

Case No. 4,420.

{10 Ben. 458.}¹

THE ELOINA.

District Court, E. D. New York.

May, 1879.

COLLISION AT ANCHOR—DAMAGES FOR LOSS OF ANCHOR.

Where a vessel moored in New York harbor, upon a storm coming up which was impending, dragged her anchor and before another was let go struck another vessel at anchor astern, and did some damage: *Held*, that her master had knowledge of the danger and took the risk of the ability of a single anchor to hold his vessel, and she was liable, therefore, for the damage, no fault being attributable to the other vessel.

{Cited in *The Mary Fraser*, 26 Fed. 874; *The Anerly*, 58 Fed. 795.}

{See *Johanssen v. The Eloina*, 4 Fed. 574.}

The bark *Eloina* and the bark *Atlantic* were riding at anchor in the harbor of New York on the night of April 12th, 1873, about three ship's lengths apart, each having a watch on deck. The captain of the *Eloina* on taking his berth ordered another anchor to be set ready to let go if wanted. When the storm then impending came up, the *Eloina* began to drag her anchor, and the captain was called and immediately ordered the second anchor let go; but the bark did not fetch up on it till she had struck the *Atlantic* astern of her. The watch on the *Atlantic* saw the other vessel begin to drift, and hailed her, the crew immediately paid out more chain, and then by the mate's order let slip their anchor, in hopes to avoid the blow. The *Eloina* came down on her and received the blow about amidships, sustaining some injury; and the *Atlantic* lost her anchor and chain, received some damage about the bows, and being ready for sea was detained several days there—by—for which damages suit was brought.

Butler, Stillman & Hubbard, for libellant.

Coudert Bros., for claimants.

BENEDICT, District Judge. This collision was caused by the neglect of the master of the *Eloina* to put out a second anchor. The circumstances plainly required that precaution, and were sufficient to notify an intelligent master that such a precaution could not be omitted without danger of drifting and consequent collision with the libellant's vessel then anchored astern. The act of the master, in directing the second anchor to be got ready to let go immediately and he be called at once in case the vessel should begin to drag, shows knowledge of the danger. The master with such knowledge took the risk of the ability of the single anchor to hold his vessel, and having lost, must pay the damage.

No fault on the part of the *Atlantic* contributing to the disaster is shown, and the libellant is therefore entitled to the decree prayed for.

¹ {Reported by Robert D. Benedict, Esq., and Benj. Lincoln Benedict, Esq., and here reprinted by permission.}