

ing character. My impressions of the libelant personally, from his appearance on the stand, were favorable to his integrity and honest testimony. But the contradictions of the libelant as to various circumstances are so many; the libel has so little support from other witnesses; the manner in which the accident is said to have happened, I find to be so difficult to appreciate; and, the libelant being found in the boat, there is such likelihood that the injury to the knee-pan may have happened from his fall into the boat, if he did fall into it, as he alleges,—that I find it impossible to hold that the libelant has made out his case by a fair preponderance of proof. The break of the boat is proved; but that break is not one likely to have been made in the way the libelant describes, but agrees rather with the defendants' theory. On the other hand, there are circumstances which it would seem that the defendants might have explained, but which they have not explained, especially how the break in the planks of the small boat actually occurred; and, if it occurred through any seas shipped, how any such seas sufficient to break the boat could have escaped notice at the time. Under all the circumstances of the case, I cannot render any satisfactory judgment; and I must therefore dismiss the libel, without costs, and without prejudice to the libelant.

THE KAATERSKILL.

HAMILTON *et al.* v. THE KAATERSKILL.

(District Court, S. D. New York. January 7, 1892.)

SALVAGE—FIRE ON DOCK—TOWAGE—MASTER'S SELF-SACRIFICE.

A fire breaking out about noon in a hay and straw store-house, within 50 feet of the bulk-head at Coxsackie, in the North river, where the large passenger steamer Kaaterskill was lying without steam up, the ferry-boat Coxsackie, from the adjoining slip, on moving out for her own safety, was called back to tow the steamer away, and thereupon, within two or three minutes, got along-side and towed the steamer to a place of safety. On contradictory testimony, *held*, that the steamer at the time when the Coxsackie took hold of her, was not out of the way of great danger, and but for her help would probably have been greatly damaged or wholly destroyed; and the steamer being worth from \$100,000 to \$140,000, and the ferry-boat \$3,000, *held*, \$2,500, a reasonable salvage award; and it appearing that, when the ferry-boat's master went to the help of the Kaaterskill, his own hotel, very near the burning warehouse, was threatened by the fire, and was afterwards consumed, *held*, that his conduct in going to the relief of the Kaaterskill, instead of attending to his own property, belonged to the class of heroic and self-sacrificing actions, and deserved recognition as such; and \$1,200 of the award was allowed to him, the ferry-boat not having incurred any damage or danger in the service.

In Admiralty. Libel by David M. Hamilton and others against the steam-boat Kaaterskill to recover salvage.

Benedict & Benedict, for libelants.

Wing, Shondy & Putnam, for claimant.

BROWN, J. The above libel was filed in behalf of the owners of the ferry-boat Coxsackie, and all others interested, to recover salvage for res-

