

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—TOG.

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 libellant'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 libellant.

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 libellant's vessel, doing the damage sued for. The wind at the time was blowing from the northwest, 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 east 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 libellant'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 colision. It is agreed

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by all that the tug was informed by a hail from the master of the Hart when the line parted, and it is highly improbable that the tug, after being thus informed, would have cast off her lines from the schooner altogether, and so left the schooner with no line out on the wind and tide, The clear weight of the evidence is in accordance with the probabilities of the case, and it shows that the line parted after the tug had cast off. The master of the Hart indeed swears to the contrary, but he is interested to cast the blame on the tug, and he is overborne by the testimony of other witnesses. In my opinion, the sole cause of the collision was the insufficiency of the line which the Hart had put out to the Herriman, for which the Hart, and not the tug, is responsible. The libel must be dismissed, and with costs.

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