

THE NORTH STAR.<sup>1</sup>  
STORCK *v.* THE NORTH STAR, ETC.

*District Court, S. D. New York.*

November 19, 1886.

COLLISION—TWO SCHOONERS—ATTEMPT TO CROSS BOWS—FAILURE TO  
KEEP COURSE—APPORTIONMENT.

Where the schooner L., sailing free, and the schooner N. S., sailing close-hauled, approached each other nearly head on, in the night, and, when about abreast of the Stepping Stones light, in Long Island Sound, came in collision, it was held that the collision was due to the fault of both vessels,—the fault of the L. being an attempt to cross the bows of the N. S., by putting her helm hard a-port, when the circumstances did not justify porting; the fault of the N. S. Consisting of a failure to keep her course, which the fact of her being close-hauled required.

In Admiralty.

*Shipman, Barlow, Larocque & Choate*, for libelant.

*Abel Crook*, for claimant.

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BROWN, J. The collision in this case took place on the night of the sixteenth September, nearly abreast of the Stepping Stones light, a little over a mile N. N. E. of Throg's Neck. The libellant's schooner was bound outward, and the schooner North Star bound inward. The channel course there runs N. N. E. and S. S. W. The evidence shows that the wind must have been a little south of west, and that the North Star was sailing close-hauled upon the starboard tack. The Lillie, in rounding Throg's Neck, as her captain states, kept well off from the buoy, and was therefore probably a little to the eastward of the channel course which the North Star was pursuing. As the Lillie was rounding Throg's Neck, each saw the other's green light, when they must have been some two miles apart. The captain and lookout of the Lillie testified that the two vessels seemed to be approaching nearly head on; that the lights of the North Star changed several times from green to red and red to green; that he steered, not by compass, but by the Stepping Stones light, keeping it to leeward. Shortly before the collision he put his helm hard a-port, and the North Star struck the Lillie about amid-ships, and nearly at right angles, as both sides agree.

The captain of the Lillie states that the North Star seemed to be following him, as he kept off to the eastward, and charges the collision to that cause. The captain of the North Star testifies that he kept her upon her course, by compass, S. S. W., and did not change; that the green light of the Lillie was about a point off the North Star's starboard bow; and that there was no danger of collision, had not the Lillie, when near, ported, and run across his bows. He states, however, that he did not see any change of light of the Lillie after seeing her green light.

As the Lillie was sailing free, and the North Star close-hauled, the former was bound to keep out of the way, and the latter to keep her course. I think the weight of evidence is to the effect that there would have been no collision had not the Lillie attempted to cross the bows of the North Star by porting. The circumstances did not justify putting her helm hard a-port when she did. The positions at the collision show that the captain could not have had and kept the other's red light in view for the length of time testified. I cannot, however, credit the testimony of the North Star that she kept her course. I find it impossible to account for the large angle at which the collision occurred, viz., at least seven points, unless the North Star had helped to make that great angle by keeping off to port, or else the testimony of the libellant's witnesses is untrue and fabricated; for, if the Lillie had changed as much as seven or eight points, she must have been previously, *i. e.*, before porting, so far to the westward that only the green light of the North Star could have been visible. The channel is such that the two vessels must previously have been going upon nearly opposite courses, varying therefrom not over a point, and probably not over half a point; the North Star probably

heading a little closer to the buoy at Throg's Neck than the distance at which the Lillie rounded it. The fact that the captain of the North Star did not observe any other than the green light of the Lillie convicts him at least of inattention. The lookout could not have noticed a little change of course to the eastward; and such a change would have been not unnatural, on the part of the North Star, to give Throg's Neck buoy, in the night-time, a wide berth. This seems to be more probable than that the entire testimony of the Lillie's witnesses as to the changes of the North Star's lights should be false. From the large angle at the collision, which I cannot otherwise explain, I must hold that the North Star contributed to the collision by a change of her course also to the eastward, and that the damages should therefore be divided.

<sup>1</sup> Reported by Edward G. Benedict, Esq., of the New York bar.