

THE ST. JOHNS.
THE FERN HOLME.
RITCHIE *V.* THE ST. JOHNS.
BROOKS *ET AL.* *V.* RITCHIE *ET AL.*

District Court, D. Massachusetts.

April 21, 1888.

COLLISION—BETWEEN STEAM AND SAIL—CHANGING COURSE
UNNECESSARILY.

Where a collision occurs between a steamer and schooner on account of the; schooner's violation of the sailing rules, in changing her course from starboard to port, and then back, again to starboard. Without any excuse arising out of the exigencies of navigation, and no negligence is shown on the steamer's part, the schooner is liable for the resulting damages.

In Admiralty. Cross-libels for a collision between the steamer Fern Holme and the schooner St. Johns.

Butler, Stillman & Hubbard, for the Ferne Holme.

F. Dodge, for the St. Johns.

NELSON, J. This collision occurred on the evening of 17th March, 1887, about seven miles to the eastward of Sandy Hook light-ship. The Fern Holme, a large iron steam-ship, was approaching New York bay on a voyage from England, making a W. $\frac{1}{2}$ S. course at a speed of nine knots. The St. Johns, a three-masted schooner of about 400 tons, was, bound on a voyage to the eastward, with a cargo of coal, being on the port tack with the wind N. W., her course due east, or nearly opposite to that of the steamer, and her speed about six knots. In the collision the jib-boom and bowsprit of the schooner struck the steamer on the starboard bow. The case turns mainly on the testimony given by the master of the Fern Holme, and by the second mate of the St. Johns, who were the officers in charge of their respective vessels at the time of the accident. The testimony of the master of the Fern Holme was, in substance, that, observing from his station on the bridge the red light of the approaching vessel bearing half a point on his starboard bow, he ordered his wheel to be ported, to pass the schooner on her port side; but before the order could be executed, the schooner shut in her red light and showed her green light, being then about half a mile distant and the light; still bearing over his starboard bow. On seeing the green light, he ordered the wheel hard to starboard, to pass on the starboard side, but as the steamer fell off to port under the star-aborad helm, the schooner shut in her green light and showed her red light again. He then reversed his engine, but it was too late, and the schooner bore down *on* the steamer, and the collision happened. Taking this to be a true account of the accident, it is clear that the collision was owing solely to the violation of the sailing rules by the schooner, in changing her course, first from starboard to port, and then back again to starboard. Nothing appears here to show any negligence or

THE ST. JOHNS.THE FERN HOLME.RITCHIE v. THE ST. JOHNS.BROOKS et al. v.
RITCHIE et al.

misconduct on the part of the steamer. It is argued that even on this showing she should have reversed her engines when the green light was shown. But

it was then necessary that she should fall off rapidly to avoid running the schooner down, and this the reversing of the engines would have prevented. To this may be added also that if she was wrong in not reversing, the fault arose through an error of judgment in a sudden and unexpected emergency caused wholly by the misconduct of the schooner. For this, reason also the error would be excusable.

The second mate of the *St. Johns* testified that the steamer's mast-head light was first discovered a little on his port or weather bow, and presently her red light was seen in the same direction; that when the two vessels were within a few lengths of each other, the steamer's red light still showing over his port bow, he ordered his helm to port; that as the schooner fell off under the port helm, the steamer made a sudden change to port, showing her green light, and heading directly across the schooner's bow from port to starboard. He denies that he made any other change of course, but admits that the order to port was given before the steamer turned to port, and at a moment when his own red light could alone have been visible to the steamer.

After full consideration of all the evidence in the case, I have come to the Conclusion that the account which the master of the *Ferne Holme* gives of this accident is substantially correct. I therefore find the principal question of fact in dispute—which was whether the *St. Johns* changed her course from starboard to port—against the schooner. I believe the statements of the men on the steamer, that they saw the schooner's green light over the starboard bow. The second mate admits the change from port to starboard, but defends it by claiming that the steamer was then in dangerous proximity. But so long as the port lights of the two vessels were towards each other, there was no dangerous proximity, and no ground for fearing or anticipating collision. The act looks like an attempt to dictate to the steamer on which side she should pass. As he committed this mistake, it is perhaps easier to believe he also committed the more serious one of permitting his vessel to come up so near to the *Wind* as to open her green light to the approaching steamer. Whether this was the result of yawing and bad steering,—as there is some ground for concluding,—or of design, it is unnecessary to inquire. There is no pretense that the schooner was then in *extremis*. The fact itself is sufficiently proved, and is decisive; and as no explanation or excuse arising out of the exigencies of navigation or overwhelming necessity is shown, and as it was the cause of the accident, it is enough to condemn the schooner for the consequences of the collision. In the case of the *Ferne Holme* against the *St. Johns*, an interlocutory decree is to be entered for the libelants; the cross-libel of the *St. Johns* against the *Ferne Holme* is dismissed, with costs. So ordered.