

bade her, as the overtaking boat, to go within 20 yards of the Bay Queen, (1 Rev. St. p. *684, § 7;) and she violated a further rule of navigation which forbade her passing so as to crowd upon the proper course of the vessel passed. As above stated, there was abundant room to the northward, and nothing to prevent the Martin, upon passing the stern of the schooner, from keeping away to the northward, giving to the Bay Queen sufficient space along the end of the dock.

2. I think no part of this loss can be charged upon the Bay Queen. The disregard of the various rules of navigation above indicated, on the part of the Martin, was so manifest and persistent as hardly to be deemed less than deliberate and reckless. The boats had repeatedly exchanged signals; the Martin giving two blasts, meaning that she would keep away to port. She might have done so, and have avoided the collision, but did not. The Bay Queen had the right of way. She had no reason to anticipate that the Martin, after passing the schooner, would not keep to the northward under a starboard helm, as her two whistles had repeatedly promised. The Bay Queen continued to go at slow speed, and just before the collision she stopped her engines; while the Martin ported her wheel, which tended to bring her across the Bay Queen's bows. The Martin's officers state that the wheel was ported but a few seconds before the collision, and was designed to throw her stern off, and ease the blow. Other witnesses state that the wheel was ported earlier, and that her course was actually changed so as to throw herself across the Bay Queen's bows. No reliance can be placed on the asserted intentions of the Martin's pilot to ease the blow, or to avoid the collision. Had any *bona fide* intention existed to avoid collision, or to yield the Bay Queen her rights, it is incredible that he would not have gone to the northward, under a starboard wheel, and have slowed her engines before the boats lapped each other. There is no small ground for suspicion that the Martin was handled with the deliberate purpose of running down the Bay Queen, or else forcing her upon the end of the pier, which, her witnesses say, would have been the result had she undertaken to back. The subsequent conduct of the Martin in continuing on at full speed, notwithstanding the collision, is in keeping with her previous management. Her whole navigation was so extraordinary that it could not have been anticipated by the Bay Queen; and I find that the latter, therefore, did all that was reasonably incumbent upon her to avoid the collision; and that the loss rightly falls upon the Martin, and that the libel should be dismissed, with costs.

WINN v. GILMER.

(Circuit Court, W. D. Texas. 1886.)

1. REMOVAL OF CAUSE—JURISDICTION—CITIZENSHIP.

The citizenship of a party moving from one state into another is controlled by the intention in that regard with which he takes up his residence in the new place.

2. SAME—REMOVAL FROM STATE—INTENTION.

A party who has moved from one state into another cannot avail himself of the jurisdiction of a federal court upon the claim of being a non-resident, after showing by his acts and declarations, before the litigation commenced, an intention of becoming a citizen in his new place of abode.

Suit for Debt.

Leo. Tarleton, for plaintiff.

Houston Bros., for defendant.

TURNER, J. "Citizenship," as used in the law under consideration, means residence with intention of remaining permanently at that place. A man may reside in a state for an indefinite period of time without becoming a citizen, but the moment a man takes up his residence in a state different from that where he formerly was domiciled or was a citizen, with intent and purpose of making the new place of residence his future permanent home, that moment he loses his former domicile, and becomes domiciled in the new place; or, in other words, he ceases to be a citizen of the former place of residence, and becomes a citizen of the state of his adoption.

The question for me to decide is whether Mr. Winn, the plaintiff, and his assignor, from whom he claims a part of his alleged right of action at the time this suit was instituted, were citizens of Texas. I put the question this way, because, if not citizens of Texas at that time, it will be conceded that this suit may be properly prosecuted here.

The query raises two questions of fact:

First. Where did these parties reside at the time this suit was brought? As a simple question of residence, it may be safely said, in San Antonio. Both these parties were single men, leading a sort of nomadic life, but for the last two or three years the evidence indicated very clearly that San Antonio was headquarters, and the place of residence, for business purposes, or for choice or pleasure, it matters not, for the purpose of this decision.

Second question is, was that residence coupled with an intention to permanently remain here? From the nature of the case, no person can judge of the secret intentions dwelling in the minds of other men. The resolutions, intentions, and desires of the mind are made manifest by acts which often reveal the inward intention as clearly as it would be if the mind of another was so constructed that it could