cuing the steam passenger-boat Kaaterskill from a fire which broke out about noon on Sunday, August 23, 1891, upon the dock at Coxsackie, on the North river, where the Kaaterskill was then moored. The fire originated in a large hay and straw store-house, the easterly end of which was within 50 feet of the bulk-head where the Kaaterskill lay. The fire was very rapid, and half a dozen other buildings on the dock were speedily consumed. The Kaaterskill was about 285 feet long. Her stem was pointing down river, and was within 5 or 6 feet of the line of the ferry slip immediately below, in which the Coxsackie was then lying. Persons on both boats perceived the fire at about the same time. The Kaaterskill was not under steam; but the ferry-boat, having steam up, immediately started out of the slip to get out of danger. When from 100 to 250 feet out beyond the Kaaterskill, she was hailed by the captain of the latter to come back and help her away. The captain of the ferry-boat immediately ordered his boat turned about, and within a couple of minutes, the tide being low ebb, and near slack, came back to the bow of the Kaaterskill, and made fast to her by a hawser, and towed her down river out of danger. There is great contradiction among the witnesses as to the position of the Kaaterskill at the time when the Coxsackie took hold. I am satisfied, however, that the stem of the Kaaterskill was not down to the lower side of the ferry slip, so that she was by no means at that time out of extreme danger. The paint on the starboard side of the Kaaterskill was blistered. Many of the spiles on the north side of the ferry slip were scorched or charred. Had not the after-part of the Kaaterskill been well out of the way of this part of the bulk-head at the time when the easterly end of the hay and straw store-house fell in, I have no doubt that she would have immediately taken fire from the mass of flame and heat which that fall let loose; and in that event she must have been very greatly injured, if not wholly destroyed, as she had no adequate means of putting out fire. The evidence shows that the end of that building fell in from 2 to 4 minutes after the Coxsackie began towing the Kaaterskill away. For the fast steamer the General was about a mile and a half up river when the fire broke out, and came down at full speed, arriving at the ferry slip within 5 minutes; and at that time, as her witnesses testify, the east end of the store-house had already fallen. The witnesses for the Kaaterskill say that, at the time when the Coxsackie took hold, the Kaaterskill had been shoved away from the bulk-head first by hand, and afterwards by the use of poles, probably about 10 or 12 feet. If that was her position, she was probably in the outer margin of the eddy, which upon the ebb-tide makes up along the bulk-head, and had begun to set a little down river with the slight ebb there. When the ferry-boat passed out of the slip, however, the Kaaterskill had not been moved; and in the short interval of a couple of minutes before the Coxsackie took hold of her it is not credible that she could have been shoved out by hand and got down river the considerable distance which many of her witnesses testify to. I find, as sworn to by the witnesses of the Coxsackie, that when they came up and took hold of the Kaaterskill she was not so far down as to prevent the

Coxsackie from entering her own slip had she chosen. Her whole after-part was therefore liable to take fire as soon as the mass of flame should pour out from the east end of the falling warehouse, not more than 60 feet distant. The service rendered by the Coxsackie was therefore of the greatest value to the Kaaterskill. She was in extreme danger, and nothing but the help of the Coxsackie, in my judgment, could have saved her from great injury, if not destruction. Though the Coxsackie was a very small boat, of only 77½ tons, worth about \$8,000, she had been employed before to assist the Kaaterskill in moving, and her service in this instance was sufficient for the purpose. The service was, however, short, probably less than half an hour all told, and without danger to the Coxsackie. One circumstance, however, deserves special mention. The master of the ferry-boat, who was a part owner of her, was also the owner of an hotel situated within 75 feet of the burning warehouse and threatened by the fire. Acting upon the selfish motives that are apt to control the conduct of most men under such circumstances, he would, after getting his ferry-boat as soon as possible to the nearest point of safety, have hastened to look after the safety of his hotel, without turning aside to help others. Instead of doing this, he answered the summons of the Kaaterskill, and, after this salvage service, dropped her in the stream as soon as she was safe, and hurried to his hotel, to find it consumed. This conduct belongs to the class of self-sacrificing and heroic actions, and should be compensated as such. The Kaaterskill was worth from \$100,000 to \$140,000. I think \$2,500 will be a moderate and suitable award for the service rendered, of which \$1,200 should be awarded to the master for the reasons above stated, \$1,000 to the owners of the Coxsackie, and \$300 to the other two officers of the Coxsackie, in proportion to their wages, with costs. A decree may be entered accordingly.

THE ANNIE S. COOPER.

UNITED STATES *v.* THE ANNIE S. COOPER.

(District Court, E. D. Louisiana. December 15, 1891.)

SHIPPING REGULATIONS—LIGHTS—TOWING LOG-RAFT.

Rev. St. U. S. § 4233, rule 4, providing that "steam-vessels, when towing other vessels, shall carry two bright white mast-head lights vertically, in addition to their side-lights, so as to distinguish them from other steam-vessels," applies to a steam-tug towing a raft of logs, though such raft may not come strictly within Rev. St. U. S. § 3, declaring that "the word 'vessel' includes every description of water-craft or other artificial contrivance used, or capable of being used, as a means of transportation on water."

In Admiralty. Libel of information against the steam-tug Annie S. Cooper for failure to carry the lights required by law while towing a log-raft. Libel dismissed.