

THE MARY N. HOGAN.¹
GILLESPIE AND OTHERS *v.* THE MARY N. HOGAN, ETC.

District Court, E. D. New York.

March 14, 1887.

SALVAGE—TUG—LOSS *OF* MOTIVE POWER—PILOT-BOAT—HOLDING TUG
DURING GALE.

The tug H., when some 30 miles E. S. E. of the Highlands, rolled her smokestack off, and thereby lost her motive power. The pilot-boat W. attempted to take her to New York, but was unable to do so, and, the wind increasing,

the W. anchored and held the H. overflight, when a tug took her to New York. No other tug was in sight when the H. lost her smoke-stack, nor did one appear during the day. The evidence showed that but for the W., the H. would have been compelled to anchor on losing her smoke-stack, with danger of becoming a total loss in the gale which followed. The W. incurred no especial danger. The value of the H. was \$5,000. *Held*, that the W. should receive \$1,250 as a salvage award.

In Admiralty.

George A. Black, for libelants.

Carpenter & Mosher, for claimant.

BENEDICT, J. This is an action for salvage. The Mary N. Hogan, a tug some 90 feet long and worth \$5,000, on the morning of January 28, 1885, when about 30 miles E. S. E. of the Highlands, rolled her smoke-stack off, and thereby lost her motive power. At about 7 A. M. the Washington, a pilot-boat about 95 feet long, and worth \$17,500, came to the tug, and, being requested to tow the tug up to the Hook, made a hawser fast to her, and proceeded towards the Hook. At 1 P. M. the pilot-boat Loubat came to them, and also took hold. The wind was increasing, and at 2 P. M. in attempting to wear, the Loubat's hawser fouled, and was cut. The sea was then too heavy to permit the getting out another line, and the Loubat sailed away. The Washington continued her efforts to make the Hook, but, after another hour's trial, finding that no progress was made, went back again towards Long island, and anchored off Long beach, a mile or so off shore, between 4 and 5 P. M. The wind blew very hard indeed until midnight; but the pilot-boat was able to hold the Hogan, and did hold her, until 2 P. M. of the next day, when the tug Luckenbach came for the Hogan, and took her to New York. While the Washington lay at anchor the Hogan had her anchor over ready to let go, with 125 fathoms of seven and a half inch hawser.

The Washington was in little peril, even at the height of the storm. Her men worked hard in the snow and hail while towing the Hogan, and it is not denied that a liberal reward should be given them therefor. The controversy is in regard to the amount. This controversy arises out of a difference in the estimate of the peril of the situation in which the Hogan was when taken hold of by the pilot-boat. As to the other things, there is substantial agreement. The evidence shows at the time the Hogan lost her smoke-stack no tug was in sight, nor was any tugboat fallen in with during that day. If the pilot had declined to furnish assistance, the Hogan would, as it appears have been compelled to anchor where she was, and during the severe storm that came on the following night she would have been in danger of total loss. Some witnesses express the opinion that she would certainly have foundered during that night. It is the extent of this peril which enhances the value of the services volunteered by the pilot-boat for the benefit of the Hogan. There was little peril to the pilot-boat. Some extra work was performed by the

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crew, and 24 hours of time were lost. It may be also that the pilot boat ran some risk of losing her insurance. Her claim is

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50 per cent, of the value of the Hogan. This I think too much. If, taking into account the perilous situation of the tug, the salvage be fixed at \$1,250, the pilot boat will, in my opinion, receive a liberal reward.

Let the libelants have a decree for \$1,250, together with the costs of this action.

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