

ANGLO-AUSTRALASIAN STEAM NAV. CO. v. CORNELL STEAM-BOAT CO.¹

(District Court, S. D. New York. November 18, 1887.)

TOWAGE—BREAKING OF TOW—DAMAGE TO THIRD PARTY—LIABILITY OF TUG.

Respondent's tug was about to take two boats across the North river, but had assumed no part of the work of securing the boats to be towed. Unknown to the master of the tug, a third boat, the canal-boat W., was designed to be included in the tow, and was partly attached to the tow by her own men; but before both necessary lines were made fast, word was passed from the tow to go ahead, and on starting forward the lines of the W. gave way, and she drifted upon and injured libellant's steamer. On suit brought against the tug for the damage, *held*, that she was not liable.

Action for Damage caused by the breaking of the canal-boat William Walker from her tow, injuring libellant's vessel.

Owen & Gray, for libellant.

Benedict, Taft & Benedict, for respondent.

BROWN, J. I am satisfied that the immediate cause of the breaking adrift of the canal-boat William Walker, and of the ensuing collision, was that the signal to start was passed to the respondent's tug before both of the lines of the lighter were made fast. One small line had been fastened, the other not. In a few moments the small line parted, and the boat drifted down against the libellant's steamer.

The respondent's tug in this case did not assume any part of the duty of arranging or securing the three boats to be towed. Her captain, I think, plainly understood that only two boats were to be taken, not including the Walker. The work of securing the lighter was undertaken entirely by her own men, and it was they who determined the time to start, and to pass the signal, "all right," to the tug. The blame of the faulty start must rest on the lighter, and not on the tug. *The Martino Cilento*, 22 Fed. Rep. 859; *The Jack Jewett*, 23 Fed. Rep. 927. I find nothing in *The Quickstep*, 9 Wall. 665, 671, to the contrary. As I must hold that the captain of the tug did not know that the Walker was attached, or designed to be attached, to the other two boats that he agreed to take in tow, I cannot find any blame resting upon the tug, and therefore must dismiss the libel, with costs.

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

THE GREENPOINT.

LOUD and others v. THE GREENPOINT.¹*(District Court, E. D. New York. November 18, 1887.)*

COLLISION—VESSEL TOWED INTO SLIP—PARTED LINE—DRIFTED VESSEL—TUG.

The tug Greenpoint moved the schooner Hart along-side the schooner Herriman, which was lying in a slip, and the Hart put out a line to the Herriman, which line shortly afterwards parted, allowing the Hart to drift upon libelant's vessel, the Flint, causing damage, for which the tug was sued. The evidence indicating that the Hart was still fast when the tug cast off, and that the line had parted after such casting off, and by reason of its insufficiency, held, that the Hart, and not the tug, was in fault for the collision, and that the libel should be dismissed.

Geo. A. Black, for libelant.

Geo. T. Walker, for claimant.

BENEDICT, J. This is an action by the owner of the schooner Flint to recover of the tug Greenpoint the damages caused by a collision between the schooner Emma F. Hart and the schooner Flint, while the latter was lying at the bulkhead in the slip between One Hundred and First and One Hundred and Second street. The tug had been employed by the Hart to move her across the slip to a place along-side the schooner Herriman, a vessel then lying on the upper side of the slip. The tug then took hold of the Hart and moved her to the desired position along-side the Herriman, where the Hart put out a single line to the Herriman; but owing, it is said, to some delay caused by the frozen condition of the hawsers of the Hart, the Hart did not stop along-side the Herriman, but moved on until she brought up against a lighter lying at the bulkhead, and her anchor thereby let go. The anchor was got up, and shortly after the line that was holding the Hart to the Herriman parted. When the line parted the Hart moved down upon the libelant's vessel, doing the damage sued for. The wind at the time was blowing from the north-west, the eddy tide was strong, and there was considerable motion of the water in the slip. It was dark. The immediate cause of the collision was the breaking of the line by which the Hart had endeavored to secure herself to the Herriman. This was a single line, too light for the work, as it turned out. The decisive question of the case is whether the Hart's line broke by reason of its insufficiency to hold the schooner, and after the tug had cast off from the Hart, to secure a better position, when the tug was in no way fast to the Hart; or whether the line had already parted when the tug cast off her lines, and so the Hart was left by the tug, with no line out, and exposed to the danger of being carried by the wind and tide upon the libelant's vessel.

Upon this question my conclusion is that when the line parted the tug had her lines cast off, was not attached to the Hart in any way, and had no means of attaching to her in time to avoid the collision. It is agreed

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