

APPEAL 75

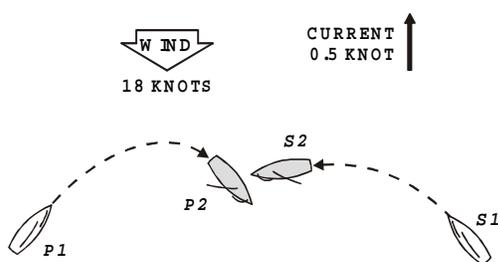
Jackrabbit vs. China Cloud

Rule 14, Avoiding Contact

Rule 16, Changing Course

When a right-of-way boat changes course, the keep-clear boat is required to act only in response to what the right-of-way boat is doing at the time, not what the right-of-way boat might do subsequently.

FACTS AND DECISION OF THE PROTEST COMMITTEE



On a windward leg in winds of 18 knots, *China Cloud* (S) and *Jackrabbit* (P) approached each other on opposite tacks. P bore off to avoid S. S also bore off, and P continued bearing off in order to pass astern of S. S also continued to bear off, heeling further to leeward as a result. There was contact between the masts and rigging of the two boats, and P's mast was broken.

The protest committee disqualified S for breaking rule 16 and she appealed.

DECISION OF THE APPEALS COMMITTEE

Rule 10 required P to keep clear of S. S's actions were restricted by rule 16, since she was changing course and therefore required to give P room to keep clear. The written facts and the diagram established that P would have kept clear of S if S had not changed her course and continued to do so. The diagram shows P beginning to bear away soon after S's initial course change, and also shows S continuing to turn toward P, reducing the space and time available to P to keep clear. Since S did continue changing course, at an increasing rate of turn, at some time before the collision nothing that P could have done in a seamanlike way would have

made it possible for her to keep clear. S's action was a clear breach of rule 16.

S also broke rule 14 and was subject to being penalized under that rule because, as the right-of-way boat, she failed to avoid contact that resulted in damage.

The appellant argued that P could have tacked or gybed, and claimed that this was P's obligation. This is a misunderstanding of the obligations of a keep-clear boat under rule 10 and other right-of-way rules. A keep-clear boat is required to act only in response to what a right-of-way boat is doing at the time, not what the right-of-way boat might do subsequently. Until she was unable to do so, P did as she was required, keeping clear by changing course in such a way that S, had she not continued to bear away toward P, would have had "no need to take avoiding action" (see the definition Keep Clear).

In failing to keep clear, P broke rule 10, but that was a consequence of S's breach of rule 16. Therefore P is exonerated under rule 64.1(b).

The protest committee's decision to disqualify S is upheld, under rules 14 and 16.

November 1997

APPEAL 76

PAX vs. Smuggler

Rule 16, Changing Course

Rule 18.3(b), Passing Marks and Obstructions:

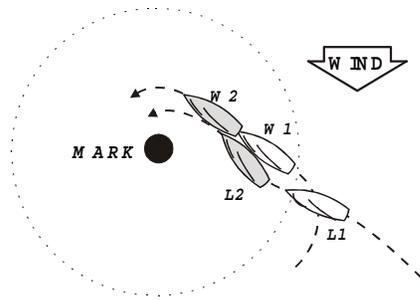
Tacking

Definitions, Keep Clear

Definitions, Room

When rule 18.3(b) applies and therefore rule 15 does not, a leeward boat is nevertheless subject to rule 16 if she changes course.

FACTS AND DECISION OF THE PROTEST COMMITTEE



As they approached a windward mark, *Pax* (L) was directly astern of *Smuggler* (W) after W had tacked within the two-length zone and was on her new close-hauled course. W's course was far enough above the layline to allow L to pass between W and the mark. In position 1, L had borne off from a point close astern of W and was about to overlap W to leeward. When the overlap began L immediately luffed and struck W's port side. The boats then continued around the mark without further incident. L protested W but L was disqualified for breaking rule 16. She appealed.

DECISION OF THE APPEALS COMMITTEE

In her appeal the appellant correctly noted that rule 15 did not apply because rule 18.3(b) made it inapplicable, and argued that W broke rule 18.3(b). That rule and rule 11 both required W to keep clear. The definition Keep Clear, used in both rules, says that a windward boat is not keeping clear if the leeward boat would immediately make contact if she changed course. In this case, although the protest committee found that L luffed immediately after overlapping W,

it did not find that the contact occurred immediately after L began her luff. The diagrams do not show the passage of time, but between positions 1 and 2, which show the boats shortly before the overlap began and then at the moment of contact, there is no clear evidence that at the moment L began to luff she immediately struck W. We therefore conclude that W was keeping clear until L luffed.

Although rule 15 did not apply, rule 16 did, and L's luff quickly deprived W of room to keep clear. No seamanlike action was available to her to do so. L thus broke rule 16. W unavoidably broke rule 11, but she is exonerated because of L's breach of rule 16.

The appellant claimed that as a matter of fact W failed to keep clear before L luffed. Had this been a fact found by the protest committee, L would have necessarily been so close to W just before the overlap began that she would almost certainly have broken rule 12 at that time. W, the right-of-way boat, would have had "need to take avoiding action" (see the definition Keep Clear).

Rule 14 was not discussed by the protest committee. In causing the contact, L broke rule 14 and would have been subject to penalty unless there had been no damage to either boat. Since no facts were found about damage, and L is disqualified for breaking rule 16, her penalization under rule 14 is moot.

For the above reasons the appeal is denied.

May 1998