

THE MARIE.<sup>1</sup>  
THE NEWTOWN.  
BOYES *ET AL.* *V.* THE MARIE.  
SAME *V.* THE NEWTOWN.

*District Court, E. D. New York.*

July 12, 1889.

SALVAGE—COMPENSATION—INJURY BY FIRE.

An oil steamer, lying on the north side of an oil-dock, caught fire. Between her dock and the dock below was a space of 100 feet and on the south side of the lower dock laid the bark Deutschland. Along side the Deutschland, and fast to her, was the bark Marie, without cargo, and fast to the Marie was the barge Newtown, with 800 barrels of petroleum on her deck. The tug Arrow took hold of the Deutschland and towed her out into the stream, and with her came the Marie and the Newtown. Neither of the two latter was injured. If they had been left at the pier, they would have been destroyed. In the then condition of the tide there was a chance that the vessels could have cast off and drifted clear without assistance, and several other tugs besides the Arrow were in the slip ready to assist. The Arrow sustained no injury. She was worth \$15,000. The Marie was worth about \$10,000, the Newtown \$3,000, and her cargo \$4,000. The Marie tendered \$250, and the Newtown \$100. *Held*, that the tenders were sufficient, but that libelants, in addition to the tenders, should recover costs, as there was some ground to contend for a larger allowance of salvage.

In Admiralty.

Action by Charles W. Boyes and others, to recover salvage compensation for services rendered, against the bark Marie and the barge Newtown and her cargo.

*Wilcox, Adams & Macklin*, for libelants.

*Wing, Shoudy & Putnam* and *C. C. Burlingham*, for claimants.

BENEDICT, J. These actions are to recover salvage compensation for services rendered by the steam-tug Arrow to the bark Marie and the barge Newtown and cargo, respectively, on the occasion of a fire which broke out in the steamer Hafis, lying at the oil-docks, on the 11th day of October, 1888. The steamer Hafis, where the fire first broke out, lay on the north side of the pier at the foot of Eleventh street. The bark Avoca lay on the south side of that pier. The distance between that pier and the pier below was 100 feet. On the north side of the pier below lay the Leopold Schall. On the south side of the pier lay the bark Deutschland. Along-side the Deutschland, and fast to her, was the bark Marie without cargo, and fast to her was the barge Newtown, with 800 barrels of petroleum oil upon her deck. Upon the request of the Deutschland the steam-tug Arrow took hold of her, and towed her out of the slip to a place of safety. The Marie and the Newtown, being fast to the Deutschland, were towed out with the bark. After being in this way towed out some two ship's lengths and into the stream, the

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Marie cast off from the Deutschland, and, with the barge, anchored. Neither the Marie nor the Newtown sustained any injury from the fire. The wharf at North Tenth street, where these vessels lay, is an open wharf, under which the ebb-tide was running at the time of the fire. Between that wharf and the wharf below at foot of Ninth street was a distance of 276 feet. The wharf at Ninth street was not so long as the wharf at Tenth street by 103 feet. The fire was a dangerous one. The bark Ella Vose, which lay on the north side of the pier at foot of Tenth street, and just ahead of the Deutschland, was burned up, and these vessels would have been burned if they had remained where they were at the pier.

Two features of the case are important in determining the amount of salvage proper to be awarded to the Arrow for her services to the Marie and Newtown. One is that, owing to the distance between the pier foot of Tenth street and the pier below, there was a chance that the Marie and the Newtown would have drifted clear of the pier below, and so have been saved from the fire without assistance from any one. Another important feature of the case is that by the time the Arrow arrived at the Deutschland, as stated, several tugs had arrived, able and willing to take these vessels into the stream. The Garlick was in the same slip, the Vigilant followed the Garlick in, another tug came into the same slip and played water on the Vose. It is evident, therefore, that the peril to the Marie and Newtown was not great. Neither of them was on fire, and the weight of the evidence is that at the time of the services in question the fire had not caught the pier at which they lay. They were fast to a bark that had a tug able to tow all of them out, and, as already stated, several other tugs stood ready to take them out of the slip. The Arrow incurred no substantial risk, and her services required no especial skill, nor any considerable labor. The value of the Arrow is claimed to be \$15,000. The value of the Marie is estimated by some witnesses at \$10,000. The Newtown was worth about \$3,000, and her cargo \$4,000. On behalf of the Marie a tender of \$250 for the services rendered by the Arrow was made and refused. Taking into account the fact that the Arrow has been compensated for her services to the Deutschland, in my opinion the tender was sufficient, and should have been accepted. On behalf of the Newtown a tender of \$100 was made for the services rendered by the Arrow to her. In my opinion this tender was sufficient. Decrees for these amounts may be entered, and I think they may receive their costs, for the reason that there was some ground to contend for a larger allowance than is made.

<sup>1</sup> Reported by Edward G. Benedict, Esq., of the New York bar.