

THE MINA A. READ.¹
THE M. E. BYARD.
CAMP *v.* THE MINA A. READ.
NASH *v.* THE M. E. BYARD.

District Court, E. D. New York.

November 12, 1886.

COLLISION—TWO SCHOONERS—FAULTY LOOKOUT—CHANGE OF
COURSE—VESSEL CLOSE-HAULED ON PORT TACK—STARBOARD TACK.

On the evidence, *held*, that the schooner R. was in fault for the collision between herself and the schooner B., for not seeing the lights of the B. in time to avoid her, and also for a change of course. If the deduction were drawn from the evidence that the R. was close-hauled, and made no change of course, *held*, that her liability would still be clear, as she was close-hauled on the port tack, and hence bound to avoid the B., close-hauled on the starboard tack.

In Admiralty.

Wilcox, Adams & Macklin, for Anson Camp and the M. E. Byard.

Hill, Wing & Shoudy, for Nash and the Mina A. Read.

BENEDICT, J. It is plain that the Mina A. Read was sailing without a proper lookout, and I see no reason to doubt that the collision in question would have been avoided if the Byard had been seen, as she would have been seen by a proper lookout on the Mina A. Read, either when the lights displayed by the Byard became visible, or at the distance at which the lights of the Mina A. Read were actually seen by those on board the Byard. By reason of this fault, about which there is no room for dispute, the Mina A. Read should be held responsible for the collision that ensued. As between the conflicting statements of the respective parties in the pleadings, in regard to a change of course on the part of the Mina A. Read when near the Byard, I think the weight of the evidence to be in favor of the statement of those on board the Byard, and upon such a finding on that issue the liability of the Mina A. Read follows, because of the additional fault of changing her course so as to cross the bows of the Byard, causing the collision thereby. If, laying aside the case stated in the pleadings, it be found, as perhaps it might be found upon the evidence from the Mina A. Read, that the Mina A. Read was sailing close-hauled, and made no change of course, still the liability of the Mina A. Read would be clear. For, in that case, the Mina A. Read, sailing close-hauled on the port tack, was bound to avoid the Byard, sailing close-hauled upon the starboard tack. And this she failed to do, because she kept no proper lookout.

Let a decree in favor of the libelant, with an order of reference, be entered in the first case above stated, and in the second case let the libel be dismissed, with costs.

¹ Reported by Edward Ck Benedict, Esq., of the New York bar.