

THE SIR GARNET WOLSELEY.¹
BOWDEN *v.* THE SIR GARNET WOLSELEY.

District Court, E. D. New York.

March 28, 1890.

SEAMEN—PERSONAL INJURIES—UNCOVERED HATCH—CONTRIBUTORY
NEGLIGENCE.

Libelant, a night-watchman on a steamer, undertook to sit down upon a bunker hatch without looking to see whether the cover was on. The proof showed that the hatch was covered, or not, as the necessity of the ship required. On this occasion it was uncovered, and libelant fell through to the hold. Held, that the accident was due to libelant's negligence, and a libel for his injuries against the vessel should be dismissed.

In Admiralty.

Action to recover damages for personal injuries.

M. L. Towns, for libelant.

E. B. Cowers, for claimant.

BENEDICT, J. This is an action for personal injuries sustained by the libelant by reason of his falling through a hatch of the steam-ship *Sir Garnet Wolseley*. The libelant was a night-watchman on the steamer. At about 9 o'clock in the evening he undertook to sit down upon a bunker hatch upon the main deck, assuming the hatch cover to be on, and without looking to see whether the cover was on or not. The cover was not on; and the man, on sitting down, of course fell backward into the hold. The evidence shows that this hatch was sometimes without cover, and sometimes covered, as the necessity of the ship required. The accident was caused by the libelant's own negligence in not looking to ascertain whether there was a cover there before he undertook to sit down upon it. The libel is dismissed.

¹ Reported by Edward G. Benedict, Esq., of the New York bar.