

were unable to stop their headway in time. The bow of the Spaulding was driven violently against the schooner, striking her on the port side about amidships, causing damage.

The Nelson was at fault. She was the overtaking vessel, and was bound to keep out of the way of the Spaulding. Rev. St. § 4233, Sailing Rule 22. It is a mistaken idea that, because at the moment of turning the Nelson was in the lead by half a length, she ceased to be the overtaking vessel. She retained that character until she had completely passed the Spaulding. The object of the rule is to avoid collision. Here both vessels had a common object, to attain which on the part of the Nelson it was necessary for her, being to starboard, to cross the course of the Spaulding to her port side in order to first reach the schooner. The Spaulding, as the leading vessel, was entitled to hold her course. The Nelson remained the overtaking vessel until she had so far passed the Spaulding that she could safely cross the latter's course, or safely intervene between her and the schooner. The Nelson had full knowledge of the position and course of the Spaulding. Attempting to pass, or to cross her course, or to intervene between her and the schooner, the Nelson must assume the peril, and is responsible for the consequences. *The Rhode Island*, Olcott, 505; *Kennedy v. Steamboat Co.*, 12 R. I. 23; *The Bay Queen*, 27 Fed. Rep. 813; *The City of Brockton*, 37 Fed. Rep. 897. The Spaulding was not at fault. She had the right, if she could, to maintain the lead, so long as she did not improperly interfere with the Nelson. Each had the right to move at full speed, navigating properly to avoid collision. *Sturgis v. Clough*, 21 How. 451, 453. The Spaulding in no way interfered with the course of the Nelson. Her speed was in no proper sense the cause of collision. But for the Nelson's faulty management, the Spaulding would have cleared the schooner. She had no reason to anticipate the wrongful act of the Nelson. Immediately upon the collision she reversed her engine and took all possible action to avoid striking the schooner. She did no act that in any legal view contributed to the injury. Decree for libelants as to the Nelson, and dismissing the Spaulding, with costs against the owner of the Nelson.

THE NELLIE CLARK.

FINLEY v. THE NELLIE CLARK.

(District Court, D. Massachusetts. May 30, 1892.)

COLLISION—VESSELS AT REST—NEGLIGENT LOOKOUT.

On the evidence in this case, the court found that libellant's boat, which claimant averred was closehauled on the port tack at the time of collision, while his boat, the N. C., was closehauled on the starboard tack, was in reality at rest, attached to a trawl, and in plain sight of the N. C., which admittedly had no lookout. *Held*, that the N. C. was liable for the collision.

In Admiralty. Libel for collision. Decree for libelant.

C. T. & T. H. Russell, for the Freddie.

Carver & Blodgett, for The Nellie Clark.

NELSON, District Judge. This is a libel filed by John R. Finley, owner of the lobster boat Freddie, against the schooner Nellie Clark for collision. The collision occurred in Broad sound, in Boston harbor, on the afternoon of June 21, 1891. By the collision the Freddie was completely destroyed, with her outfit. The weather was fine, and the wind light. The Nellie Clark was bound out, and was sailing closehauled on the starboard tack. Her contention is that the Freddie was under way, closehauled, on the port tack, and that she therefore had the right of way, and the Freddie was bound to keep clear of her. The claim of the libelant is that his boat was at rest, attached to a trawl anchored to the bottom. This is the only issue in the case, and I find it in favor of the libelant. That his boat was fast to the trawl is sworn to by the libelant, and by the man who was with him in the boat, and they are confirmed by a witness who was in a boat a short distance away. It is admitted that there was no lookout on the Nellie Clark, and I am convinced that the accident happened through the failure of the men in charge of her to see the boat in season to avoid her. The boat was in plain sight, and there was no excuse for not seeing her. The value of the boat and fittings was proved to be \$200, and the libelant is entitled to a decree for that amount. Decree for the libelant for \$200 and costs.

THE ESSEX.

(District Court, D. Massachusetts. May 26, 1892.)

COLLISION—SAIL VESSELS BEATING—STARBOARD AND PORT TACKS.

Two schooners, the B. and the E., were close hauled on the starboard tack. The time was night, the weather clear, and lights could be seen plainly. The E. went about on the port tack, and afterwards collided with the B. Her claim was that the B. had run across her bow before she had recovered headway after tacking. Held, on the evidence, that the E. had recovered her headway, and, being on the port tack, was bound to avoid the B. on the starboard tack, and hence was liable for the collision.

In Admiralty. Libel for collision. Decree for libelant.

C. T. & T. H. Russell, for libelant.

Edward S. Dodge, for claimant.

NELSON, District Judge. This is a libel filed by the master of the schooner Edward Blake of Lockport, Nova Scotia, in behalf of the owners of the vessel and cargo, against the fishing schooner Essex, of Gloucester, in this district, in a cause of collision. The collision occurred on the 12th of October, 1890, at about 8 o'clock P. M., near the entrance of Shelburn harbor, in Nova Scotia. Both vessels were beating