

Case No. 5,336.
[3 Ben. 396.]¹

THE GEORGE LAW.

District Court, E. D. New York.

Sept., 1869.

COLLISION—DANGEROUS MANOEUVRE.

Where a propeller attempted to pass close by a sloop, and just as she was passing, a puff of wind caught the sloop's sail, and her boom swung out and the propeller struck it, receiving damage: *Held*, that the propeller, having attempted a dangerous and uncalled-for manoeuvre, must bear the consequences of it.

This was a libel by Daniel Shea, owner of the propeller U. S. Grant, to recover damages for a collision. The propeller was coming down the East river, and saw ahead of her the sloop George Law and another propeller, so close together that there was not room to pass between the propeller and the boom of the sloop, as it was swung out. As she approached, however, the sloop's boom was hauled in, whereupon she undertook to pass between them, and, while passing, the boom swung out, and injured her.

D. McMahon, for libellant.

Thomas Hooker, for claimant.

BENEDICT, District Judge. This case comes within the rule of the maritime law which imposes the risk of a dangerous and uncalled-for manoeuvre upon the party who undertakes it.

The proofs show that the propeller attempted to pass the sloop ahead, at a distance within the length of the sloop's boom, and was struck by the boom in passing.

There was nothing to require the propeller to pass at the time, or in such close proximity as she did, but assuming the ability of the men upon the sloop to keep the boom inboard, she took the risk. As it happened, a puff of wind caught the sheet out of the hands of the men on the sloop, and the boom swung out, and into the propeller.

Such an occurrence should have been seen to be possible by those in charge of the propeller, and accident from it avoided by passing the sloop at a greater distance, as might easily have been done.

The libel is, accordingly, dismissed, with costs.

¹ [Reported by Robert D. Benedict, Esq., and here reprinted by permission.]