

THE FRANK P. LEE.¹
INSURANCE CO. OF NORTH AMERICA *v.* THE FRANK P. LEE.

Circuit Court, E. D. Pennsylvania.

March 10, 1888.

1. COLLISION—SCHOONERS.

The schooners A. and B. were sailing off Cape Cod, between 9 and 10 o'clock at night. Both vessels were heading W. by N., on their starboard tack, B. being a quarter to a half mile in the rear of A. The wind was coming from the N. N. W. There was from five to seven miles of navigable water between the vessels and the shore. B. changed her course about two points southward, and ran under A.'s stern. Soon after B. again changed her course to go about across A.'s bows, missed stays, and before getting off was struck, and sunk. No light was displayed from B.'s stern after passing A. *Held*, that B. was guilty of negligence, and that there could be no recovery against A.

2. SAME—LIGHTS AND SIGNALS—ABSENCE OF TORCH.

Failure to display a light or torch, required by the statutes, is negligence, if there is a possibility that a collision would have been avoided had the requirements of the statutes been observed.

Affirming 30 Fed. Rep. 277.

In Admiralty. On appeal from district court. 30 Fed. REP. 277.

Charles Gibbons, Jr., and Morton P. Henry, for Insurance Company of North America.

Henry R. Edmunds, for Frank P. Lee.

MCKENNAN, J. The only real controversy here is in the collision case. The facts involved are so few, and they are so fully stated in the opinion of the learned judge of the district court, and that opinion deals so satisfactorily with the case, that both are adopted as the finding of facts and opinion of the court. Both libels are therefore dismissed, with costs.

¹ Reported by C. Berkeley Taylor, Esq., of the Philadelphia bar.