

1FED.CAS.-75

Case No. 561a.

ARNOLD v. PECK.

{Betts' Scr. Bk. 193.}

District Court, S. D. New York.

1850.

COLLISION-BETWEEN STEAM AND SAIL-FAULT OF SAILING VESSEL.

{Where a collision between, a steamer and sloop was caused by the act of the master of the sloop in jumping overboard, and abandoning her, when he saw the steamer suddenly appear from under the stern of another vessel, he cannot recover any damages from the steamer.}

{In admiralty. Libel by Lewis B. Arnold against William H. Peck to recover the value of the sloop Harmony, sunk in consequence of collision with the steamboat Isaac Newton. Dismissed.}

JUDSON, District Judge. This was a suit in the admiralty court, to recover the value of the sloop Harmony, which was sunk in the North river, in consequence of a collision with the steamboat Isaac Newton. The latter left her berth, foot of Courtlandt street, at the usual hour, the Troy steamboat having just previously left the opposite side of the pier. About this time, the sloop, with Captain Harmony and one man, came from the East river round the Battery. The Isaac Newton, in taking a stretch to avoid the wake of the Troy, came near the sloop, and the man at the helm, instead of availing himself of the advantage of the wind which was from the S. E., to keep away on the larboard side of the steamer, became frightened, abandoned the helm, and jumped into a small boat. The consequence was that the sloop ran into the net work of the steamer, and the hatches of the sloop being open, she careened over in 54 feet of water.

The question was, which vessel was in fault? The court says the sloop had the wind free, and a steamer is to be considered as always having it. Two vessels, having the wind, each must do all in its power to avoid a collision. The steamer was on her proper course, and did all she could to keep away from the wake of the Troy, and from the sloop. Had the master of the latter considered that he was to do something to avoid a collision, he would have kept away, but instead of that, he deserted the helm, and left the sloop to the mercy of the swell; and the beam, being thrown overboard, struck the steamer, and the consequences were immediate. The decree must be, that this libel is dismissed, with costs.