

Case No. 11,524.

RAE ET AL. V. THE NEW YORK.

[N. Y. Times, Sept 18, 1854.]

Circuit Court, D. New York.

1854.

COLLISION—LIGHT—TOW-BOAT.

This libel was filed by [Isaac P. Rae and others] the owners of the brig Sarah Johanna, which was sunk while lying at anchor off pier No. 6, in the North river, on the night of October 20, 1850, by the steamtug New York, which was coming down the river with a heavy tow. The defence set up was that the bark had no light, as she should by law have had, and that all due care was taken on the part of the steamtug. Judge Betts, however, held the steamer liable for damage, and gave a decree for the libellants, from which decree the claimants appealed.

Mr. Cutting, Mr. Morton, and Mr. Haskitt, for appellants.

Mr. Noyes, Mr. Betts, and Mr. Donohue, for appellees.

NELSON, Circuit Justice. 1. I concur with the court below, that upon the weight of the evidence there was no fault in the brig for not showing a light, for it is impossible to resist the conviction that there was one in the forerigging at the time.

2. I am satisfied also that the light could have been seen as well where it hung as if it had been twenty feet above the deck; and that even the state law furnishes no defence, if strictly applied. Sess. Laws 1839, c. 349. I think, also, the speed of the tug, under the circumstances, a fault on her part 3 W. Rob. Adm. 49. Decree affirmed.

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