and bound for Baltimore. Had Captain Turner pursued his course, or the "Engineer" hers, the collision could not have happened; but when the "Engineer" by mistake stood for the schooner, Captain Turner changed his course, and stood for the steamer, and very soon the two vessels were within hail. Captain Lovell put his helm hard a starboard, to avoid collision, and ordered Captain Turner to port, which order, if executed, would have prevented it. But the mainsail of the schooner was down for reefing, and she had no after sail, and in consequence instead of going about she "forged ahead," and run into the after part of the steamer's starboard wheelhouse, and sunk directly, but not before the men were all taken off by Captain Lovell. The wind was southward and eastward, and the original course of the schooner was N.N.W., with the wind, and that of the steamer S.S.E., against the wind. There is no mention of the rate at which the steamer was running, nor does it appear that any order was given to stop the engine before the collision.

On these facts the petitioner claims indemnity for his losses to the extent of twenty-five hundred dollars, at which his vessel was valued; and the captain three hundred and seven dollars for his losses; and

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David Dam, one of the crew, seventy-four dollars and fifteen cents for his.

Had the "Engineer" not made the mistake about the light, and changed her course, there would have been no collision; and perhaps it might have been prevented had the attempt been made to stop the engine when the schooner was hailed. And as the law is well established that steamers must always give way to sailing vessels, the Engineer was clearly responsible for this change of course, though made by mistake, and for not, at least, trying to stop her engine. On the other hand, the schooner was greatly in fault and responsible for changing her course and standing for the steamer for no other alleged reason than that the steamer was standing for her; and, also, for not being in a condition to come to and go about, which would have prevented the collision. Perhaps it was the full belief of Captain Lovell that the schooner could go about, which made him omit to order the engine stopped. It is highly probable that she could have done it had she been under proper canvas.

Under all the circumstances of this case, the testimony on both sides being *ex parte*, and not full as regards details, the committee think that they cannot with justice offer any opinion upon it. It should be investigated by a court of law, in which all the facts could be fully drawn out; and as it has not yet been decided that the United States is bound to pay damages for the carelessness or unskillfulness of persons in public employment, the committee beg leave to be relieved from further consideration of the subject.