

THE AMOS C. BARSTOW.

District Court, E. D. New York. April 3, 1882.

COLLISION—APPROACHING HEAD ON—DUTY TO PORT HELM.

Where a sail-vessel and a tug were approaching each other head on, or nearly so, and a collision ensued, *held*, that the tug was in fault in not porting her helm.

Carpenter & Mosher, for libellant.

Miller, Peckham & Dixon, for respondent.

BENEDICT, D. J. There is in this case an abundance of conflicting testimony, but the controlling facts can be discovered without much difficulty. The two vessels were rounding the lower point of New York island, sailing in opposite directions on curved lines; the Amos C. Barstow being bound into the North river, and the tug bound to pier 3, in the East river. They came in collision off pier 2, in the East river. At the time of the blow both vessels were bearing in towards the New York piers, the Barstow under a port helm, and the tug under a starboard helm. If the vessels, as they neared each other, were approaching head on, or nearly so, the tug was of course in fault, because under such circumstances it would be her duty to port her helm instead of starboarding, as she did. That the vessels were approaching head on or nearly so, as they neared each other, is disclosed by the testimony of the pilot of the tug. From the testimony of this witness it is evident that he saw the Barstow approaching him nearly head on; that he starboarded his helm, although he saw that the Barstow was then porting; and that the collision was caused by an effort on his part to shoot in to pier 3 ahead of the Barstow, when it was his duty to allow the Barstow to pass between him and pier 3, as she had the right and was evidently intending to do.

My conclusion, therefore, is that the collision in question was caused by the fault of the tug, and not by any fault on the part of the Barstow, and accordingly the libel is dismissed, with costs.

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